CHAPTER 245A

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245A.001 MS 2006 [Renumbered 15.001]

245A.01 CITATION.

This chapter may be cited as the "Human Services Licensing Act."

History: *1987 c 333 s 1; 2000 c 327 s 6*

245A.02 DEFINITIONS.

Subdivision 1. **Scope.** The terms used in this chapter have the meanings given them in this section.

Subd. 2. **Adult.** "Adult" means a person who is 18 years old or older and who:

(1) has mental illness, developmental disability, physical disability, or functional impairment; or

(2) has substance use disorder or abuses substances.

Subd. 2a. **Adult day care or family adult day services.** "Adult day care," "adult day services," and "family adult day services" mean a program operating less than 24 hours per day that provides functionally impaired adults with an individualized and coordinated set of services including health services, social services, and nutritional services that are directed at maintaining or improving the participants' capabilities for self-care. Adult day care, adult day services, and family adult day services do not include programs where adults gather or congregate primarily for purposes of socialization, education, supervision, caregiver respite, religious expression, exercise, or nutritious meals.

Subd. 2b. **Annual or annually.** With the exception of subdivision 2c, "annual" or "annually" means prior to or within the same month of the subsequent calendar year.

Subd. 2c. [Renumbered 142B.01, subd 3]

Subd. 3. **Applicant.** "Applicant" means an individual, organization, or government entity, as defined in section 13.02, subdivision 7a, that is subject to licensure under this chapter and that has applied for but not yet been granted a license under this chapter.

Subd. 3a. **Certification.** "Certification" means the commissioner's written authorization for a license holder licensed by the commissioner of human services or the commissioner of corrections to serve children in a residential program and provide specialized services based on certification standards in Minnesota Rules. The term "certification" and its derivatives have the same meaning and may be substituted for the term "licensure" and its derivatives in this chapter.

Subd. 3b. **Authorized agent.** "Authorized agent" means the controlling individual designated by the license holder responsible for communicating with the commissioner of human services on all matters related to this chapter and on whom service of all notices and orders must be made pursuant to section 245A.04, subdivision 1.

Subd. 3c. **At risk of becoming a victim of sex trafficking or commercial sexual exploitation.** For the purposes of section 245A.25, a youth who is "at risk of becoming a victim of sex trafficking or commercial sexual exploitation" means a youth who meets the criteria established by the commissioner of human services for this purpose.

Subd. 4. **Child.** "Child" means a person who has not reached age 18.

Subd. 4a. **Children's residential facility.** "Children's residential facility" means a residential program licensed under this chapter or chapter 241 according to the applicable standards in Minnesota Rules, parts 2960.0010 to 2960.0710.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of human services or the commissioner's designated representative including county agencies and private agencies.

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

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

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

(3) the individual designated as the compliance officer under section 256B.044, subdivision 8, paragraph (b);

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

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

(b) Controlling individual does not include:

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

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

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

(i) whose securities are exempt under section 80A.45, clause (6); or

(ii) whose transactions are exempt under section 80A.46, clause (2);

(4) an individual who is a member of an organization exempt from taxation under section 290.05, unless the individual is also an officer, owner, or managerial official of the program or owns any of the beneficial interests not excluded in this subdivision. This clause does not exclude from the definition of controlling individual an organization that is exempt from taxation; or

(5) an employee stock ownership plan trust, or a participant or board member of an employee stock ownership plan, unless the participant or board member is a controlling individual according to paragraph (a).

(c) For purposes of this subdivision, "managerial official" means an individual who has the decision-making authority related to the operation of the program, and the responsibility for the ongoing management of or direction of the policies, services, or employees of the program. A site director who has no ownership interest in the program is not considered to be a managerial official for purposes of this definition.

Subd. 5b. **Cradleboard.** "Cradleboard" means a board or frame on which an infant is secured using blankets or other material, such as fabric or leather sides, and laces and often has a frame extending to protect

the infant's head. The infant is always placed with the infant's head facing outward, and the infant remains supervised in the cradleboard while sleeping or being carried.

Subd. 6. **County agency.** "County agency" means the agency designated by the county board of commissioners, human service boards, local social services agencies or multicounty local social services agencies, or departments where those have been established under the law.

Subd. 6a. [Renumbered 142B.01, subd 11]

Subd. 6b. [Renumbered 142B.01, subd 12]

Subd. 6c. **Foster care for adults.** "Foster care for adults" means a program operating 24 hours a day that provides functionally impaired adults with food, lodging, protection, supervision, and household services in a residence, in addition to services according to the individual service plans under Minnesota Rules, part 9555.5105, subpart 18.

Subd. 6d. MS 2024 [Repealed, 2025 c 21 s 95]

Subd. 6e. **Foster residence setting.** "Foster residence setting" has the meaning given in Minnesota Rules, part 2960.3010, subpart 26, and includes settings licensed by the commissioner of human services or the commissioner of corrections.

Subd. 6f. **Family adult foster care home.** "Family adult foster care home" means an adult foster care home:

(1) that is licensed by the Department of Human Services;

(2) that is the primary residence of the license holder; and

(3) in which the license holder is the primary caregiver.

Subd. 7. **Functional impairment.** For the purposes of adult day care, adult day services, family adult day services, or adult foster care, "functional impairment" means:

(1) a condition that is characterized by substantial difficulty in carrying out one or more of the essential major activities of daily living, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working; or

(2) a disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life and that requires support to maintain independence in the community.

Subd. 7a. **HIV minimum standards.** "HIV minimum standards" means those items approved by the department and contained in the HIV-1 Guidelines for substance use disorder treatment and care programs in Minnesota including HIV education to clients, completion of HIV training by all new and existing staff, provision for referral to individual HIV counseling and services for all clients, and the implementation of written policies and procedures for working with HIV-infected clients.

Subd. 7b. MS 2012 [Repealed, 2014 c 262 art 5 s 7]

Subd. 8. **License.** "License" means a certificate issued by the commissioner under section 245A.04 authorizing the license holder to provide a specified program for a specified period of time and in accordance with the terms of the license and the rules of the commissioner.

Subd. 9. **License holder.** "License holder" means an individual, organization, or government entity that is legally responsible for the operation of the program or service, and has been granted a license by the commissioner under this chapter and the rules of the commissioner.

Subd. 10. **Nonresidential program.** "Nonresidential program" means care, supervision, rehabilitation, training or habilitation of a person provided outside the person's own home and provided for fewer than 24 hours a day, including adult day care programs; and substance use disorder or substance abuse programs that are located in a nursing home or hospital and receive public funds for providing substance abuse or substance use disorder treatment services under chapter 254B. Nonresidential programs include home and community-based services for persons with disabilities or persons age 65 and older that are provided in or outside of a person's own home under chapter 245D.

Subd. 10a. [Renumbered 142B.01, subd 21]

Subd. 10b. **Owner.** "Owner" means an individual or organization that has a direct or indirect ownership interest of five percent or more in a program licensed under this chapter. For purposes of this subdivision, "direct ownership interest" means the possession of equity in capital, stock, or profits of an organization, and "indirect ownership interest" means a direct ownership interest in an entity that has a direct or indirect ownership interest in a licensed program. For purposes of this chapter, "owner of an employee stock ownership plan" means the president and treasurer of the entity. A government entity or nonprofit corporation that is issued a license under this chapter shall be designated the owner.

Subd. 10c. **Organization.** "Organization" means a domestic or foreign corporation, nonprofit corporation, limited liability company, partnership, limited partnership, limited liability partnership, association, voluntary association, and any other legal or commercial entity. For purposes of this chapter, organization does not include a government entity.

Subd. 11. **Person.** "Person" means a child or adult as defined in subdivisions 2 and 4.

Subd. 12. [Renumbered 142B.01, subd 22]

Subd. 13. **Individual who is related.** "Individual who is related" means a spouse, a parent, a birth or adopted child or stepchild, a stepparent, a stepbrother, a stepsister, a niece, a nephew, an adoptive parent, a grandparent, a sibling, an aunt, an uncle, or a legal guardian. Individual who is related includes an individual who has a relationship named in this subdivision through marriage.

Subd. 14. **Residential program.** (a) Except as provided in paragraph (b), "residential program" means a program that provides 24-hour-a-day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person's own home, including a program in an intermediate care facility for four or more persons with developmental disabilities; and substance use disorder or substance abuse programs that are located in a hospital or nursing home and receive public funds for providing substance abuse or substance use disorder treatment services under chapter 254B.

(b) For a residential program under chapter 245D, "residential program" means a single or multifamily dwelling that is under the control, either directly or indirectly, of the service provider licensed under chapter 245D and in which at least one person receives services under chapter 245D, including residential supports and services under section 245D.03, subdivision 1, paragraph (c), clause (3); out-of-home crisis respite services under section 245D.03, subdivision 1, paragraph (c), clause (1), item (ii); and out-of-home respite services under section 245D.03, subdivision 1, paragraph (b), clause (1). A residential program does not include out-of-home respite services when a case manager has determined that an unlicensed site meets the assessed needs of the person. A residential program also does not include multifamily dwellings where

persons receive integrated community supports, even if authorization to provide these supports is granted under chapter 245D and approved in the federal waiver.

Subd. 15. **Respite care services.** "Respite care services" means temporary services provided to a person due to the absence or need for relief of the primary caregiver, the person's family member, or legal representative who is the primary caregiver and principally responsible for the care and supervision of the person. Respite care services are those that provide the level of supervision and care that is necessary to ensure the health and safety of the person. Respite care services do not include services that are specifically directed toward the training and habilitation of the person.

Subd. 16. [Renumbered 142B.01, subd 25]

Subd. 17. [Renumbered 142B.01, subd 26]

Subd. 18. [Renumbered 142B.01, subd 27]

Subd. 18a. **Trauma.** For the purposes of section 245A.25, "trauma" means an event, series of events, or set of circumstances experienced by an individual as physically or emotionally harmful or life-threatening and has lasting adverse effects on the individual's functioning and mental, physical, social, emotional, or spiritual well-being. Trauma includes the cumulative emotional or psychological harm of group traumatic experiences transmitted across generations within a community that are often associated with racial and ethnic population groups that have suffered major intergenerational losses.

Subd. 19. [Renumbered 142B.01, subd 13]

Subd. 20. **Weekly.** "Weekly" means at least once every calendar week, for the purposes of substance use disorder treatment programs licensed under chapter 245G.

Subd. 21. **Monthly.** "Monthly" means at least once every calendar month, for the purposes of substance use disorder treatment programs licensed under chapter 245G.

Subd. 22. **Quarterly.** "Quarterly" means at least every 90 calendar days, for the purposes of substance use disorder treatment programs licensed under chapter 245G.

Subd. 23. **Victim of sex trafficking or commercial sexual exploitation.** For the purposes of section 245A.25, "victim of sex trafficking or commercial sexual exploitation" means a person who meets the definitions in section 260C.007, subdivision 31, clauses (4) and (5).

Subd. 24. **Youth.** For the purposes of section 245A.25, "youth" means a child as defined in section 260C.007, subdivision 4, and includes individuals under 21 years of age who are in foster care pursuant to section 260C.451.

History: *1987 c 333 s 2; 1988 c 411 s 1; 1989 c 282 art 2 s 60-65; 1990 c 568 art 2 s 40; 1991 c 142 s 1; 1992 c 513 art 9 s 7,8; 1993 c 338 s 1,2; 1994 c 631 s 31; 1995 c 202 art 1 s 25; 1995 c 207 art 2 s 4; 2000 c 327 s 6; 1Sp2001 c 9 art 14 s 4-6; 2002 c 375 art 1 s 5,6; 2002 c 379 art 1 s 113; 2004 c 288 art 1 s 2-7; 2005 c 56 s 1; 2006 c 196 art 1 s 52; art 2 s 5; 2013 c 108 art 8 s 8,9; art 9 s 5,6; 2014 c 228 art 2 s 2; 2015 c 78 art 4 s 6-9; 2016 c 158 art 1 s 88; 1Sp2017 c 6 art 9 s 2; art 13 s 2,3; 2018 c 182 art 2 s 7-9; 1Sp2019 c 9 art 2 s 14-18,20-21; art 7 s 5; 1Sp2020 c 2 art 1 s 6; 2021 c 30 art 10 s 2-8; 1Sp2021 c 7 art 13 s 4; 2022 c 98 art 4 s 51; art 12 s 1; 2023 c 25 s 121; 2023 c 70 art 8 s 4,5; art 17 s 9,10; 2024 c 80 art 2 s 32,33; 2024 c 115 art 16 s 47; art 19 s 3; 2026 c 121 art 3 s 6; art 4 s 3*

245A.023 MS 2006 [Repealed, 2007 c 112 s 59]

245A.03 WHO MUST BE LICENSED.

Subdivision 1. **License required.** Unless licensed by the commissioner under this chapter, an individual, organization, or government entity must not:

(1) operate a residential or a nonresidential program;

(2) receive a child or adult for care, supervision, or placement in foster care; or

(3) advertise a residential or nonresidential program.

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;

(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 misuse substances or have a substance use disorder, 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 employment and economic development;

(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 do not provide children's residential services under Minnesota Rules, chapter 2960, mental health or substance use disorder treatment;

(9) programs licensed by the commissioner of corrections;

(10) 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;

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

(12) 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;

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

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

(15) mental health outpatient services for adults with mental illness or children with mental illness, except, effective January 1, 2028, for programs licensed under section 245A.044;

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

(17) 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;

(18) assisted living facilities licensed by the commissioner of health under chapter 144G;

(19) substance use disorder treatment activities of licensed professionals in private practice as defined in section 245G.01, subdivision 17;

(20) 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;

(21) a county that is an eligible vendor under section 254B.0501 to provide care coordination and comprehensive assessment services;

(22) a recovery community organization that is an eligible vendor under section 254B.0501 to provide peer recovery support services; or

(23) programs licensed by the commissioner of children, youth, and families in chapter 142B.

(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) Except for the home and community-based services identified in section 245D.03, subdivision 1, 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.

(d) Notwithstanding section 245A.02, subdivision 13, programs initially licensed prior to July 1, 2026, may continue to operate under and must comply with the definition of related individual in Minnesota Statutes 2024, section 245A.02, subdivision 13, until the service recipient related to the license holder is no longer receiving services licensed under this chapter.

[See Note.]

Subd. 2a. [Renumbered 142B.05, subd 3]

Subd. 2b. [Renumbered 142B.05, subd 4]

Subd. 2c. MS 2014 [Repealed, 2015 c 37 s 3]

Subd. 3. **Unlicensed programs.** (a) It is a misdemeanor for an individual, organization, or government entity to provide a residential or nonresidential program without a license issued under this chapter and in willful disregard of this chapter unless the program is excluded from licensure under subdivision 2.

(b) The commissioner may ask the appropriate county attorney or the attorney general to begin proceedings to secure a court order against the continued operation of the program, if an individual, organization, or government entity has:

(1) failed to apply for a license under this chapter after receiving notice that a license is required or continues to operate without a license after receiving notice that a license is required;

(2) continued to operate without a license after a license issued under this chapter has been revoked or suspended under this chapter, and the commissioner has issued a final order affirming the revocation or suspension, or the license holder did not timely appeal the sanction; or

(3) continued to operate without a license after a temporary immediate suspension of a license has been issued under this chapter.

(c) The county attorney and the attorney general have a duty to cooperate with the commissioner.

Subd. 4. [Renumbered 142B.05, subd 6]

Subd. 4a. [Renumbered 142B.05, subd 7]

Subd. 5. MS 2020 [Repealed, 2022 c 98 art 7 s 32]

Subd. 6. **Right to seek certification.** Nothing in this section shall prohibit a residential program licensed by the commissioner of corrections to serve children that is excluded from licensure under subdivision 2, paragraph (a), clause (9), from seeking certification from the commissioner of human services under this chapter for program services for which certification standards have been adopted.

Subd. 6a. **Adult foster care homes or community residential settings serving people with mental illness; certification.** (a) The commissioner of human services shall issue a mental health certification for adult foster care homes licensed under this chapter and Minnesota Rules, parts 9555.5105 to 9555.6265, or community residential settings licensed under chapter 245D, that serve people with a primary diagnosis of mental illness where the home is not the primary residence of the license holder when a provider is determined to have met the requirements under paragraph (b). This certification is voluntary for license holders. The certification shall be printed on the license, and identified on the commissioner's public website.

(b) The requirements for certification are:

(1) all staff working in the adult foster care home or community residential setting have received at least seven hours of annual training under paragraph (c) covering all of the following topics:

(i) mental health diagnoses;

(ii) mental health crisis response and de-escalation techniques;

(iii) recovery from mental illness;

(iv) treatment options including evidence-based practices;

(v) medications and their side effects;

(vi) suicide intervention, identifying suicide warning signs, and appropriate responses;

(vii) co-occurring substance abuse and health conditions; and

(viii) community resources;

(2) a mental health professional, as defined in section 245.462, subdivision 18, or a mental health practitioner as defined in section 245.462, subdivision 17, are available for consultation and assistance;

(3) there is a protocol in place to address a mental health crisis; and

(4) there is a crisis plan for each individual that identifies who is providing clinical services and their contact information, and includes an individual crisis prevention and management plan developed with the individual.

(c) The training curriculum must be approved by the commissioner of human services and must include a testing component after training is completed. Training must be provided by a mental health professional or a mental health practitioner. Training may also be provided by an individual living with a mental illness or a family member of such an individual, who is from a nonprofit organization with a history of providing educational classes on mental illnesses approved by the Department of Human Services to deliver mental health training. Staff must receive three hours of training in the areas specified in paragraph (b), clause (1), items (i) and (ii), prior to working alone with residents. The remaining hours of mandatory training, including a review of the information in paragraph (b), clause (1), item (ii), must be completed within six months of the hire date. For programs licensed under chapter 245D, training under this section may be incorporated into the 30 hours of staff orientation required under section 245D.09, subdivision 4.

(d) License holders seeking certification under this subdivision must request this certification on forms provided by the commissioner and must submit the request to the county licensing agency in which the home or community residential setting is located. The county licensing agency must forward the request to the commissioner with a county recommendation regarding whether the commissioner should issue the certification.

(e) Ongoing compliance with the certification requirements under paragraph (b) shall be reviewed by the county licensing agency at each licensing review. When a county licensing agency determines that the requirements of paragraph (b) are not met, the county shall inform the commissioner, and the commissioner will remove the certification.

(f) A denial of the certification or the removal of the certification based on a determination that the requirements under paragraph (b) have not been met by the adult foster care or community residential setting license holder are not subject to appeal. A license holder that has been denied a certification or that has had a certification removed may again request certification when the license holder is in compliance with the requirements of paragraph (b).

Subd. 7. MS 2024 [Repealed, 2026 c 95 art 4 s 42]

Subd. 7a. **Discretionary temporary licensing moratorium.** (a) The commissioner must not accept an application from or issue an initial license for an individual, organization, or government entity seeking licensure under this chapter and must not add a new service to an existing license when the commissioner determines that exceptional growth in applications for licensure or requests to add new services exceeds the determined need for service capacity. The determined need for service capacity may be limited to a specific region, service focus, or other factors as determined by the commissioner. A temporary licensing moratorium issued under this subdivision is effective for a period of up to 24 months from the date the commissioner issues the moratorium.

(b) Any applicant that will not receive a license due to a temporary licensing moratorium issued under paragraph (a) may apply for a refund of licensing application fees for up to one year from the date the commissioner issues the moratorium.

(c) The commissioner must notify the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services at least 30 days prior to issuing a temporary moratorium under this subdivision and publish notice of the moratorium on the department's website. The notice must include:

(1) a list of all license types to which the moratorium will apply;

(2) the proposed start date of the moratorium; and

(3) the anticipated duration of the moratorium.

(d) The commissioner must establish and make publicly available the processes and criteria the commissioner will use to grant exceptions to a temporary moratorium issued under this subdivision.

Subd. 7b. **Licensing moratorium.** (a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, under this chapter. This paragraph does not apply to child foster residence settings with residential program certifications for compliance with the Family First Prevention Services Act under section 245A.25, subdivision 1, paragraph (a). If a child foster residence setting that was previously exempt from the licensing moratorium under this paragraph has its Family First Prevention Services Act certification rescinded under section 245A.25, subdivision 9, the commissioner shall revoke the license according to section 245A.07.

(b) The commissioner shall not issue an initial license for adult foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter for a physical location that will not be the primary residence of the license holder for the entire period of licensure. If an adult foster care home license is issued during this moratorium, and the license holder changes the license holder's primary residence away from the physical location of the foster care license, the commissioner shall revoke the license according to section 245A.07. When an adult resident served by the program moves out of a foster home that is not the primary residence of the license holder according to Minnesota Statutes 2016, section 256B.49, subdivision 15, paragraph (f), the county shall immediately inform the Department of Human Services Licensing Division. The department may decrease the statewide licensed capacity for adult foster care settings. Residential settings that would otherwise be subject to the decreased license capacity established in this paragraph must be exempt if the license holder's beds are occupied by residents whose primary diagnosis is mental illness and the license holder is certified under the requirements in subdivision 6a or section 245D.33.

(c) The commissioner shall not issue an initial license for a community residential setting licensed under this chapter and chapter 245D. When an adult resident served by the program moves out of an adult community residential setting, the county shall immediately inform the Department of Human Services Licensing Division. The department may decrease the statewide licensed capacity for community residential settings. Residential settings that would otherwise be subject to the decreased license capacity established in this paragraph must be exempt if the license holder's beds are occupied by residents whose primary diagnosis is mental illness and the license holder is certified under the requirements in subdivision 6a or section 245D.33.

(d) The commissioner shall not issue an initial license for children's residential treatment services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter for a program that Centers for Medicare and Medicaid Services would consider an institution for mental diseases. Facilities that serve only

private pay clients are exempt from the moratorium described in this paragraph. The commissioner has the authority to manage existing statewide capacity for children's residential treatment services subject to the moratorium under this paragraph and may issue an initial license for such facilities if the initial license would not increase the statewide capacity for children's residential treatment services subject to the moratorium under this paragraph.

Subd. 7c. **Licensing moratorium exceptions.** (a) The commissioner may approve exceptions to the foster care and community residential settings moratoria described under subdivision 7b as provided in this subdivision.

(b) When approving an exception under this subdivision to the foster care or community residential setting moratorium described in subdivision 7b, the commissioner shall consider the resource need determination process in subdivision 7d, the availability of foster care licensed beds in the geographic area in which the licensee seeks to operate, the results of the person's choices during the person's annual assessment and service plan review, and the recommendation of the local county board. The determination by the commissioner is final and not subject to appeal.

(c) Permissible exceptions to the moratorium include:

(1) a license for a person in a foster care setting that is not the primary residence of the license holder and where at least 80 percent of the residents are 55 years of age or older;

(2) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under subdivision 7d for the closure of a nursing facility, an intermediate care facility for individuals with developmental disabilities, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or movement to the community of people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under subdivision 7d for persons requiring hospital-level care; and

(4) new foster care licenses or community residential setting licenses for people receiving customized living or 24-hour customized living services under the brain injury or community access for disability inclusion waiver plans under section 256B.49 and residing in the customized living setting before July 1, 2026, for which a license is required. A customized living service provider subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until June 30, 2027. This exception is available when:

(i) the person's customized living services are provided in a customized living service setting serving four or fewer people under the brain injury or community access for disability inclusion waiver plans under section 256B.49 in a single-family home operational on or before June 30, 2026. For purposes of this clause, "operational" has the meaning given in section 256B.49, subdivision 28;

(ii) the person's case manager provided the person with information about the choice of service, service provider, and location of service, including in the person's home, to help the person make an informed choice; and

(iii) the person's services provided in the licensed foster care or community residential setting are less than or equal to the cost of the person's services delivered in the customized living setting as determined by the lead agency.

Subd. 7d. **Resource needs determination process.** (a) The commissioner shall determine the need for newly licensed foster care homes or community residential settings. As part of the determination, the commissioner shall consider the availability of foster care capacity in the area in which the licensee seeks to operate and the recommendation of the local county board. The determination by the commissioner is final. A determination of need is not required for a change in ownership at the same address.

(b) A resource need determination process, managed at the state level, using the available data required under section 144A.351 and other data and information must be used to determine where the reduced capacity determined under section 256B.493 will be implemented. The commissioner shall consult with the stakeholders described in section 144A.351 and employ a variety of methods to improve the state's capacity to meet the informed decisions of those people who want to move out of corporate foster care or community residential settings, long-term service needs within budgetary limits, including seeking proposals from service providers or lead agencies to change service type, capacity, or location to improve services, increase the independence of residents, and better meet needs identified by the long-term services and supports reports and statewide data and information.

(c) At the time of application and reapplication for licensure, the applicant and the license holder that are subject to the moratorium or an exclusion established in subdivision 7b are required to inform the commissioner whether the physical location where the foster care will be provided is or will be the primary residence of the license holder for the entire period of licensure. If the primary residence of the applicant or license holder changes, the applicant or license holder must notify the commissioner immediately. The commissioner shall print on the foster care license certificate whether or not the physical location is the primary residence of the license holder.

(d) License holders of foster care homes identified under paragraph (c) that are not the primary residence of the license holder and that also provide services in the foster care home that are covered by a federally approved home and community-based services waiver, as authorized under chapter 256S or section 256B.092 or 256B.49, must inform the human services licensing division that the license holder provides or intends to provide these waiver-funded services.

(e) The commissioner may adjust capacity to address needs identified in section 144A.351. Under this authority, the commissioner may approve new licensed settings or delicense existing settings. Delicensing of settings must be accomplished through a process identified in section 256B.493.

(f) The commissioner must notify a license holder when its corporate foster care or community residential setting licensed beds are reduced under this section. The notice of reduction of licensed beds must be in writing and delivered to the license holder by certified mail or personal service. The notice must state why the licensed beds are reduced and must inform the license holder of its right to request reconsideration by the commissioner. The license holder's request for reconsideration must be in writing. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds. If a request for reconsideration is made by personal service, it must be received by the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

Subd. 8. [Renumbered 142B.05, subd 8]

Subd. 9. **Permitted services by an individual who is related.** Notwithstanding subdivision 2, paragraph (a), clause (1), and subdivision 7b, an individual who is related to a person receiving supported living services may provide licensed services to that person if:

(1) the person who receives supported living services received these services in a residential site on July 1, 2005;

(2) the services under clause (1) were provided in a corporate foster care setting for adults and were funded by the developmental disabilities home and community-based services waiver defined in section 256B.092;

(3) the individual who is related obtains and maintains both a license under chapter 245D or successor licensing requirements for the provision of supported living services and an adult foster care license under Minnesota Rules, parts 9555.5105 to 9555.6265; and

(4) the individual who is related is not the guardian of the person receiving supported living services.

History: *1987 c 333 s 3; 1988 c 411 s 2; 1989 c 282 art 2 s 66-68; 1990 c 568 art 2 s 41; 1991 c 265 art 9 s 63; 1992 c 499 art 3 s 12; 1992 c 513 art 9 s 9; 1993 c 338 s 3; 1993 c 339 s 5; 1994 c 483 s 1; 1994 c 598 s 1; 1994 c 631 s 3,4,31; 1995 c 158 s 3; 1Sp1995 c 3 art 16 s 13; 1997 c 113 s 16; 1997 c 248 s 9; 1998 c 397 art 11 s 3; 1998 c 406 art 1 s 4,37; 1998 c 407 art 9 s 4; 2000 c 327 s 1,2,6; 1Sp2001 c 9 art 14 s 7,9; 2002 c 375 art 1 s 7; 2002 c 379 art 1 s 113; 2003 c 130 s 12; 2004 c 288 art 1 s 8,9; 2005 c 56 s 1; 1Sp2005 c 4 art 1 s 5,6; 2007 c 112 s 3; 2009 c 79 art 8 s 8; 2009 c 86 art 1 s 89; 2009 c 142 art 2 s 12; 2009 c 173 art 1 s 43; 2010 c 329 art 1 s 2,3; 2010 c 352 art 1 s 4,5; 2011 c 86 s 4; 1Sp2011 c 9 art 7 s 1; 2012 c 216 art 9 s 3; art 16 s 1; art 18 s 1; 2012 c 247 art 4 s 5,6; 2013 c 108 art 7 s 3; art 8 s 10,12; art 9 s 7; 2013 c 125 a 1 s 107; 2014 c 262 art 5 s 2; 2014 c 291 art 3 s 1; 2014 c 312 art 25 s 2; art 27 s 6; 2015 c 37 s 1; 2016 c 158 art 1 s 92,93; 1Sp2017 c 6 art 2 s 3; art 8 s 12; 2019 c 54 art 2 s 5; 1Sp2019 c 9 art 2 s 22,23; 1Sp2020 c 2 art 5 s 4; 1Sp2021 c 7 art 13 s 5; 2022 c 98 art 4 s 10,51; art 14 s 12; 2023 c 50 art 1 s 14; 2023 c 61 art 1 s 2; 2023 c 70 art 8 s 6; 2024 c 80 art 2 s 34-37; 2024 c 85 s 52,53; 2024 c 115 art 18 s 11; 2024 c 125 art 1 s 4; 2024 c 127 art 46 s 4; art 62 s 1; 2025 c 38 art 8 s 51; 1Sp2025 c 9 art 4 s 55; art 10 s 1; 2026 c 88 art 1 s 99; 2026 c 95 art 4 s 1-3,41; 2026 c 121 art 4 s 4; art 7 s 2; art 9 s 52*

NOTE: The amendment to subdivision 2 by Laws 2026, chapter 121, article 7, section 2, is effective January 1, 2028. Laws 2026, chapter 121, article 7, section 56.

245A.035 Subdivision 1. [Renumbered 142B.06, subdivision 1]

Subd. 2. [Renumbered 142B.06, subd 2]]

Subd. 3. [Renumbered 142B.06, subd 3]

Subd. 4. [Renumbered 142B.06, subd 4]

Subd. 5. [Renumbered 142B.06, subd 5]

Subd. 6. MS 2006 [Repealed by amendment, 2007 c 147 art 3 s 1]

245A.04 APPLICATION PROCEDURES.

Subdivision 1. **Application for licensure.** (a) An individual, organization, or government entity that is subject to licensure under section 245A.03 must apply for a license. The application must be made on the forms and in the manner prescribed by the commissioner. The commissioner shall provide the applicant with instruction in completing the application and provide information about the rules and requirements of other state agencies that affect the applicant. An applicant seeking licensure in Minnesota with headquarters outside of Minnesota must have a program office located within 30 miles of the Minnesota border. An applicant who intends to buy or otherwise acquire a program or services licensed under this chapter that is owned by another license holder must apply for a license under this chapter and comply with the application

procedures in this section and section 245A.043. A license issued pursuant to a change of ownership under section 245A.043 is not subject to any moratorium imposed under section 245A.03, subdivision 7 or 7a, provided the change of ownership does not result in an increase in licensed capacity or service scope.

The commissioner shall act on the application within 90 working days after a complete application and any required reports have been received from other state agencies or departments, counties, municipalities, or other political subdivisions. The commissioner shall not consider an application to be complete until the commissioner receives all of the required information. If the applicant or a controlling individual is the subject of a pending administrative, civil, or criminal investigation, the application is not complete until the investigation has closed or the related legal proceedings are complete.

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

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

(c) An applicant or license holder must have a policy that prohibits license holders, employees, subcontractors, and volunteers, when directly responsible for persons served by the program, from abusing prescription medication or being in any manner under the influence of a chemical that impairs the individual's ability to provide services or care. The license holder must train employees, subcontractors, and volunteers about the program's drug and alcohol policy before the employee, subcontractor, or volunteer has direct contact, as defined in section 245C.02, subdivision 11, with a person served by the program.

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

(e) The commissioner may limit communication during the application process to the authorized agent or the controlling individuals identified on the license application and for whom a background study was initiated under chapter 245C. Upon implementation of the provider licensing and reporting hub, applicants and license holders must use the hub in the manner prescribed by the commissioner. The commissioner may require the applicant, except for child foster care, to demonstrate competence in the applicable licensing requirements by successfully completing a written examination. The commissioner may develop a prescribed written examination format.

(f) When an applicant is an individual, the applicant must provide:

(1) the applicant's taxpayer identification numbers including the Social Security number or Minnesota tax identification number, and federal employer identification number if the applicant has employees;

(2) at the request of the commissioner, a copy of the most recent filing with the secretary of state that includes the complete business name, if any;

(3) if doing business under a different name, the doing business as (DBA) name, as registered with the secretary of state;

(4) if applicable, the applicant's National Provider Identifier (NPI) number and Unique Minnesota Provider Identifier (UMPI) number; and

(5) at the request of the commissioner, the notarized signature of the applicant or authorized agent.

(g) When an applicant is an organization, the applicant must provide:

(1) the applicant's taxpayer identification numbers including the Minnesota tax identification number and federal employer identification number;

(2) at the request of the commissioner, a copy of the most recent filing with the secretary of state that includes the complete business name, and if doing business under a different name, the doing business as (DBA) name, as registered with the secretary of state;

(3) the first, middle, and last name, and address for all individuals who will be controlling individuals, including all officers, owners, and managerial officials as defined in section 245A.02, subdivision 5a, and the date that the background study was initiated by the applicant for each controlling individual;

(4) if applicable, the applicant's NPI number and UMPI number;

(5) the documents that created the organization and that determine the organization's internal governance and the relations among the persons that own the organization, have an interest in the organization, or are members of the organization, in each case as provided or authorized by the organization's governing statute, which may include a partnership agreement, bylaws, articles of organization, organizational chart, and operating agreement, or comparable documents as provided in the organization's governing statute; and

(6) the notarized signature of the applicant or authorized agent.

(h) When the applicant is a government entity, the applicant must provide:

(1) the name of the government agency, political subdivision, or other unit of government seeking the license and the name of the program or services that will be licensed;

(2) the applicant's taxpayer identification numbers including the Minnesota tax identification number and federal employer identification number;

(3) a letter signed by the manager, administrator, or other executive of the government entity authorizing the submission of the license application; and

(4) if applicable, the applicant's NPI number and UMPI number.

(i) At the time of application for licensure or renewal of a license under this chapter, the applicant or license holder must acknowledge on the form provided by the commissioner if the applicant or license holder

elects to receive any public funding reimbursement from the commissioner for services provided under the license that:

(1) the applicant's or license holder's compliance with the provider enrollment agreement or registration requirements for receipt of public funding may be monitored by the commissioner as part of a licensing investigation or licensing inspection; and

(2) noncompliance with the provider enrollment agreement or registration requirements for receipt of public funding that is identified through a licensing investigation or licensing inspection, or noncompliance with a licensing requirement that is a basis of enrollment for reimbursement for a service, may result in:

(i) a correction order or a conditional license under section 245A.06, or sanctions under section 245A.07;

(ii) nonpayment of claims submitted by the license holder for public program reimbursement;

(iii) recovery of payments made for the service;

(iv) disenrollment in the public payment program; or

(v) other administrative, civil, or criminal penalties as provided by law.

(j) An applicant or license holder who acknowledges under paragraph (i) that the applicant or license holder elects to receive any publicly funded reimbursement from the commissioner for services provided under the license that are designated by the commissioner as high-risk under section 256B.044, subdivision 1, must provide an attestation with the notarized signature of the applicant or authorized agent stating whether the applicant or authorized agent received from an unaffiliated business or consultant any assistance preparing:

(1) the licensure application;

(2) the renewal application;

(3) any documentation or written policies submitted with the licensure application;

(4) any documentation or written policies submitted with the renewal application; or

(5) any documentation or written policies maintained as a requirement of licensure or enrollment as a medical assistance provider.

Subd. 2. **Notification of affected municipality.** The commissioner must not issue a license under this chapter without giving 30 calendar days' written notice to the affected municipality or other political subdivision unless the program is considered a permitted single-family residential use under sections 245A.11 and 245A.14. If the program is considered a permitted single-family residence, the commissioner must give the affected municipality or other political subdivision written notice of the issuance no later than five days after issuing the license, excluding weekends and holidays. The written notice must include the prospective license holder's name and contact information, the license type and capacity, and the proposed address of the licensed facility or program. The commissioner may provide notice through electronic communication. The notification must be given before the first issuance of a license under this chapter and annually after that time if annual notification is requested in writing by the affected municipality or other political subdivision. State funds must not be made available to or be spent by an agency or department of state, county, or municipal government for payment to a residential or nonresidential program licensed under this chapter until the provisions of this subdivision have been complied with in full. The provisions of this subdivision shall not apply to programs located in hospitals.

Subd. 2a. **Meeting fire and safety codes.** (a) An applicant or license holder under sections 245A.01 to 245A.16 must document compliance with applicable building codes, fire and safety codes, health rules, and zoning ordinances, or document that an appropriate waiver has been granted.

(b) At the request of a county or local unit of government, the commissioner may delegate to a county agency or local unit of government the commissioner's or local agency's authority to inspect an existing residential program serving six or fewer persons for compliance with zoning ordinances and applicable physical plant licensing requirements. If the commissioner delegates the commissioner's or local agency's authority to a county agency or local unit of government under this subdivision, the commissioner must execute a formal delegation of authority that clearly specifies what authority is being delegated to the county agency or local unit of government, that the commissioner is responsible for any costs incurred by the county agency or local unit of government for conducting inspections under delegated authority, and that the county agency or local unit of government must not assess any additional fees for conducting an inspection under delegated authority. When conducting an inspection under delegated authority, the county agency or local unit of government must provide the subject of the inspection with a copy of the delegation of authority.

(c) When a county agency or local unit of government is conducting an inspection under delegated authority as provided in paragraph (b), the county agency or local unit of government and the agency responsible for licensing inspections must coordinate inspections to minimize visits to and disruptions of the residential program. A county agency or local unit of government conducting an inspection must notify the commissioner of any violations or concerns within ten days of the inspection, excluding weekends and holidays. A county agency or local unit of government that conducts inspections under this subdivision must not inspect a residential program more frequently than annually, except a follow-up inspection is permitted before the next annual inspection to verify correction of a violation discovered during the most recent inspection.

(d) The commissioner must ensure that laws, rules, and codes are uniformly enforced throughout the state by reviewing at least every four years each county agency and local unit of government conducting inspections under this subdivision for compliance with this subdivision and other applicable laws and rules.

Subd. 3. **Background study.** Individuals and organizations that are required under section 245C.03 to have or initiate background studies shall comply with the requirements in chapter 245C.

Subd. 3a. **Notice of background study results; determination of risk of harm.** The notice of background study results and the commissioner's determination of the background subject's risk of harm shall be governed according to sections 245C.16 and 245C.17.

Subd. 3b. **Reconsideration of disqualification.** Reconsideration of a disqualification shall be governed according to sections 245C.21 to 245C.27.

Subd. 3c. **Contested case.** Contested case hearing rights related to a disqualification shall be governed according to section 245C.28.

Subd. 3d. **Disqualification.** Disqualification shall be governed according to sections 245C.14 and 245C.15.

Subd. 3e. **Variance for a disqualified individual.** A variance for a disqualified individual shall be governed according to section 245C.30.

Subd. 3f. **Conclusive determinations or dispositions.** Whether a disqualification determination or maltreatment determination or disposition is deemed conclusive shall be governed according to section 245C.29.

Subd. 4. **Inspections; waiver.** (a) Before issuing a license under this chapter, the commissioner shall conduct an inspection of the program. The inspection must include but is not limited to:

(1) an inspection of the physical plant;

(2) an inspection of records and documents;

(3) observation of the program in operation; and

(4) an inspection for the health, safety, and fire standards in licensing requirements for a child care license holder.

(b) The observation in paragraph (a), clause (3), is not required prior to issuing a license under subdivision 7. If the commissioner issues a license under this chapter, these requirements must be completed within one year after the issuance of the license.

Subd. 5. **Commissioner's right of access.** (a) When the commissioner is exercising the powers conferred by this chapter, section 626.557, and chapter 260E, the commissioner must be given access to:

(1) the physical plant and grounds where the program is provided;

(2) documents and records, including records maintained in electronic format;

(3) persons served by the program; and

(4) staff and personnel records of current and former staff whenever the program is in operation and the information is relevant to inspections or investigations conducted by the commissioner. Upon request, the license holder must provide the commissioner verification of documentation of staff work experience, training, or educational requirements.

The commissioner must be given access without prior notice and as often as the commissioner considers necessary if the commissioner is investigating alleged maltreatment, conducting a licensing inspection, or investigating an alleged violation of applicable laws or rules. In conducting inspections, the commissioner may request and shall receive assistance from other state, county, and municipal governmental agencies and departments. The applicant or license holder shall allow the commissioner to photocopy, photograph, and make audio and video tape recordings during the inspection of the program at the commissioner's expense. The commissioner shall obtain a court order or the consent of the subject of the records or the parents or legal guardian of the subject before photocopying hospital medical records.

(b) Persons served by the program have the right to refuse to consent to be interviewed, photographed, or audio or videotaped. Failure or refusal of an applicant or license holder to fully comply with this subdivision is reasonable cause for the commissioner to deny the application or immediately suspend or revoke the license.

Subd. 6. **Commissioner's evaluation.** (a) Before issuing, denying, suspending, revoking, or making conditional a license, the commissioner shall evaluate information gathered under this section. The commissioner's evaluation shall consider the applicable requirements of statutes and rules for the program or services for which the applicant seeks a license, including the disqualification standards set forth in chapter 245C, and shall evaluate facts, conditions, or circumstances concerning:

(1) the program's operation;

(2) the well-being of persons served by the program;

(3) available evaluations of the program by persons receiving services;

(4) information about the qualifications of the personnel employed by the applicant or license holder; and

(5) the applicant's or license holder's ability to demonstrate competent knowledge of the applicable requirements of statutes and rules, including this chapter and chapter 245C, for which the applicant seeks a license or the license holder is licensed.

(b) The commissioner shall also evaluate the results of the study required in subdivision 3 and determine whether a risk of harm to the persons served by the program exists. In conducting this evaluation, the commissioner shall apply the disqualification standards set forth in chapter 245C.

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

(1) the name of the license holder;

(2) the address of the program;

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

(4) the type of license and the specific service the license holder is licensed to provide;

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

(6) any special conditions of licensure.

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

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

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

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

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

(d) Except as provided in paragraphs (i) and (j), the commissioner shall not issue a license if the applicant, license holder, or an affiliated controlling individual has:

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

(2) been denied a license under this chapter or chapter 142B within the past two years;

(3) had a license issued under this chapter or chapter 142B revoked within the past five years; or

(4) failed to submit the information required of an applicant under subdivision 1, paragraph (f), (g), (h), or (j), after being requested by the commissioner.

When a license issued under this chapter or chapter 142B is revoked, the license holder and each affiliated controlling individual with a revoked license may not hold any license under chapter 245A for five years following the revocation, and other licenses held by the applicant or license holder or licenses affiliated with each controlling individual shall also be revoked.

(e) Notwithstanding paragraph (d), the commissioner may elect not to revoke a license affiliated with a license holder or controlling individual that had a license revoked within the past five years if the commissioner determines that (1) the license holder or controlling individual is operating the program in substantial compliance with applicable laws and rules and (2) the program's continued operation is in the best interests of the community being served.

(f) Notwithstanding paragraph (d), the commissioner may issue a new license in response to an application that is affiliated with an applicant, license holder, or controlling individual that had an application denied within the past two years or a license revoked within the past five years if the commissioner determines that (1) the applicant or controlling individual has operated one or more programs in substantial compliance with applicable laws and rules and (2) the program's operation would be in the best interests of the community to be served.

(g) In determining whether a program's operation would be in the best interests of the community to be served, the commissioner shall consider factors such as the number of persons served, the availability of alternative services available in the surrounding community, the management structure of the program, whether the program provides culturally specific services, and other relevant factors.

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

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

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

(k) Unless otherwise specified by statute, all licenses issued under this chapter expire at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must comply with the requirements in section 245A.10 and be reissued a new license to operate the program or the program must not be operated after the expiration date. Adult foster care, family adult day services, child foster residence setting, and community residential services license holders must apply for and be granted a new license to operate the program or the program must not be operated after the expiration date. Upon implementation of the provider licensing and reporting hub, licenses may be issued each calendar year.

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

(m) The commissioner of human services may coordinate and share data with the commissioner of children, youth, and families to enforce this section.

(n) For substance use disorder treatment programs, for the purposes of paragraph (a), clause (5), the maximum number of persons who may receive services from the program includes persons served at satellite locations.

Subd. 7a. **Notification required.** (a) A license holder must notify the commissioner, in a manner prescribed by the commissioner, and obtain the commissioner's approval before making any change that would alter the license information listed under subdivision 7, paragraph (a).

(b) A license holder must also notify the commissioner, in a manner prescribed by the commissioner, before making any change:

(1) to the license holder's authorized agent as defined in section 245A.02, subdivision 3b;

(2) to the license holder's controlling individual as defined in section 245A.02, subdivision 5a;

(3) to the license holder information on file with the secretary of state;

(4) in the location of the program or service licensed under this chapter; and

(5) to the federal or state tax identification number associated with the license holder.

(c) When, for reasons beyond the license holder's control, a license holder cannot provide the commissioner with prior notice of the changes in paragraph (b), clauses (1) to (3), the license holder must notify the commissioner by the tenth business day after the change and must provide any additional information requested by the commissioner.

(d) When a license holder notifies the commissioner of a change to the license holder information on file with the secretary of state, the license holder must provide amended articles of incorporation and other documentation of the change.

(e) Upon implementation of the provider licensing and reporting hub, license holders must enter and update information in the hub in a manner prescribed by the commissioner.

Subd. 7b. **Notification to commissioner of changes in key staff positions; children's residential facilities and detoxification programs.** (a) A license holder must notify the commissioner within five business days of a change or vacancy in a key staff position under paragraph (b) or (c). The license holder must notify the commissioner of the staffing change on a form approved by the commissioner and include the name of the staff person now assigned to the key staff position and the staff person's qualifications for the position. The license holder must notify the program licensor of a vacancy to discuss how the duties of the key staff position will be fulfilled during the vacancy.

(b) The key staff position for a children's residential facility licensed according to Minnesota Rules, parts 2960.0130 to 2960.0220, is a program director; and

(c) The key staff positions for a detoxification program licensed according to Minnesota Rules, parts 9530.6510 to 9530.6590, are:

(1) a program director as required by Minnesota Rules, part 9530.6560, subpart 1;

(2) a registered nurse as required by Minnesota Rules, part 9530.6560, subpart 4; and

(3) a medical director as required by Minnesota Rules, part 9530.6560, subpart 5.

Subd. 8. **Hospital inspections.** Licensing authority granted under this section shall not modify the presumption regarding routine hospital inspections under section 144.55, subdivision 4.

Subd. 9. **Variances.** The commissioner may grant variances to rules that do not affect the health or safety of persons in a licensed program if the following conditions are met:

(1) the variance must be requested by an applicant or license holder on a form and in a manner prescribed by the commissioner;

(2) the request for a variance must include the reasons that the applicant or license holder cannot comply with a requirement as stated in the rule and the alternative equivalent measures that the applicant or license holder will follow to comply with the intent of the rule; and

(3) the request must state the period of time for which the variance is requested.

The commissioner may grant a permanent variance when conditions under which the variance is requested do not affect the health or safety of persons being served by the licensed program, nor compromise the qualifications of staff to provide services. The permanent variance shall expire as soon as the conditions that warranted the variance are modified in any way. Any applicant or license holder must inform the commissioner of any changes or modifications that have occurred in the conditions that warranted the permanent variance. Failure to advise the commissioner shall result in revocation of the permanent variance and may be cause for other sanctions under sections 245A.06 and 245A.07.

The commissioner's decision to grant or deny a variance request is final and not subject to appeal under the provisions of chapter 14.

Subd. 9a. [Renumbered 142B.10, subd 17]

Subd. 10. [Renumbered 142B.10, subd 18]

Subd. 11. **Education program; permitted ages, additional requirement.** (a) Except for foster care, the commissioner of human services may not grant a license to a residential facility for the placement of children before the commissioner has received documentation of approval of the on-site educational program from the commissioner of education according to section 125A.515.

(b) A program licensed by the commissioner under Minnesota Rules, chapter 2960, may serve persons who are over the age of 18 but under the age of 21 when the person is:

(1) completing secondary education or a program leading to an equivalent credential;

(2) enrolled in an institution which provides postsecondary or vocational education;

(3) participating in a program or activity designed to promote, or remove barriers to, employment;

(4) employed for at least 80 hours per month; or

(5) incapable of doing any of the activities described in clauses (1) to (4) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the person.

(c) In addition to the requirements in paragraph (b), a residential program licensed by the commissioner of human services under Minnesota Rules, parts 2960.0010 to 2960.0710, may serve persons under the age of 21 provided the facility complies with the following requirements:

(1) for each person age 18 and older served at the program, the program must assess and document the person's risk of victimizing other residents residing in the facility, and based on the assessment, the facility must develop and implement necessary measures to minimize any risk of harm to other residents, including making arrangements for appropriate sleeping arrangements; and

(2) the program must assure that the services and living arrangements provided to all residents are suitable to the age and functioning of the residents, including separation of services, staff supervision, and other program operations as appropriate.

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

Subd. 12. **Adult day care facilities; Alzheimer's disease or related disorders.** (a) If an adult day care facility markets or otherwise promotes services for persons with Alzheimer's disease or related disorders, the facility's direct care staff and their supervisors must be trained in dementia care.

(b) Areas of required training include:

(1) an explanation of Alzheimer's disease and related disorders;

(2) assistance with activities of daily living;

(3) problem solving with challenging behaviors; and

(4) communication skills.

(c) The facility shall provide to consumers in written or electronic form a description of the training program, the categories of employees trained, the frequency of training, and the basic topics covered.

Subd. 13. **Funds and property; other requirements.** (a) A license holder must ensure that persons served by the program retain the use and availability of personal funds or property unless restrictions are justified in the person's individual plan.

(b) The license holder must ensure separation of funds of persons served by the program from funds of the license holder, the program, or program staff.

(c) Whenever the license holder assists a person served by the program with the safekeeping of funds or other property, the license holder must:

(1) immediately document receipt and disbursement of the person's funds or other property at the time of receipt or disbursement, including the person's signature, or the signature of the conservator or payee; and

(2) return to the person upon the person's request, funds and property in the license holder's possession subject to restrictions in the person's treatment plan, as soon as possible, but no later than three working days after the date of request.

(d) License holders and program staff must not:

(1) borrow money from a person served by the program;

(2) purchase personal items from a person served by the program;

(3) sell merchandise or personal services to a person served by the program;

(4) require a person served by the program to purchase items for which the license holder is eligible for reimbursement; or

(5) use funds of persons served by the program to purchase items for which the facility is already receiving public or private payments.

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.

(d) An adult foster care license holder that provides foster care services to a resident under chapter 256S must annually provide a copy of the resident termination policy under section 245A.11, subdivision 11, to a resident covered by the policy.

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.

Subd. 15a. **Plan for transfer of clients and records upon closure.** (a) Except for license holders who reside on the premises and child care providers, an applicant for initial or continuing licensure or certification must submit a written plan indicating how the program will ensure the transfer of clients and records for both open and closed cases if the program closes. The plan must provide for managing private and confidential information concerning program clients. The plan must also provide for notifying affected clients of the closure at least 25 days prior to closure, including information on how to access their records. A controlling individual of the program must annually review and sign the plan.

(b) Plans for the transfer of open cases and case records must specify arrangements the program will make to transfer clients to another provider or county agency for continuation of services and to transfer the case record with the client.

(c) Plans for the transfer of closed case records must be accompanied by a signed agreement or other documentation indicating that a county or a similarly licensed provider has agreed to accept and maintain the program's closed case records and to provide follow-up services as necessary to affected clients.

Subd. 16. **Program policy; reporting a death in the program.** Unless such reporting is otherwise already required under statute or rule, programs licensed under this chapter must have a written policy for reporting the death of an individual served by the program to the commissioner of human services. Within

24 hours of receiving knowledge of the death of an individual served by the program, the license holder shall notify the commissioner of the death. If the license holder has reason to know that the death has been reported to the commissioner, a subsequent report is not required.

Subd. 17. MS 2022 [Repealed, 2024 c 80 art 2 s 75]

History: *1987 c 333 s 4; 1988 c 411 s 3,4; 1988 c 608 s 2; 1989 c 282 art 2 s 69-76; 1990 c 542 s 7; 1990 c 568 art 2 s 42-44; 1991 c 38 s 1; 1992 c 513 art 9 s 10; 1993 c 171 s 3,4; 1993 c 306 s 1; 1993 c 338 s 5; 1993 c 351 s 29; 1994 c 434 s 1-3; 1994 c 465 art 1 s 29; 1994 c 631 s 31; 1995 c 207 art 2 s 7-10; 1995 c 229 art 3 s 5; art 4 s 11; 1996 c 408 art 10 s 5; 1997 c 248 s 10-18,39; 1998 c 367 art 2 s 32; 1998 c 406 art 1 s 6,7,37; 1998 c 407 art 9 s 6,7; 1999 c 139 art 4 s 2; 1999 c 241 art 2 s 53; 1999 c 245 art 4 s 9; 2000 c 260 s 29; 2000 c 319 s 1; 2000 c 327 s 3-6; 1Sp2001 c 9 art 14 s 11-18; 2002 c 292 s 1,2; 2002 c 375 art 1 s 9-12; 2002 c 379 art 1 s 113; 2003 c 15 art 2 s 1-8; 2003 c 37 s 4; 2003 c 130 s 12; 2004 c 288 art 1 s 10-14; 1Sp2005 c 4 art 1 s 9,10; 2007 c 112 s 4-6; 2009 c 142 art 2 s 14,15; 2010 c 301 art 3 s 1; 2010 c 329 art 1 s 4,5; 2012 c 216 art 16 s 2-5,27; art 17 s 1; 2013 c 108 art 9 s 8; 2014 c 228 art 2 s 3-5; 2014 c 275 art 1 s 38; 2014 c 312 art 29 s 2; 2015 c 78 art 4 s 10; 1Sp2017 c 6 art 2 s 4; art 9 s 3; art 16 s 1; 2018 c 200 s 1; 2019 c 54 art 2 s 6; 1Sp2019 c 9 art 2 s 24-29,32; 1Sp2020 c 2 art 1 s 7; art 8 s 41; 2021 c 30 art 17 s 46; 2023 c 25 s 122; 2023 c 61 art 7 s 1; 2023 c 70 art 8 s 7-9; art 17 s 11,12; 2024 c 80 art 2 s 39-41; 2024 c 115 art 19 s 4; 2024 c 127 art 62 s 2; 2025 c 38 art 5 s 5,6; 1Sp2025 c 3 art 17 s 4; 1Sp2025 c 9 art 10 s 2; 2026 c 88 art 1 s 101; 2026 c 121 art 3 s 7,8; art 9 s 2,3*

245A.041 SYSTEMS AND RECORDS.

Subdivision 1. **Establishment; use.** The commissioner's establishment and use of systems and records to fulfill the requirements under chapter 245C shall be governed according to section 245C.32, subdivisions 1 and 2.

Subd. 2. **National records search.** National records searches shall be governed according to section 245C.32, subdivision 3.

Subd. 3. **Record retention; license holder requirements.** (a) A license holder must maintain and store records in a manner that will allow for review by the commissioner as identified in section 245A.04, subdivision 5. The following records must be maintained as specified and in accordance with applicable state or federal law, regulation, or rule:

(1) service recipient records, including verification of service delivery, must be maintained for a minimum of five years following discharge or termination of service;

(2) personnel records must be maintained for a minimum of five years following termination of employment; and

(3) program administration and financial records must be maintained for a minimum of five years from the date the program closes.

(b) A license holder who ceases to provide services must maintain all records related to the licensed program for five years from the date the program closes. The license holder must notify the commissioner of the location where the licensing records will be stored and the name of the person responsible for maintaining the stored records.

(c) If the ownership of a licensed program or service changes, the transferor, unless otherwise provided by law or written agreement with the transferee, is responsible for maintaining, preserving, and making available to the commissioner on demand the license records generated before the date of the transfer.

(d) In the event of a contested case, the license holder must retain records as required in paragraph (a) or until the final agency decision is issued and the conclusion of any related appeal, whichever period is longer.

Subd. 4. **Electronic records; license holder use.** A license holder's use of electronic record keeping or electronic signatures must meet the following requirements:

(1) use of electronic record keeping or electronic signatures does not alter the license holder's obligations under state or federal law, regulation, or rule;

(2) the license holder must ensure that the use of electronic record keeping does not limit the commissioner's access to records as specified under section 245A.04, subdivision 5;

(3) upon request, the license holder must assist the commissioner in accessing and copying all records, including encrypted records and electronic signatures; and

(4) the license holder must establish a mechanism or procedure to ensure that:

(i) the act of creating the electronic record or signature is attributable to the license holder, according to section 325L.09;

(ii) the electronic records and signatures are maintained in a form capable of being retained and accurately reproduced;

(iii) the commissioner has access to information that establishes the date and time that data and signatures were entered into the electronic record; and

(iv) the license holder's use of electronic record keeping or electronic signatures does not compromise the security of the records.

Subd. 5. **First date of working in a facility or setting; documentation requirements.** Children's residential facility and foster residence setting license holders must document the first date that a person who is a background study subject begins working in the license holder's facility or setting. If the license holder does not maintain documentation of each background study subject's first date of working in the facility or setting in the license holder's personnel files, the license holder must provide documentation to the commissioner that contains the first date that each background study subject began working in the license holder's program upon the commissioner's request.

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

History: *2001 c 163 s 1; 2003 c 15 art 2 s 9; 2012 c 216 art 18 s 2,3; 2021 c 30 art 10 s 9; 2023 c 70 art 17 s 13; 2024 c 80 art 2 s 42*

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 licensor 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*

245A.043 LICENSE APPLICATION AFTER CHANGE OF OWNERSHIP.

Subdivision 1. **Transfer prohibited.** A license issued under this chapter is only valid for a premises and individual, organization, or government entity identified by the commissioner on the license. A license is not transferable or assignable.

Subd. 2. **Change in ownership.** If the commissioner determines that there is a change in ownership, the commissioner shall require submission of a new license application. This subdivision does not apply to a licensed program or service located in a home where the license holder resides. A change in ownership occurs when:

(1) the license holder sells or transfers 100 percent of the property, stock, or assets;

(2) the license holder merges with another organization;

(3) the license holder consolidates with two or more organizations, resulting in the creation of a new organization;

(4) there is a change to the federal tax identification number associated with the license holder; or

(5) all controlling individuals for the original license have changed.

Subd. 2a. **Review of change in ownership.** After a change in ownership under subdivision 2, the commissioner may complete a review for all new license holders within 12 months after the new license is issued.

Subd. 3. **Standard change of ownership process.** (a) When a change in ownership is proposed and the party intends to assume operation without an interruption in service longer than 60 days after acquiring the program or service, the license holder must provide the commissioner with written notice of the proposed change on a form provided by the commissioner at least 90 days before the anticipated date of the change in ownership. For purposes of this section, "party" means the party that intends to operate the service or program.

(b) The party must submit a license application under this chapter on the form and in the manner prescribed by the commissioner at least 90 days before the change in ownership is anticipated to be complete and must include documentation to support the upcoming change. The party must comply with background study requirements under chapter 245C and shall pay the application fee required under section 245A.10.

(c) A party that intends to assume operation without an interruption in service longer than 60 days after acquiring the program or service is exempt from the requirements of sections 245G.03, subdivision 2, paragraph (b), and 254B.03, subdivision 2, paragraphs (c) and (d).

(d) The commissioner may streamline application procedures when the party is an existing license holder under this chapter and is acquiring a program licensed under this chapter or service in the same service class as one or more licensed programs or services the party operates and those licenses are in substantial compliance. For purposes of this subdivision, "substantial compliance" means within the previous 12 months

the commissioner did not (1) issue a sanction under section 245A.07 against a license held by the party, or (2) make a license held by the party conditional according to section 245A.06.

(e) While the standard change of ownership process is pending, the existing license holder remains responsible for operating the program according to applicable laws and rules until a license under this chapter is issued to the party.

(f) If a licensing inspection of the program or service was conducted within the previous 12 months and the existing license holder's license record demonstrates substantial compliance with the applicable licensing requirements, the commissioner may waive the party's inspection required by section 245A.04, subdivision 4. The party must submit to the commissioner (1) proof that the premises was inspected by a fire marshal or that the fire marshal deemed that an inspection was not warranted, and (2) proof that the premises was inspected for compliance with the building code or that no inspection was deemed warranted.

(g) If the party is seeking a license for a program or service that has an outstanding action under section 245A.06 or 245A.07, the party must submit a written plan as part of the application process identifying how the party has or will come into full compliance with the licensing requirements.

(h) The commissioner shall evaluate the party's application according to section 245A.04, subdivision 6. If the commissioner determines that the party has remedied or demonstrates the ability to remedy the outstanding actions under section 245A.06 or 245A.07 and has determined that the program otherwise complies with all applicable laws and rules, the commissioner shall issue a license or conditional license under this chapter. A conditional license issued under this section is final and not subject to reconsideration under section 245A.06, subdivision 4. The conditional license remains in effect until the commissioner determines that the grounds for the action are corrected or no longer exist.

(i) The commissioner may deny an application as provided in section 245A.05. An applicant whose application was denied by the commissioner may appeal the denial according to section 245A.05.

(j) This subdivision does not apply to a licensed program or service located in a home where the license holder resides.

Subd. 3a. **Emergency change in ownership process.** (a) In the event of a death of a license holder or sole controlling individual or a court order or other event that results in the license holder being inaccessible or unable to operate the program or service, a party may submit a request to the commissioner to allow the party to assume operation of the program or service under an emergency change in ownership process to ensure persons continue to receive services while the commissioner evaluates the party's license application.

(b) To request the emergency change of ownership process, the party must immediately:

(1) notify the commissioner of the event resulting in the inability of the license holder to operate the program and of the party's intent to assume operations; and

(2) provide the commissioner with documentation that demonstrates the party has a legal or legitimate ownership interest in the program or service if applicable and is able to operate the program or service.

(c) If the commissioner approves the party to continue operating the program or service under an emergency change in ownership process, the party must:

(1) request to be added as a controlling individual or license holder to the existing license;

(2) notify persons receiving services of the emergency change in ownership in a manner approved by the commissioner;

(3) submit an application for a new license within 30 days of approval;

(4) comply with the background study requirements under chapter 245C; and

(5) pay the application fee required under section 245A.10.

(d) While the emergency change of ownership process is pending, a party approved under this subdivision is responsible for operating the program under the existing license according to applicable laws and rules until a new license under this chapter is issued.

(e) The provisions in subdivision 3, paragraphs (c), (d), and (f) to (i) apply to this subdivision.

(f) Once a party is issued a new license or has decided not to seek a new license, the commissioner must close the existing license.

(g) This subdivision applies to any program or service licensed under this chapter.

Subd. 4. **Temporary transitional license.** If a party's application under subdivision 2 is for a satellite license for a community residential setting under section 245D.23 or day services facility under section 245D.27 and if the party already holds an active license to provide services under chapter 245D, the commissioner may issue a temporary transitional license to the party for the community residential setting or day services facility while the commissioner evaluates the party's application. Until a decision is made to grant or deny a community residential setting or day services facility satellite license, the party must be solely responsible for operating the program according to applicable laws and rules, and the existing license must be closed. The temporary transitional license expires after 12 months from the date it was issued or upon issuance of the community residential setting or day services facility satellite license, whichever occurs first.

Subd. 5. **Failure to comply.** If the commissioner finds that the applicant or license holder has not fully complied with this section, the commissioner may impose a licensing sanction under section 245A.05, 245A.06, or 245A.07.

History: *1Sp2019 c 9 art 2 s 33; 2021 c 30 art 2 s 1; 2023 c 50 art 2 s 6; 2024 c 127 art 62 s 3-7; 1Sp2025 c 9 art 10 s 3; 2026 c 121 art 4 s 5,6*

245A.044 LICENSED NONRESIDENTIAL BEHAVIORAL HEALTH SERVICES.

Subdivision 1. **License required for certain nonresidential behavioral health services.** (a) Beginning January 1, 2028, providers of nonresidential mental health and substance use disorder services must obtain a license under this chapter to provide:

(1) adult rehabilitative mental health services under section 245I.22;

(2) children's therapeutic services and supports in the community under section 245I.30 and children's day treatment under section 245I.31;

(3) crisis response services under section 245I.24; and

(4) certified community behavioral health clinic services under section 245I.17.

(b) 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 245I; and

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

[See Note.]

Subd. 2. **Implementation.** (a) Beginning July 1, 2027, the commissioner must begin issuing licenses to providers listed in subdivision 1. The commissioner must transition providers certified under section 245I.011 and listed in subdivision 1 into licensure with a phased-in schedule determined by the commissioner. The commissioner must communicate the implementation schedule to providers at least three months before the application is made available.

(b) Applicants for licensure must have an approved certification under section 245I.011 at least 90 days before the date of the licensure application.

(c) A provider's certification under section 245I.011, subdivision 5, paragraph (a), clauses (2) to (4), or 6, paragraph (b), expires when the commissioner issues a decision on the provider's license application.

(d) Upon licensure, a license holder must notify clients and staff of policies and procedures outlined in the application.

(e) Notwithstanding paragraphs (a) and (c), subdivision 1, and sections 245I.17, 245I.22, 245I.24, 245I.30, and 245I.31, a provider listed under subdivision 1, paragraph (a), clauses (1) to (4), and certified under section 245I.011 may continue operating past January 1, 2028, until the commissioner issues a licensing decision if the provider submitted an application before January 1, 2028.

(f) If a provider fails to submit an application for licensure within six months of the application being made available, the commissioner must disenroll the provider from reimbursement for the following services:

(1) adult rehabilitative mental health services under section 256B.0623;

(2) crisis response services under section 256B.0624;

(3) children's therapeutic services and supports under section 256B.0943; and

(4) certified community behavioral health clinics under section 256B.0625, subdivision 5m.

(g) The commissioner must disenroll a provider listed in paragraph (f) from medical assistance if:

(1) the provider's licensing application has been denied or the license has been suspended or revoked; and

(2) the provider appealed the application denial or the license suspension or revocation, and the commissioner issued a final order on the appeal affirming the action.

History: *2026 c 121 art 7 s 3*

NOTE: Subdivision 1, as added by Laws 2026, chapter 121, article 7, section 3, is effective January 1, 2028. Laws 2026, chapter 121, article 7, section 56.

245A.05 DENIAL OF APPLICATION.

(a) The commissioner may deny a license if an applicant or controlling individual:

(1) fails to submit a substantially complete application after receiving notice from the commissioner under section 245A.04, subdivision 1;

(2) fails to comply with applicable laws or rules;

(3) knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license or during an investigation;

(4) has a disqualification that has not been set aside under section 245C.22 and no variance has been granted;

(5) has an individual living in the household who received a background study under section 245C.03, subdivision 1, paragraph (a), clause (2), who has a disqualification that has not been set aside under section 245C.22, and no variance has been granted;

(6) is associated with an individual who received a background study under section 245C.03, subdivision 1, paragraph (a), clause (6), who may have unsupervised access to children or vulnerable adults, and who has a disqualification that has not been set aside under section 245C.22, and no variance has been granted;

(7) fails to comply with section 245A.04, subdivision 1, paragraph (f), (g), or (j);

(8) fails to demonstrate competent knowledge as required by section 245A.04, subdivision 6;

(9) has a history of noncompliance as a license holder or controlling individual with applicable laws or rules, including but not limited to this chapter and chapters 142E and 245C;

(10) is prohibited from holding a license according to section 245.095; or

(11) is the subject of a pending administrative, civil, or criminal investigation.

(b) An applicant whose application has been denied by the commissioner must be given notice of the denial, which must state the reasons for the denial in plain language. Notice must be given by certified mail, by personal service, or through the provider licensing and reporting hub. The notice must state the reasons the application was denied and must inform the applicant of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The applicant may appeal the denial by notifying the commissioner in writing by certified mail, by personal service, or through the provider licensing and reporting hub. If mailed, the appeal must be postmarked and sent to the commissioner within 20 calendar days after the applicant received the notice of denial. If an appeal request is made by personal service, it must be received by the commissioner within 20 calendar days after the applicant received the notice of denial. If the order is issued through the provider hub, the appeal must be received by the commissioner within 20 calendar days from the date the commissioner issued the order through the hub. Section 245A.08 applies to hearings held to appeal the commissioner's denial of an application.

History: *1987 c 333 s 5; 1Sp2001 c 9 art 14 s 19; 2002 c 379 art 1 s 113; 2004 c 288 art 1 s 15; 2009 c 142 art 2 s 16; 2012 c 216 art 16 s 6; 2018 c 200 s 2; 1Sp2019 c 9 art 2 s 34; 1Sp2021 c 7 art 2 s 4; 2023 c 70 art 8 s 10; 2024 c 80 art 2 s 43; art 4 s 26; art 5 s 7; 2024 c 115 art 16 s 42; 1Sp2025 c 3 art 17 s 5; 2026 c 121 art 3 s 10*

245A.055 CLOSING A LICENSE.

Subdivision 1. **Inactive programs.** The commissioner may close a license if the commissioner determines that a licensed program has not been serving any client for a consecutive period of 12 months or longer. The license holder is not prohibited from reapplying for a license if the license holder's license was closed under this chapter.

Subd. 2. **Reconsideration of closure.** If a license is closed, the commissioner must notify the license holder of closure by certified mail, by personal service, or through the provider licensing and reporting hub. If mailed, the notice of closure must be mailed to the last known address of the license holder and must inform the license holder why the license was closed and that the license holder has the right to request reconsideration of the closure. If the license holder believes that the license was closed in error, the license holder may ask the commissioner to reconsider the closure. The license holder's request for reconsideration must be made in writing and must include documentation that the licensed program has served a client in the previous 12 months. The request for reconsideration must be postmarked and sent to the commissioner or submitted through the provider licensing and reporting hub within 20 calendar days after the license holder receives the notice of closure. Upon implementation of the provider licensing and reporting hub, the provider must use the hub to request reconsideration. If the order is issued through the provider hub, the reconsideration must be received by the commissioner within 20 calendar days from the date the commissioner issued the order through the hub. A timely request for reconsideration stays imposition of the license closure until the commissioner issues a decision on the request for reconsideration.

Subd. 3. **Reconsideration final.** The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14.

History: *1Sp2019 c 9 art 2 s 35; 2023 c 70 art 8 s 11*

245A.06 CORRECTION ORDER AND CONDITIONAL LICENSE.

Subdivision 1. **Contents of correction orders and conditional licenses.** (a) If the commissioner finds that the applicant or license holder has failed to comply with an applicable law or rule and this failure does not imminently endanger the health, safety, or rights of the persons served by the program, the commissioner may issue a correction order and an order of conditional license to the applicant or license holder. When issuing a conditional license, the commissioner shall consider the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program. The correction order or conditional license must state the following in plain language:

(1) the conditions that constitute a violation of the law or rule;

(2) the specific law or rule violated;

(3) the time allowed to correct each violation; and

(4) if a license is made conditional, the length and terms of the conditional license, and the reasons for making the license conditional.

(b) Nothing in this section prohibits the commissioner from proposing a sanction as specified in section 245A.07, prior to issuing a correction order or conditional license.

(c) The commissioner may issue a correction order and an order of conditional license to the applicant or license holder through the provider licensing and reporting hub.

Subd. 1a. **Correction orders and conditional licenses for programs licensed as home and community-based services.** (a) For programs licensed under both this chapter and chapter 245D, if the license holder operates more than one service site under a single license governed by chapter 245D, the correction order or order of conditional license issued under this section shall be specific to the service site or sites at which the violations of applicable law or rules occurred. The order shall not apply to other service sites governed by chapter 245D and operated by the same license holder unless the commissioner has included in the order the articulable basis for applying the order to another service site.

(b) If the commissioner has issued more than one license to the license holder under this chapter, the order issued under this section shall be specific to the license for the program at which the violations of applicable law or rules occurred and shall not apply to other licenses held by the same license holder if those programs are being operated in substantial compliance with applicable law and rules.

(c) Prior to issuing an order of conditional license under this section to a license holder operating a program licensed under both this chapter and chapter 245D, the commissioner must inform the license holder that the next audit or investigation may lead to an order of conditional license if the provider fails to correct the violations specified in a prior correction order or has any new violations. Nothing in this paragraph limits the commissioner's authority to take immediate action under section 245A.07 to prevent or correct actions by the license holder that imminently endanger the health, safety, or rights of the persons served by the program.

(d) The commissioner may reduce the length of time of a conditional license for a license holder operating a program licensed under both this chapter and chapter 245D if the license holder demonstrates compliance or progress toward compliance before the conditional license period expires.

(e) By January 1, 2027, and annually thereafter, the commissioner must provide a report to the chairs and ranking minority members of the legislative committees with jurisdiction over chapter 245D licensing on the number of correction orders and orders of conditional license issued to license holders who operate programs licensed under both this chapter and chapter 245D. The report must include aggregated data on the zip codes of locations, number of employees, license effective dates for any license holders subject to correction orders and orders of conditional license, and the commissioner's efforts to offer collaborative safety process improvements to license holders under section 245A.042 and this subdivision.

Subd. 2. **Reconsideration of correction orders.** (a) If the applicant or license holder believes that the contents of the commissioner's correction order are in error, the applicant or license holder may ask the Department of Human Services to reconsider the parts of the correction order that are alleged to be in error. The request for reconsideration must be made in writing and must be postmarked and sent to the commissioner within 20 calendar days after receipt of the correction order by the applicant or license holder or submitted in the provider licensing and reporting hub within 20 calendar days from the date the commissioner issued the order through the hub, and:

(1) specify the parts of the correction order that are alleged to be in error;

(2) explain why they are in error; and

(3) include documentation to support the allegation of error.

Upon implementation of the provider licensing and reporting hub, the provider must use the hub to request reconsideration. A request for reconsideration does not stay any provisions or requirements of the correction order. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14.

(b) Notwithstanding paragraph (a), when a request for reconsideration is denied, the commissioner must offer the option of mediation for a license holder operating a program licensed under both this chapter and chapter 245D, if a license holder further disputes the commissioner's correction order. The costs of the mediation option under this paragraph must be paid by the license holder.

Subd. 3. **Failure to comply.** If the commissioner finds that the applicant or license holder has not corrected the violations specified in the correction order or conditional license, the commissioner may impose a fine and order other licensing sanctions pursuant to section 245A.07.

Subd. 4. **Notice of conditional license; reconsideration of conditional license.** (a) If a license is made conditional, the license holder must be notified of the order by certified mail, by personal service, or through the provider licensing and reporting hub. 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 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, by personal service, or through the provider licensing and reporting hub. 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. If the order is issued through the provider hub, the request must be received by the commissioner within ten calendar days from the date the commissioner issued the order through the hub. 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.

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

Subd. 5. MS 2000 [Repealed by amendment, 1Sp2001 c 9 art 14 s 20]

Subd. 5a. MS 2000 [Repealed by amendment, 1Sp2001 c 9 art 14 s 20]

Subd. 6. MS 2000 [Repealed by amendment, 1Sp2001 c 9 art 14 s 20]

Subd. 7. MS 2000 [Repealed by amendment, 1Sp2001 c 9 art 14 s 20]

Subd. 8. [Renumbered 142B.16, subd 5]

Subd. 9. [Renumbered 142B.16, subd 6]

History: *1987 c 333 s 6; 1989 c 282 art 2 s 77-79; 1993 c 338 s 6; 1995 c 207 art 2 s 11-13; 1997 c 248 s 19-25; 1Sp2001 c 9 art 14 s 20; 2002 c 379 art 1 s 113; 2004 c 288 art 1 s 16,17; 2007 c 112 s 7; 2015 c 71 art 7 s 3; 1Sp2017 c 6 art 9 s 4; 2018 c 200 s 3; 2023 c 70 art 8 s 12-14; 1Sp2025 c 9 art 2 s 4,5*

245A.065 [Renumbered 142B.17]

245A.07 SANCTIONS.

Subdivision 1. **Sanctions; appeals; license.** (a) In addition to making a license conditional under section 245A.06, the commissioner may suspend or revoke the license, impose a fine, or secure an injunction against the continuing operation of the program of a license holder who does not comply with applicable law or rule.

When applying sanctions authorized under this section, the commissioner shall consider the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program.

(b) If a license holder appeals the suspension or revocation of a license and the license holder continues to operate the program pending a final order on the appeal, the commissioner shall issue the license holder a temporary provisional license. The commissioner may include terms the license holder must follow pending a final order on the appeal. Unless otherwise specified by the commissioner, variances in effect on the date of the license sanction under appeal continue under the temporary provisional license. If a license holder fails to comply with applicable law or rule while operating under a temporary provisional license, the commissioner may impose additional sanctions under this section and section 245A.06, and may terminate any prior variance. If a temporary provisional license is set to expire, a new temporary provisional license shall be issued to the license holder upon payment of any fee required under section 245A.10. The temporary provisional license shall expire on the date the final order is issued. If the license holder prevails on the appeal, a new nonprovisional license shall be issued for the remainder of the current license period.

(c) If a license holder is under investigation and the license issued under this chapter is due to expire before completion of the investigation, the program shall be issued a new license upon completion of the reapplication requirements and payment of any applicable license fee. Upon completion of the investigation, a licensing sanction may be imposed against the new license under this section, section 245A.06, or 245A.08.

(d) Failure to reapply or closure of a license issued under this chapter by the license holder prior to the completion of any investigation shall not preclude the commissioner from issuing a licensing sanction under this section or section 245A.06 at the conclusion of the investigation.

Subd. 2. **Temporary immediate suspension.** (a) The commissioner shall act immediately to temporarily suspend a license issued under this chapter if:

(1) the license holder's or controlling individual's actions or failure to comply with applicable law or rule, or the actions of other individuals or conditions in the program, pose an imminent risk of harm to the health, safety, or rights of persons served by the program;

(2) while the program continues to operate pending an appeal of an order of revocation, the commissioner identifies one or more subsequent violations of law or rule which may adversely affect the health or safety of persons served by the program; or

(3) the license holder or controlling individual is criminally charged in state or federal court with an offense that involves fraud or theft against a program administered by a state or federal agency.

(b) No state funds shall be made available or be expended by any agency or department of state, county, or municipal government for use by a license holder regulated under this chapter while a license issued under this chapter is under immediate suspension. A notice stating the reasons for the immediate suspension and informing the license holder of the right to an expedited hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612, must be delivered by personal service to the address shown on the application or the last known address of the license holder. The license holder may appeal an order immediately suspending a license. The appeal of an order immediately suspending a license must be made in writing by certified mail, personal service, or other means expressly set forth in the commissioner's order. If mailed, the appeal must be postmarked and sent to the commissioner within five calendar days after the license holder receives notice that the license has been immediately suspended. If a request is made by personal service, it must be received by the commissioner within five calendar days after the license holder received

the order. A license holder and any controlling individual shall discontinue operation of the program upon receipt of the commissioner's order to immediately suspend the license.

(c) The commissioner may act immediately to temporarily suspend a license issued under this chapter if the license holder or controlling individual is the subject of a pending administrative, civil, or criminal investigation or subject to an administrative or civil action related to fraud against a program administered by a state or federal agency.

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. For suspensions under subdivision 2, paragraph (a), clause (1), the burden of proof in expedited hearings under this subdivision is met only if the commissioner demonstrates that reasonable cause exists to believe that the license holder's or controlling individual's actions or failure to comply with applicable law or rule poses, or 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. "Reasonable cause" means there exist specific articulable facts or circumstances which provide the commissioner with a reasonable suspicion that there is an imminent risk of harm to the health, safety, or rights of persons served by the program. When the commissioner has determined there is reasonable cause to order the temporary immediate suspension of a license based on a violation of safe sleep requirements, as defined in section 245A.1435, the commissioner is not required to demonstrate that an infant died or was injured as a result of the safe sleep violations. For suspensions under subdivision 2, paragraph (a), clause (2), the burden of proof in expedited hearings under this subdivision is met only if the commissioner demonstrates by a preponderance of the evidence that, since the license was revoked, the license holder committed additional violations of law or rule which may adversely affect the health or safety 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. When an appeal of a temporary immediate suspension is withdrawn or dismissed, the commissioner shall issue a final order affirming the temporary immediate suspension within ten calendar days of the commissioner's receipt of the withdrawal or dismissal. Within 90 calendar days after an immediate suspension has been issued and the license holder has not submitted a timely appeal under subdivision 2, paragraph (b), or within 90 calendar days after a final order affirming an immediate suspension, the commissioner shall determine:

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

(2) whether the outcome of related, ongoing investigations or judicial proceedings are necessary to determine if a final licensing sanction under subdivision 3, paragraph (a), clauses (1) to (5), will be issued and whether persons served by the program remain at an imminent risk of harm during the investigation

period or proceedings. If so, the commissioner shall issue a suspension order under subdivision 3, paragraph (a), clause (6); or

(3) whether the license holder or controlling individual remains the subject of a pending administrative, civil, or criminal investigation or subject to an administrative or civil action related to fraud against a program administered by a state or federal agency. If so, the commissioner shall issue a suspension order under subdivision 3, paragraph (a), clause (6).

(c) When the final order under paragraph (b) affirms an immediate suspension, or the license holder does not submit a timely appeal of the immediate suspension, and a final licensing sanction is issued under subdivision 3 and the license holder appeals that sanction, 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.

(d) The license holder shall continue to be prohibited from operation of the program while a suspension order issued under paragraph (b), clause (2) or (3), remains in effect.

(e) For suspensions under subdivision 2, paragraph (a), clause (3), the burden of proof in expedited hearings under this subdivision is met only if the commissioner demonstrates by a preponderance of the evidence that a criminal complaint and warrant or summons was issued for the license holder or controlling individual that was not dismissed, and that the criminal charge is an offense that involves fraud or theft against a program administered by the commissioner.

(f) For suspensions under subdivision 2, paragraph (c), the burden of proof in expedited hearings under this subdivision is met only if the commissioner demonstrates by a preponderance of the evidence that the license holder or controlling individual is the subject of a pending administrative, civil, or criminal investigation or is subject to an administrative or civil action related to fraud against a program administered by a state or federal agency.

Subd. 2b. **Immediate suspension of residential programs.** For suspensions issued to a licensed residential program as defined in section 245A.02, subdivision 14, the effective date of the order may be delayed for up to 30 calendar days to provide for the continuity of care of service recipients. The license holder must cooperate with the commissioner to ensure service recipients receive continued care during the period of the delay and to facilitate the transition of service recipients to new providers. In these cases, the suspension order takes effect when all service recipients have been transitioned to a new provider or 30 days after the suspension order was issued, whichever comes first.

Subd. 2c. **Immediate suspension for programs with multiple licensed service sites.** (a) For license holders that operate more than one service site under a single license, the suspension order must be specific to the service site or sites where the commissioner determines an order is required under subdivision 2. The order must not apply to other service sites operated by the same license holder unless the commissioner has included in the order an articulable basis for applying the order to other service sites.

(b) If the commissioner has issued more than one license to the license holder under this chapter, the suspension imposed under this section must be specific to the license for the program at which the commissioner determines an order is required under subdivision 2. The order must not apply to other licenses held by the same license holder if those programs are being operated in substantial compliance with applicable law and rules.

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

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

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

(3) 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;

(4) a license holder is excluded from any program administered by the commissioner under section 245.095;

(5) revocation is required under section 245A.04, subdivision 7, paragraph (d); or

(6) suspension is necessary under subdivision 2a, paragraph (b), clause (2) or (3).

A license holder who has had a license issued under this chapter suspended, revoked, or has been ordered to pay a fine must be given notice of the action by certified mail, by personal service, or through the provider licensing and reporting hub. 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 in plain language the reasons the license was suspended or 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, by personal service, or through the provider licensing and reporting hub. 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. If the order is issued through the provider hub, the appeal must be received by the commissioner within ten calendar days from the date the commissioner issued the order through the hub. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a timely appeal of an order suspending or revoking a license, the license holder may continue to operate the program as provided in section 245A.04, subdivision 7, paragraphs (i) and (j), until the commissioner issues a final order on the suspension or revocation.

(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, by personal service, or through the provider licensing and reporting hub. 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. If the order is issued through the provider hub, the appeal must be received by the commissioner within ten calendar days from the date the commissioner issued the order through the hub.

(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, by personal service, or through the provider licensing and reporting hub 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:

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

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

(iii) 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 comply with background study requirements under chapter 245C; and

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

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

(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.

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

Subd. 4. [Renumbered 142B.18, subd 5]

Subd. 5. [Renumbered 142B.18, subd 6]

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, by personal service, or through the provider licensing and reporting hub. 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. If the appeal is made through the provider licensing and reporting hub, it must be received by the commissioner within the prescribed timeline with the first day beginning the day after the commissioner issued the order through the hub.

(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).

Subd. 7. **Time frame for conducting hearing.** Within 15 working days of receipt of the license holder's timely appeal of a sanction under this section other than a temporary immediate suspension, the commissioner shall request assignment of an administrative law judge. The commissioner's request must include a proposed date, time, and place of a hearing. A hearing must be conducted by an administrative law judge within 90 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 or for purposes of discussing settlement. In no case shall one or more extensions be granted for a total of more than 90 calendar days unless there is a criminal or juvenile court action pending against the license holder or another individual subject to a background study.

History: *1987 c 333 s 7; 1989 c 282 art 2 s 80; 1990 c 568 art 2 s 45; 1992 c 513 art 9 s 11,12; 1994 c 631 s 31; 1995 c 207 art 2 s 14; 1997 c 248 s 26,27; 2000 c 327 s 6; 1Sp2001 c 9 art 14 s 21; 2002 c 375 art 1 s 13,14; 2002 c 379 art 1 s 113; 2002 c 396 s 2,3; 2004 c 288 art 1 s 18-20; 1Sp2005 c 4 art 1 s 12,13; 2007 c 112 s 8-10; 2008 c 317 s 1; 2009 c 142 art 2 s 17,18; 2010 c 329 art 1 s 6-8; 2012 c 216 art 16 s 7; 2013 c 108 art 3 s 13; art 9 s 9; 2014 c 228 art 2 s 6-8; 2015 c 78 art 4 s 11,12; 1Sp2017 c 6 art 9 s 8; 2018 c 200 s 4; 2019 c 50 art 1 s 64; 1Sp2019 c 9 art 2 s 36-39; 1Sp2020 c 2 art 8 s 43; 1Sp2021 c 7 art 2 s 5; 2023 c 61 art 7 s 2,3; 2023 c 70 art 8 s 15,16; art 17 s 14,15; 2024 c 80 art 2 s 44,45; 2024 c 127 art 62 s 8,9; 2025 c 20 s 200; 1Sp2025 c 3 art 17 s 6; 2026 c 88 art 1 s 102; 2026 c 121 art 4 s 7,8*

245A.075 DISQUALIFIED INDIVIDUAL; DENIAL, CONDITIONAL LICENSE, REVOCATION.

(a) For the purpose of keeping a disqualified individual away from individuals receiving services in a license holder's home, when the disqualified individual has not received a set-aside and a variance has not been granted under chapter 245C, the commissioner may issue:

(1) an order of denial of an application;

(2) an order of conditional license; or

(3) an order of revocation.

(b) An order issued by the commissioner under this section is subject to notice and appeal rights provided under this chapter as follows:

(1) an order of denial of an application according to section 245A.05;

(2) an order of conditional license according to section 245A.06; and

(3) an order of revocation of a license according to section 245A.07.

History: *2014 c 228 art 2 s 9*

245A.08 HEARINGS.

Subdivision 1. **Receipt of appeal; conduct of hearing.** Upon receiving a timely appeal or petition pursuant to section 245A.05, 245A.07, subdivision 3, or 245C.28, the commissioner shall issue a notice of and order for hearing to the appellant under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612.

Subd. 2. **Conduct of hearings.** At any hearing provided for by section 245A.05, 245A.07, subdivision 3, or 245C.28, the appellant may be represented by counsel and has the right to call, examine, and cross-examine witnesses. The administrative law judge may require the presence of witnesses and evidence by subpoena on behalf of any party.

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 timely 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 626.557 or chapter 260E, 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, 260E.33, and 626.557, subdivision 9d.

(b) Reconsideration of a maltreatment determination under sections 260E.33 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, 260E.33, 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 260E.33 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, 260E.33, and 626.557, subdivision 9d.

(c) In consolidated contested case hearings regarding sanctions issued in family adult day services, adult foster care, and community residential settings, 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 260E.33 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.

Subd. 3. **Burden of proof.** (a) At a hearing regarding a licensing sanction under section 245A.07, including consolidated hearings under subdivision 2a, the commissioner may demonstrate reasonable cause for action taken by submitting statements, reports, or affidavits to substantiate the allegations that the license holder failed to comply fully with applicable law or rule. If the commissioner demonstrates that reasonable

cause existed, the burden of proof shifts to the license holder to demonstrate by a preponderance of the evidence that the license holder was in full compliance with those laws or rules that the commissioner alleges the license holder violated, at the time that the commissioner alleges the violations of law or rules occurred.

(b) At a hearing on denial of an application, the applicant bears the burden of proof to demonstrate by a preponderance of the evidence that the appellant has complied fully with this chapter and other applicable law or rule and that the application should be approved and a license granted.

Subd. 4. **Recommendation of administrative law judge.** The administrative law judge shall recommend whether or not the commissioner's order should be affirmed. The recommendations must be consistent with this chapter and the rules of the commissioner. The recommendations must be in writing and accompanied by findings of fact and conclusions and must be mailed to the parties by certified mail to their last known addresses as shown on the license or application.

Subd. 5. **Notice of commissioner's final order.** After considering the findings of fact, conclusions, and recommendations of the administrative law judge, the commissioner shall issue a final order. The commissioner shall consider, but shall not be bound by, the recommendations of the administrative law judge. The appellant must be notified of the commissioner's final order as required by chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The notice must also contain information about the appellant's rights under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The institution of proceedings for judicial review of the commissioner's final order shall not stay the enforcement of the final order except as provided in section 14.65.

Subd. 5a. **Granting subsequent license.** (a) A license holder and each controlling individual of a license holder whose license has been revoked because of noncompliance with applicable law or rule must not be granted a license for five years following the revocation. Notwithstanding the five-year restriction, when a license is revoked because a person, other than the license holder, resides in the home where services are provided and that person has a disqualification that is not set aside and no variance has been granted, the former license holder may reapply for a license when:

(1) the person with a disqualification, who is not a minor child, is no longer residing in the home and is prohibited from residing in or returning to the home; or

(2) the person with the disqualification is a minor child, the restriction applies until the minor child becomes an adult and permanently moves away from the home or five years, whichever is less.

(b) An applicant or controlling individual whose application was denied must not be granted a license for two years following a denial, unless the applicant's subsequent application contains new information which constitutes a substantial change in the conditions that caused the previous denial. The addition of a new co-applicant in a subsequent application does not constitute a substantial change. If an applicant or controlling individual whose application was denied is affiliated with a subsequent application, and two years have not passed since the denial, the subsequent application must be denied.

History: *1987 c 333 s 8; 1989 c 282 art 2 s 81; 1990 c 568 art 2 s 46; 1997 c 248 s 28,29; 1999 c 245 art 4 s 10; 2000 c 327 s 6; 1Sp2001 c 9 art 14 s 22; 2002 c 379 art 1 s 113; 2003 c 15 art 1 s 33; 2004 c 288 art 1 s 21-23; 1Sp2005 c 4 art 1 s 15,16; 2007 c 112 s 11; 2013 c 108 art 8 s 14; 2014 c 228 art 2 s 10,11; 1Sp2020 c 2 art 8 s 45; 2024 c 80 art 2 s 46*

245A.081 SETTLEMENT AGREEMENT.

(a) A license holder who has made a timely appeal pursuant to section 245A.06, subdivision 4, or 245A.07, subdivision 3, or the commissioner may initiate a discussion about a possible settlement agreement

related to the licensing sanction. For the purposes of this section, the following conditions apply to a settlement agreement reached by the parties:

(1) if the parties enter into a settlement agreement, the effect of the agreement shall be that the appeal is withdrawn and the agreement shall constitute the full agreement between the commissioner and the party who filed the appeal; and

(2) the settlement agreement must identify the agreed-upon actions the license holder has taken and will take in order to achieve and maintain compliance with the licensing requirements that the commissioner determined the license holder had violated.

(b) Neither the license holder nor the commissioner is required to initiate a settlement discussion under this section.

(c) If a settlement discussion is initiated by the license holder, the commissioner shall respond to the license holder within 14 calendar days of receipt of the license holder's submission.

(d) If the commissioner agrees to engage in settlement discussions, the commissioner may decide at any time not to continue settlement discussions with a license holder.

History: *2015 c 71 art 7 s 4*

245A.085 CONSOLIDATION OF HEARINGS; RECONSIDERATION.

Hearings authorized under this chapter, sections 256.045, 256B.04, and 626.557, and chapters 245C and 260E, shall be consolidated if feasible and in accordance with other applicable statutes and rules. Reconsideration under sections 245C.28; 260E.33; and 626.557, subdivision 9d, shall also be consolidated if feasible.

History: *2002 c 375 art 1 s 15; 2003 c 15 art 1 s 33; 2004 c 288 art 1 s 24; 2012 c 216 art 18 s 5; 1Sp2020 c 2 art 8 s 46*

245A.09 RULES.

Subdivision 1. **Commissioner's authority.** The commissioner shall adopt rules under chapter 14 to govern the operation, maintenance, and licensure of programs subject to licensure under this chapter. The commissioner shall not adopt any rules that are inconsistent with or duplicative of existing state or federal regulations. Nothing in this subdivision shall be construed to prohibit the commissioner from incorporating existing state or federal regulations or accreditation standards by reference.

Subd. 2. **Standards and regulatory methods.** This subdivision applies to rules governing this chapter that are adopted after July 1, 1987. As appropriate for each type of license:

(a) The commissioner shall give preference in rule to standards that describe program outcomes and the practices that have been shown to result in the desired program outcomes.

(b) The rules may include model program standards for each type of program licensed by the commissioner.

(c) The rules shall include basic licensing standards governing licensure of each type of program licensed by the commissioner. The basic licensing standards must be met by all applicants and license holders. Basic licensing standards must include, but are not limited to:

(1) standards for adequate staff that take into account the age distribution and severity of the disability of persons served by the program;

(2) safety standards that take into account the size and conditions of the physical plant and studies of fire safety including studies of the interaction between fire detection factors, fire spread factors, and evacuation factors in case of a fire;

(3) standards for program services that describe, when appropriate, adequate levels of shelter, nutrition, planned activities, materials, and qualifications of individuals responsible for administering and delivering program services;

(4) standards that describe the characteristics of the settings where program services are to be delivered; and

(5) health and sanitation standards.

Subd. 3. **Reduction of fees.** The commissioner may adopt rules under subdivision 1 to provide for the reduction of fees established under section 245A.10 when a license holder substantially exceeds the basic standards for licensure.

Subd. 4. **Evaluation of rules.** For rules adopted under this section after July 1, 1987, the commissioner shall evaluate the effects of the rules within three years after the date of adoption and at least once every five years thereafter. The evaluation must include an assessment of any discrepancies between the actual and intended effects of the rules, identification of necessary revisions, if any, and a discussion of the rules' effect on the availability and quality of licensed programs. The commissioner shall consider the results of the evaluation in amending and writing rules.

Subd. 5. **Other duties of commissioner.** For rules adopted after July 1, 1987, the commissioner shall:

(1) summarize the rules in language understandable to the general public and inform license holders and applicants where they may obtain a copy of the rules and the summary;

(2) develop and provide each applicant with information describing the services offered to applicants by the commissioner and explaining the penalties for operating an unlicensed program or failing to fully comply with the commissioner's correction orders or applicable laws or rules;

(3) upon request, interpret rules for applicants and license holders; and

(4) take measures to ensure that rules are enforced uniformly throughout the state.

Subd. 6. **Consultation with affected parties.** In developing rules, the commissioner shall request and receive consultation from: other state departments and agencies; counties and other affected political subdivisions that reflect the diversity of political subdivisions affected by the rule; persons and relatives of persons using the program governed by the rule; advocacy groups; and representatives of license holders affected by the rule. In choosing parties for consultation, the commissioner shall choose individuals and representatives of groups that reflect a cross section of urban, suburban, and rural areas of the state.

Subd. 7. **Regulatory methods.** (a) Where appropriate and feasible the commissioner shall identify and implement alternative methods of regulation and enforcement to the extent authorized in this subdivision. These methods shall include:

(1) expansion of the types and categories of licenses that may be granted;

(2) when the standards of another state or federal governmental agency or an independent accreditation body have been shown to require the same standards, methods, or alternative methods to achieve substantially the same intended outcomes as the licensing standards, the commissioner shall consider compliance with the governmental or accreditation standards to be equivalent to partial compliance with the licensing standards; and

(3) use of an abbreviated inspection that employs key standards that have been shown to predict full compliance with the rules.

(b) If the commissioner accepts accreditation as documentation of compliance with a licensing standard under paragraph (a), the commissioner shall continue to investigate complaints related to noncompliance with all licensing standards. The commissioner may take a licensing action for noncompliance under this chapter and shall recognize all existing appeal rights regarding any licensing actions taken under this chapter.

(c) The commissioner shall work with the commissioners of health; public safety; administration; children, youth, and families; and education in consolidating duplicative licensing and certification rules and standards if the commissioner determines that consolidation is administratively feasible, would significantly reduce the cost of licensing, and would not reduce the protection given to persons receiving services in licensed programs. Where administratively feasible and appropriate, the commissioner shall work with the commissioners of health, public safety, administration, and education in conducting joint agency inspections of programs.

(d) The commissioner shall work with the commissioners of health; public safety; administration; children, youth, and families; and education in establishing a single point of application for applicants who are required to obtain concurrent licensure from more than one of the commissioners listed in this clause.

(e) Unless otherwise specified in statute, the commissioner may conduct routine inspections biennially.

Subd. 8. **Interpretive guidelines; authority.** The commissioner of human services may develop and publish interpretive guidelines.

Subd. 9. **Effect of interpretive guidelines.** Interpretive guidelines do not have the force and effect of law and have no precedential effect, but may be relied on by consumers, providers of service, county agencies, the Department of Human Services, and others concerned until revoked or modified. A guideline may be expressly revoked or modified by the commissioner, by the issuance of another interpretive guideline, but may not be revoked or modified retroactively to the detriment of consumers, providers of service, county agencies, the Department of Human Services, or others concerned. A change in the law or an interpretation of the law occurring after the interpretive guidelines are issued, whether in the form of a statute, court decision, administrative ruling, or subsequent interpretive guideline, results in the revocation or modification of the previously adopted guidelines to the extent that the change affects the guidelines.

Subd. 10. MS 2022 [Repealed, 2024 c 80 art 2 s 75]

Subd. 11. **Issuance; discretion of commissioner.** The issuance of interpretive guidelines is at the discretion of the commissioner of human services.

Subd. 12. MS 2012 [Repealed, 2014 c 262 art 5 s 7]

History: *1987 c 333 s 9; 1993 c 338 s 7; 1995 c 207 art 2 s 15-19; 1Sp1995 c 3 art 16 s 13; 1997 c 187 art 4 s 7; 1997 c 248 s 30; 2000 c 327 s 6; 2003 c 130 s 12; 1Sp2003 c 14 art 6 s 8; 2005 c 56 s 1; 1Sp2017 c 6 art 16 s 2; 2024 c 80 art 2 s 47*

245A.091 MS 1996 [Repealed, 1997 c 248 s 51]

245A.095 RULES FOR PROGRAMS SERVING PERSONS WITH MENTAL ILLNESSES.

Subdivision 1. **License required.** Residential programs with five or more persons with a mental illness must be licensed under this chapter. To assure that this requirement is met, the commissioner of health, in cooperation with the commissioner of human services, shall monitor licensed boarding care homes, board and lodging houses, and supervised living facilities.

By January 1, 1989, the commissioner of health shall recommend to the legislature an appropriate method for enforcing this requirement.

Subd. 1a. **Rules.** In developing rules for serving persons with mental illness, the commissioner of human services shall assure that persons with mental illness are provided with needed treatment or support in the least restrictive, most appropriate environment, that supportive residential care in small homelike settings is available for persons needing that care, and that a mechanism is developed to ensure that no person is placed in a care or treatment setting inappropriate for meeting the person's needs. To the maximum extent possible, the rule shall assure that length of stay is governed solely by client need and shall allow for a variety of innovative and flexible approaches in meeting residential and support needs of persons with mental illness.

Subd. 2. **Specific review of rules.** The commissioner shall:

(1) provide in rule for additional types of programs and services, including but not limited to supportive small group residential care, semi-independent and apartment living services, and crisis and respite services, to address the residential treatment and support needs of persons with mental illness;

(2) review category I and II programs established in Minnesota Rules, parts 9520.0500 to 9520.0670 to ensure that the categories of programs provide a continuum of residential service programs for persons with mental illness, including but not limited to programs meeting needs for intensive treatment, crisis and respite care, and rehabilitation and training;

(3) provide in rule for a definition of the term "treatment" as used in relation to persons with mental illness;

(4) adjust funding mechanisms by rule as needed to reflect the requirements established by rule for services being provided;

(5) review and recommend staff educational requirements and staff training as needed; and

(6) review and make changes in rules relating to residential care and service programs for persons with mental illness as the commissioner may determine necessary.

Subd. 3. MS 1988 [Repealed, 1989 c 282 art 4 s 64]

History: *1987 c 333 s 10; 1988 c 411 s 5; 1989 c 282 art 4 s 61; 2000 c 327 s 6; 2016 c 158 art 1 s 214; 2018 c 182 art 1 s 44*

245A.0951 ADOPTION OF RULES FOR LICENSURE OF SECURE TREATMENT FACILITIES.

The commissioner of human services shall adopt rules to govern the licensure of secure treatment facilities operated by the Minnesota Sex Offender Program or any other facility operated by the executive board for a person committed as a sexual psychopathic personality or a sexually dangerous person.

History: *2024 c 79 art 9 s 6*

245A.10 FEES.

Subdivision 1. **Application or license fee required.** The commissioner shall charge a fee for evaluation of applications and inspection of programs which are licensed under this chapter.

Subd. 2. **Application or license inspection fee required; programs with county oversight.** For purposes of adult foster care and child foster residence setting licensing, family adult day services, family adult foster care, and licensing the physical plant of a community residential setting or residential services facility, under this chapter, the commissioner shall charge a fee to a license holder for the evaluation of licenses and inspections of programs in the amount of $2,100 annually.

Subd. 3. **Application fee for initial license or certification.** (a) Except as provided in paragraphs (c), (d), and (f), for fees required under subdivision 1, an applicant for an initial license or certification issued by the commissioner shall submit a $2,100 application fee with each new application required under this subdivision. The application fee shall not be prorated, is nonrefundable, and is in lieu of the annual license or certification fee that expires on December 31. The commissioner shall not process an application until the application fee is paid.

(b) Except as provided in paragraph (c), an applicant shall apply for a license to provide services at a specific location.

(c) For a license to provide home and community-based services to persons with disabilities or age 65 and older under chapter 245D, an applicant shall submit an application to provide services statewide. For fees required under subdivision 1, an applicant for an initial license issued by the commissioner to provide home and community-based services under chapter 245D shall submit a $4,200 application fee with each new application.

(d) For fees required under subdivision 1, an applicant for an initial license or certification issued by the commissioner for children's residential facility shall submit a $500 application fee with each new application required under this subdivision.

(e) For fees required under subdivision 1, an applicant for an initial mental health clinic certification issued by the commissioner shall submit a $2,100 application fee with each new application required under this subdivision.

(f) For fees required under subdivision 1, an applicant for an initial license issued by the commissioner to provide services at a certified community behavioral health clinic under section 245I.17 shall submit a $4,200 application fee with each new application.

[See Note.]

Subd. 3a. MS 2025 Supp [Repealed, 2026 c 121 art 4 s 37]

Subd. 4. **License or certification fee for certain programs.** (a)(1) A program licensed to provide one or more of the home and community-based services and supports identified under chapter 245D to persons with disabilities or age 65 and older, must pay an annual nonrefundable license fee based on revenues derived from the provision of services that would require licensure under chapter 245D during the calendar year immediately preceding the year in which the license fee is paid, according to the following schedule:

License Holder Annual Revenue	License Fee
less than or equal to $10,000	$250

greater than $10,000 but less than or equal to $25,000	$375
greater than $25,000 but less than or equal to $50,000	$500
greater than $50,000 but less than or equal to $100,000	$625
greater than $100,000 but less than or equal to $150,000	$750
greater than $150,000 but less than or equal to $200,000	$1,000
greater than $200,000 but less than or equal to $250,000	$1,250
greater than $250,000 but less than or equal to $300,000	$1,500
greater than $300,000 but less than or equal to $350,000	$1,750
greater than $350,000 but less than or equal to $400,000	$2,000
greater than $400,000 but less than or equal to $450,000	$2,250
greater than $450,000 but less than or equal to $500,000	$2,500
greater than $500,000 but less than or equal to $600,000	$2,850
greater than $600,000 but less than or equal to $700,000	$3,200
greater than $700,000 but less than or equal to $800,000	$3,600
greater than $800,000 but less than or equal to $900,000	$3,900
greater than $900,000 but less than or equal to $1,000,000	$4,250
greater than $1,000,000 but less than or equal to $1,250,000	$4,550
greater than $1,250,000 but less than or equal to $1,500,000	$4,900

greater than $1,500,000 but less than or equal to $1,750,000	$5,200
greater than $1,750,000 but less than or equal to $2,000,000	$5,500
greater than $2,000,000 but less than or equal to $2,500,000	$5,900
greater than $2,500,000 but less than or equal to $3,000,000	$6,200
greater than $3,000,000 but less than or equal to $3,500,000	$6,500
greater than $3,500,000 but less than or equal to $4,000,000	$7,200
greater than $4,000,000 but less than or equal to $4,500,000	$7,800
greater than $4,500,000 but less than or equal to $5,000,000	$9,000
greater than $5,000,000 but less than or equal to $7,500,000	$10,000
greater than $7,500,000 but less than or equal to $10,000,000	$14,000
greater than $10,000,000 but less than or equal to $12,500,000	$18,000
greater than $12,500,000 but less than or equal to $15,000,000	$25,000
greater than $15,000,000 but less than or equal to $17,500,000	$28,000
greater than $17,500,000 but less than or equal to $20,000,000	$32,000
greater than $20,000,000 but less than or equal to $25,000,000	$36,000
greater than $25,000,000 but less than or equal to $30,000,000	$45,000
greater than $30,000,000 but less than or equal to $35,000,000	$55,000
greater than $35,000,000	$75,000

(2) If requested, the license holder must provide the commissioner information to verify the license holder's annual revenues or other information as needed, including copies of documents submitted to the Department of Revenue.

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

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

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

Licensed Capacity	License Fee
1 to 24 persons	$2,600
25 to 49 persons	$3,000
50 to 74 persons	$5,000
75 to 99 persons	$10,000
100 to 199 persons	$15,000
200 or more persons	$20,000

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

Licensed Capacity	License Fee
1 to 24 persons	$2,600
25 to 49 persons	$3,000
50 or more persons	$5,000

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

(d) A children's residential facility licensed under Minnesota Rules, chapter 2960, to serve children shall pay an annual nonrefundable license fee based on the following schedule:

Licensed Capacity	License Fee
1 to 24 persons	$1,000
25 to 49 persons	$1,100
50 to 74 persons	$1,200

75 to 99 persons	$1,300
100 or more persons	$1,400

(e) A residential facility licensed under section 245I.23 or Minnesota Rules, parts 9520.0500 to 9520.0670, to serve persons with mental illness must pay an annual nonrefundable license fee based on the following schedule:

Licensed Capacity	License Fee
1 to 24 persons	$2,600
25 to 49 persons	$3,000
50 or more persons	$20,000

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

Licensed Capacity	License Fee
1 to 24 persons	$450
25 to 49 persons	$650
50 to 74 persons	$850
75 to 99 persons	$1,050
100 or more persons	$1,250

(g) A program licensed as an adult day care center licensed under Minnesota Rules, parts 9555.9600 to 9555.9730, must pay an annual nonrefundable license fee based on the following schedule:

Licensed Capacity	License Fee
1 to 24 persons	$2,600
25 to 49 persons	$3,000
50 to 74 persons	$5,000
75 to 99 persons	$10,000
100 to 199 persons	$15,000
200 or more persons	$20,000

(h) A program licensed to provide treatment services to persons with sexual psychopathic personalities or sexually dangerous persons under Minnesota Rules, parts 9515.3000 to 9515.3110, must pay an annual nonrefundable license fee of $20,000.

(i) A mental health clinic certified under section 245I.20 must pay an annual nonrefundable certification fee of $3,000. If the mental health clinic provides services at a primary location with satellite facilities, the satellite facilities must be certified with the primary location without an additional charge.

(j) A program licensed to provide behavioral health treatment services licensed under section 245I.22, 245I.24, 245I.30, or 245I.31 shall pay an annual nonrefundable license fee of $3,000 for each license.

(k) Certified community behavioral health clinics licensed under section 245I.17 shall pay an annual nonrefundable license fee of $7,800.

[See Note.]

Subd. 4a. **Fees for satellite locations.** (a) If a program subject to annual fees under subdivision 4, paragraph (b), provides services at a primary location with satellite facilities, the satellite facilities are licensed with the primary location and are subject to an additional $500 annual nonrefundable license fee per satellite facility.

(b) If a program subject to annual fees under subdivision 4, paragraph (j), provides services at a primary location with satellite sites or facilities, the satellite locations must be licensed with the primary location and are subject to an additional annual nonrefundable fee according to the following schedule:

(1) one to five satellite locations: $1,500;

(2) six to 19 satellite locations: $3,500; or

(3) 20 or more satellite locations: $5,000.

[See Note.]

Subd. 5. MS 2010 [Repealed, 1Sp2011 c 9 art 4 s 10]

Subd. 6. **License not issued until license or certification fee is paid.** The commissioner shall not issue or reissue a license or certification until the license or certification fee is paid. The commissioner shall send a bill for the license or certification fee to the billing address identified by the license holder. If the license holder does not submit the license or certification fee payment by the due date, the commissioner shall send the license holder a past due notice. If the license holder fails to pay the license or certification fee by the due date on the past due notice, the commissioner shall send a final notice to the license holder informing the license holder that the program license will expire on December 31 unless the license fee is paid before December 31. If a license expires, the program is no longer licensed and, unless exempt from licensure under section 245A.03, subdivision 2, must not operate after the expiration date. After a license expires, if the former license holder wishes to provide licensed services, the former license holder must submit a new license application and application fee under subdivision 3.

Subd. 7. **Human services licensing fees to recover expenditures.** Notwithstanding section 16A.1285, subdivision 2, related to activities for which the commissioner charges a fee, the commissioner must plan to fully recover direct expenditures for licensing activities under this chapter over a five-year period. The commissioner may have anticipated expenditures in excess of anticipated revenues in a biennium by using surplus revenues accumulated in previous bienniums.

Subd. 8. **Deposit of license fees.** A human services licensing and program integrity account is created in the state government special revenue fund. Fees collected under subdivisions 2, 3, and 4 must be deposited in the human services licensing and program integrity account and are annually appropriated to the commissioner for licensing activities authorized under this chapter and program integrity activities.

Subd. 8a. **Deposit of county-delegated licensing application fees; appropriation.** Notwithstanding the provisions of any other law, the commissioner shall deposit 50 percent of the fees collected pursuant to subdivision 2 for adult foster care, child foster residence settings, family adult day services, family adult foster care, and licensing the physical plant of a community residential setting or residential services facility into the human services licensing and program integrity account and 50 percent to the credit of the county licensing account in the special revenue fund of each county.

Subd. 8b. **Distribution to county; appropriation.** On a quarterly basis, the amount determined under subdivision 8a is appropriated to the commissioner to issue a payment from the county licensing account in favor of the treasurer of each county for which the commissioner collected a fee under subdivision 2.

Subd. 9. **License not reissued until outstanding debt is paid.** The commissioner shall not reissue a license or certification until the license holder has paid all outstanding debts related to a licensing fine or settlement agreement for which payment is delinquent. If the payment is past due, the commissioner shall send a past due notice informing the license holder that the program license will expire on December 31 unless the outstanding debt is paid before December 31. If a license expires, the program is no longer licensed and must not operate after the expiration date. After a license expires, if the former license holder wishes to provide licensed services, the former license holder must submit a new license application and application fee under subdivision 3.

History: *1987 c 333 s 11; 1995 c 158 s 4; 2000 c 327 s 6; 1Sp2003 c 14 art 6 s 9; 2005 c 56 s 1; 1Sp2005 c 4 art 3 s 4; art 5 s 6; 2007 c 112 s 12; 2007 c 147 art 3 s 2; 2008 c 268 s 2; 2009 c 79 art 1 s 1,2; 1Sp2011 c 9 art 4 s 1-5; 2013 c 108 art 8 s 15; 1Sp2017 c 6 art 16 s 3; 2018 c 182 art 2 s 10; 2021 c 30 art 17 s 47; 1Sp2021 c 7 art 2 s 6; 2022 c 98 art 4 s 51; 2023 c 61 art 7 s 4,5; 2023 c 70 art 17 s 16,17; 2024 c 80 art 2 s 48-51; 2024 c 85 s 54; 2024 c 115 art 16 s 8,9; 1Sp2025 c 9 art 10 s 4-11; 2026 c 121 art 4 s 9; art 7 s 4-6*

NOTE: The amendments to subdivisions 3 and 4 by Laws 2026, chapter 121, article 7, sections 4 and 5, are effective January 1, 2028. Laws 2026, chapter 121, article 7, section 56.

NOTE: Subdivision 4a, as added by Laws 2026, chapter 121, article 7, section 6, is effective January 1, 2028. Laws 2026, chapter 121, article 7, section 56.

245A.11 SPECIAL CONDITIONS FOR RESIDENTIAL PROGRAMS.

Subdivision 1. **Policy statement.** It is the policy of the state that persons shall not be excluded by municipal zoning ordinances or other land use regulations from the benefits of normal residential surroundings.

Subd. 2. **Permitted single-family residential use.** (a) Residential programs with a licensed capacity of six or fewer persons shall be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations, except that a residential program whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use. This exception shall not apply to residential programs licensed before July 1, 1995. Programs otherwise allowed under this subdivision shall not be prohibited by operation of restrictive covenants or similar restrictions, regardless of when entered into, which cannot be met because of the nature of the licensed program, including provisions which require the home's occupants be related, and that the home must be occupied by the owner, or similar provisions.

(b) A community residential setting as defined in section 245D.02, subdivision 4a, with a licensed capacity of six or fewer persons that is actively serving residents for which it is licensed is exempt from rental licensing regulations imposed by any town, municipality, or county.

Subd. 2a. **Adult foster care and community residential setting license capacity.** (a) The commissioner shall issue adult foster care and community residential setting licenses with a maximum licensed capacity of four beds, including nonstaff roomers and boarders, except that the commissioner may issue a license with a capacity of five beds, including roomers and boarders, according to paragraphs (b) to (h).

(b) The license holder may have a maximum license capacity of five if all persons in care are age 55 or over and do not have a serious and persistent mental illness or a developmental disability.

(c) The commissioner may grant variances to paragraph (b) to allow a facility with a licensed capacity of up to five persons to admit an individual under the age of 55 if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed facility is located.

(d) The commissioner may grant variances to paragraph (a) to allow the use of an additional bed, up to six, for emergency crisis services for a person with serious and persistent mental illness or a developmental disability, regardless of age, if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed facility is located.

(e) The commissioner may grant a variance to paragraph (b) to allow for the use of an additional bed, up to six, for respite services, as defined in section 245A.02, for persons with disabilities, regardless of age, if the variance complies with sections 245A.03, subdivisions 7b to 7d, and 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed facility is located. Respite care may be provided under the following conditions:

(1) staffing ratios cannot be reduced below the approved level for the individuals being served in the home on a permanent basis;

(2) no more than two different individuals can be accepted for respite services in any calendar month and the total respite days may not exceed 120 days per program in any calendar year;

(3) the person receiving respite services must have his or her own bedroom, which could be used for alternative purposes when not used as a respite bedroom, and cannot be the room of another person who lives in the facility; and

(4) individuals living in the facility must be notified when the variance is approved. The provider must give 60 days' notice in writing to the residents and their legal representatives prior to accepting the first respite placement. Notice must be given to residents at least two days prior to service initiation, or as soon as the license holder is able if they receive notice of the need for respite less than two days prior to initiation, each time a respite client will be served, unless the requirement for this notice is waived by the resident or legal guardian.

(f) The commissioner may issue an adult foster care or community residential setting license with a capacity of five adults if the fifth bed does not increase the overall statewide capacity of licensed adult foster care or community residential setting beds in homes that are not the primary residence of the license holder, as identified in a plan submitted to the commissioner by the county, when the capacity is recommended by the county licensing agency of the county in which the facility is located and if the recommendation verifies that:

(1) the facility meets the physical environment requirements in the adult foster care licensing rule;

(2) the five-bed living arrangement 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;

(3) the license holder obtains written and signed informed consent from each resident or resident's legal representative documenting the resident's informed choice to remain living in the home and that the resident's refusal to consent would not have resulted in service termination; and

(4) the facility was licensed for adult foster care before March 1, 2016.

(g) The commissioner shall not issue a new adult foster care license under paragraph (f) after December 31, 2020. The commissioner shall allow a facility with an adult foster care license issued under paragraph (f) before December 31, 2020, to continue with a capacity of five adults if the license holder continues to comply with the requirements in paragraph (f).

(h) The commissioner may grant variances to paragraph (b) to allow the facility to admit an individual under the age of 55 if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed facility is located.

(i) Notwithstanding Minnesota Rules, part 9520.0500, adult foster care and community residential setting licenses with a capacity of up to six adults as allowed under this subdivision are not required to be licensed as an adult mental health residential program according to Minnesota Rules, parts 9520.0500 to 9520.0670.

[See Note.]

Subd. 2b. **Adult foster care; family adult day services.** An adult foster care license holder licensed under the conditions in subdivision 2a may also provide family adult day care for adults age 18 or over. Family adult day services provided in a licensed adult foster care setting must be provided as specified under section 245A.143. Authorization to provide family adult day services in the adult foster care setting shall be printed on the license certificate by the commissioner. Adult foster care homes licensed under this section and family adult day services licensed under section 245A.143 shall not be subject to licensure by the commissioner of health under the provisions of chapter 144, 144A, 157, or any other law requiring facility licensure by the commissioner of health. A separate license is not required to provide family adult day services in a licensed adult foster care home.

Subd. 2c. MS 2022 [Expired, 2022 c 98 art 4 s 13]

Subd. 3. **Permitted multifamily residential use.** Unless otherwise provided in any town, municipal, or county zoning regulation, a licensed residential program with a licensed capacity of seven to 16 persons shall be considered a permitted multifamily residential use of property for the purposes of zoning and other land use regulations. A town, municipal, or county zoning authority may require a conditional use or special use permit to assure proper maintenance and operation of a residential program. Conditions imposed on the residential program must not be more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones, unless the additional conditions are necessary to protect the health and safety of the persons being served by the program. Nothing in this chapter shall be construed to

exclude or prohibit residential programs from single-family zones if otherwise permitted by local zoning regulations.

Subd. 4. **Location of residential programs.** In determining whether to grant a license, the commissioner shall specifically consider the population, size, land use plan, availability of community services, and the number and size of existing licensed residential programs in the town, municipality, or county in which the applicant seeks to operate a residential program. The commissioner shall not grant an initial license to any residential program if the residential program will be within 1,320 feet of an existing residential program unless one of the following conditions apply: (1) the existing residential program is located in a hospital licensed by the commissioner of health; (2) the town, municipality, or county zoning authority grants the residential program a conditional use or special use permit; (3) the program serves six or fewer persons and is not located in a city of the first class; or (4) the program is foster care, or a community residential setting as defined under section 245D.02, subdivision 4a.

Subd. 5. MS 2012 [Repealed, 2014 c 262 art 5 s 7]

Subd. 5a. **Integration of residential programs.** The commissioner of human services shall seek input from counties and municipalities on methods for integrating all residential programs into the community.

Subd. 6. **Hospitals; exemption.** Residential programs located in hospitals shall be exempt from the provisions of this section.

Subd. 7. **Adult foster care and community residential setting; variance for alternate overnight supervision.** (a) The commissioner may grant a variance under section 245A.04, subdivision 9, to statute or rule parts requiring a caregiver to be present in an adult foster care home or a community residential setting 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) support 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 or community residential setting license holder must not have had a conditional license issued under section 245A.06, or any other licensing sanction issued under section 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 or a community residential setting.

(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.

Subd. 7a. **Alternate overnight supervision technology; adult foster care licenses.** (a) The commissioner may grant an applicant or license holder an adult foster care license for a residence that does not have a caregiver in the residence during normal sleeping hours as required under Minnesota Rules, part 9555.5105, subpart 37, item B, or section 245D.02, subdivision 33b, but uses monitoring technology to alert the license holder when an incident occurs that may jeopardize the health, safety, or rights of a foster care recipient. The applicant or license holder must comply with all other requirements under Minnesota Rules, parts 9555.5105 to 9555.6265, or applicable requirements under chapter 245D, and the requirements under this subdivision. The license printed by the commissioner must state in bold and large font:

(1) that the facility is under electronic monitoring; and

(2) the telephone number of the county's common entry point for making reports of suspected maltreatment of vulnerable adults under section 626.557, subdivision 9.

(b) Applications for a license under this section must be submitted directly to the Department of Human Services licensing division. The licensing division must immediately notify the county licensing agency. The licensing division must collaborate with the county licensing agency in the review of the application and the licensing of the program.

(c) Before a license is issued by the commissioner, and for the duration of the license, the applicant or license holder must establish, maintain, and document the implementation of written policies and procedures addressing the requirements in paragraphs (d) through (f).

(d) The applicant or license holder must have policies and procedures that:

(1) establish characteristics of target populations that will be admitted into the home, and characteristics of populations that will not be accepted into the home;

(2) explain the discharge process when a resident served by the program requires overnight supervision or other services that cannot be provided by the license holder due to the limited hours that the license holder is on site;

(3) describe the types of events to which the program will respond with a physical presence when those events occur in the home during time when staff are not on site, and how the license holder's response plan meets the requirements in paragraph (e), clause (1) or (2);

(4) establish a process for documenting a review of the implementation and effectiveness of the response protocol for the response required under paragraph (e), clause (1) or (2). The documentation must include:

(i) a description of the triggering incident;

(ii) the date and time of the triggering incident;

(iii) the time of the response or responses under paragraph (e), clause (1) or (2);

(iv) whether the response met the resident's needs;

(v) whether the existing policies and response protocols were followed; and

(vi) whether the existing policies and protocols are adequate or need modification.

When no physical presence response is completed for a three-month period, the license holder's written policies and procedures must require a physical presence response drill to be conducted for which the

effectiveness of the response protocol under paragraph (e), clause (1) or (2), will be reviewed and documented as required under this clause; and

(5) establish that emergency and nonemergency phone numbers are posted in a prominent location in a common area of the home where they can be easily observed by a person responding to an incident who is not otherwise affiliated with the home.

(e) The license holder must document and include in the license application which response alternative under clause (1) or (2) is in place for responding to situations that present a serious risk to the health, safety, or rights of residents served by the program:

(1) response alternative (1) requires only the technology to provide an electronic notification or alert to the license holder that an event is underway that requires a response. Under this alternative, no more than ten minutes will pass before the license holder will be physically present on site to respond to the situation; or

(2) response alternative (2) requires the electronic notification and alert system under alternative (1), but more than ten minutes may pass before the license holder is present on site to respond to the situation. Under alternative (2), all of the following conditions are met:

(i) the license holder has a written description of the interactive technological applications that will assist the license holder in communicating with and assessing the needs related to the care, health, and safety of the foster care recipients. This interactive technology must permit the license holder to remotely assess the well being of the resident served by the program without requiring the initiation of the foster care recipient. Requiring the foster care recipient to initiate a telephone call does not meet this requirement;

(ii) the license holder documents how the remote license holder is qualified and capable of meeting the needs of the foster care recipients and assessing foster care recipients' needs under item (i) during the absence of the license holder on site;

(iii) the license holder maintains written procedures to dispatch emergency response personnel to the site in the event of an identified emergency; and

(iv) each resident's individualized plan of care, support plan under sections 256B.0913, subdivision 8; 256B.092, subdivision 1b; 256B.49, subdivision 15; and 256S.10, if required, or individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required, identifies the maximum response time, which may be greater than ten minutes, for the license holder to be on site for that resident.

(f) Each resident's placement agreement, individual service agreement, and plan must clearly state that the adult foster care license category is a program without the presence of a caregiver in the residence during normal sleeping hours; the protocols in place for responding to situations that present a serious risk to the health, safety, or rights of residents served by the program under paragraph (e), clause (1) or (2); and a signed informed consent from each resident served by the program or the person's legal representative documenting the person's or legal representative's agreement with placement in the program. If electronic monitoring technology is used in the home, the informed consent form must also explain the following:

(1) how any electronic monitoring is incorporated into the alternative supervision system;

(2) the backup system for any electronic monitoring in times of electrical outages or other equipment malfunctions;

(3) how the caregivers or direct support staff are trained on the use of the technology;

(4) the event types and license holder response times established under paragraph (e);

(5) how the license holder protects each resident's privacy related to electronic monitoring and related to any electronically recorded data generated by the monitoring system. A resident served by the program may not be removed from a program under this subdivision for failure to consent to electronic monitoring. The consent form must explain where and how the electronically recorded data is stored, with whom it will be shared, and how long it is retained; and

(6) the risks and benefits of the alternative overnight supervision system.

The written explanations under clauses (1) to (6) may be accomplished through cross-references to other policies and procedures as long as they are explained to the person giving consent, and the person giving consent is offered a copy.

(g) Nothing in this section requires the applicant or license holder to develop or maintain separate or duplicative policies, procedures, documentation, consent forms, or individual plans that may be required for other licensing standards, if the requirements of this section are incorporated into those documents.

(h) The commissioner may grant variances to the requirements of this section according to section 245A.04, subdivision 9.

(i) For the purposes of paragraphs (d) through (h), "license holder" has the meaning under section 245A.02, subdivision 9, and additionally includes all staff, volunteers, and contractors affiliated with the license holder.

(j) For the purposes of paragraph (e), the terms "assess" and "assessing" mean to remotely determine what action the license holder needs to take to protect the well-being of the foster care recipient.

(k) The commissioner shall evaluate license applications using the requirements in paragraphs (d) to (f). The commissioner shall provide detailed application forms, including a checklist of criteria needed for approval.

(l) To be eligible for a license under paragraph (a), the adult foster care license holder must not have had a conditional license issued under section 245A.06 or any licensing sanction under section 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.

(m) The commissioner shall review an application for an alternative overnight supervision license within 60 days of receipt of the application. When the commissioner receives an application that is incomplete because the applicant failed to submit required documents or that is substantially deficient because the documents submitted do not meet licensing requirements, the commissioner shall provide the applicant written notice that the application is incomplete or substantially deficient. In the written notice to the applicant, the commissioner shall identify documents that are missing or deficient and give the applicant 45 days to resubmit a second application that is substantially complete. An applicant's failure to submit a substantially complete application after receiving notice from the commissioner is a basis for license denial under section 245A.05. The commissioner shall complete subsequent review within 30 days.

(n) Once the application is considered complete under paragraph (m), the commissioner will approve or deny an application for an alternative overnight supervision license within 60 days.

(o) For the purposes of this subdivision, "supervision" means:

(1) oversight by a caregiver or direct support staff as specified in the individual resident's place agreement or support plan and awareness of the resident's needs and activities; and

(2) the presence of a caregiver or direct support staff in a residence during normal sleeping hours, unless a determination has been made and documented in the individual's support plan that the individual does not require the presence of a caregiver or direct support staff during normal sleeping hours.

Subd. 7b. **Adult foster care data privacy and security.** (a) An adult foster care or community residential setting license holder who creates, collects, records, maintains, stores, or discloses any individually identifiable recipient data, whether in an electronic or any other format, must comply with the privacy and security provisions of applicable privacy laws and regulations, including:

(1) the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-1; and the HIPAA Privacy Rule, Code of Federal Regulations, title 45, part 160, and subparts A and E of part 164; and

(2) the Minnesota Government Data Practices Act as codified in chapter 13.

(b) For purposes of licensure, the license holder shall be monitored for compliance with the following data privacy and security provisions:

(1) the license holder must control access to data on residents served by the program according to the definitions of public and private data on individuals under section 13.02; classification of the data on individuals as private under section 13.46, subdivision 2; and control over the collection, storage, use, access, protection, and contracting related to data according to section 13.05, in which the license holder is assigned the duties of a government entity;

(2) the license holder must provide each resident served by the program with a notice that meets the requirements under section 13.04, in which the license holder is assigned the duties of the government entity, and that meets the requirements of Code of Federal Regulations, title 45, part 164.52. The notice shall describe the purpose for collection of the data, and to whom and why it may be disclosed pursuant to law. The notice must inform the individual that the license holder uses electronic monitoring and, if applicable, that recording technology is used;

(3) the license holder must not install monitoring cameras in bathrooms;

(4) electronic monitoring cameras must not be concealed from the residents served by the program; and

(5) electronic video and audio recordings of residents served by the program shall be stored by the license holder for five days unless: (i) a resident served by the program or legal representative requests that the recording be held longer based on a specific report of alleged maltreatment; or (ii) the recording captures an incident or event of alleged maltreatment under section 626.557 or chapter 260E or a crime under chapter 609. When requested by a resident served by the program or when a recording captures an incident or event of alleged maltreatment or a crime, the license holder must maintain the recording in a secured area for no longer than 30 days to give the investigating agency an opportunity to make a copy of the recording. The investigating agency will maintain the electronic video or audio recordings as required in section 626.557, subdivision 12b.

(c) The commissioner shall develop, and make available to license holders and county licensing workers, a checklist of the data privacy provisions to be monitored for purposes of licensure.

Subd. 8. MS 2024 [Repealed, 2025 c 38 art 5 s 34]

Subd. 9. **Adult foster care bedrooms.** (a) A resident receiving services must have a choice of roommate. Each roommate must consent in writing to sharing a bedroom with one another. The license holder is responsible for notifying a resident of the resident's right to request a change of roommate.

(b) The license holder must provide a lock for each resident's bedroom door, unless otherwise indicated for the resident's health, safety, or well-being. A restriction on the use of the lock must be documented and justified in the resident's individual abuse prevention plan required by sections 245A.65, subdivision 2, paragraph (b), and 626.557, subdivision 14. For a resident served under chapter 256S, the case manager must be part of the interdisciplinary team under section 245A.65, subdivision 2, paragraph (b).

Subd. 10. **Adult foster care resident rights.** (a) The license holder shall ensure that a resident and a resident's legal representative are given, at admission:

(1) an explanation and copy of the resident's rights specified in paragraph (b);

(2) a written summary of the Vulnerable Adults Protection Act prepared by the department; and

(3) the name, address, and telephone number of the local agency to which a resident or a resident's legal representative may submit an oral or written complaint.

(b) Adult foster care resident rights include the right to:

(1) have daily, private access to and use of a non-coin-operated telephone for local and long-distance telephone calls made collect or paid for by the resident;

(2) receive and send, without interference, uncensored, unopened mail or electronic correspondence or communication;

(3) have use of and free access to common areas in the residence and the freedom to come and go from the residence at will;

(4) have privacy for visits with the resident's spouse, next of kin, legal counsel, religious adviser, or others, according to section 363A.09 of the Human Rights Act, including privacy in the resident's bedroom;

(5) keep, use, and access the resident's personal clothing and possessions as space permits, unless this right infringes on the health, safety, or rights of another resident or household member, including the right to access the resident's personal possessions at any time;

(6) choose the resident's visitors and time of visits and participate in activities of commercial, religious, political, and community groups without interference if the activities do not infringe on the rights of another resident or household member;

(7) if married, privacy for visits by the resident's spouse, and, if both spouses are residents of the adult foster home, the residents have the right to share a bedroom and bed;

(8) privacy, including use of the lock on the resident's bedroom door or unit door. A resident's privacy must be respected by license holders, caregivers, household members, and volunteers by knocking on the door of a resident's bedroom or bathroom and seeking consent before entering, except in an emergency;

(9) furnish and decorate the resident's bedroom or living unit;

(10) engage in chosen activities and have an individual schedule supported by the license holder that meets the resident's preferences;

(11) freedom and support to access food at any time;

(12) have personal, financial, service, health, and medical information kept private, and be advised of disclosure of this information by the license holder;

(13) access records and recorded information about the resident according to applicable state and federal law, regulation, or rule;

(14) be free from maltreatment;

(15) be treated with courtesy and respect and receive respectful treatment of the resident's property;

(16) reasonable observance of cultural and ethnic practice and religion;

(17) be free from bias and harassment regarding race, gender, age, disability, spirituality, and sexual orientation;

(18) be informed of and use the license holder's grievance policy and procedures, including how to contact the highest level of authority in the program;

(19) assert the resident's rights personally, or have the rights asserted by the resident's family, authorized representative, or legal representative, without retaliation; and

(20) give or withhold written informed consent to participate in any research or experimental treatment.

(c) A restriction of a resident's rights under paragraph (b), clauses (1) to (4), (6), (8), (10), and (11), is allowed only if determined necessary to ensure the health, safety, and well-being of the resident. Any restriction of a resident's right must be documented and justified in the resident's individual abuse prevention plan required by sections 245A.65, subdivision 2, paragraph (b) and 626.557, subdivision 14. For a resident served under chapter 256S, the case manager must be part of the interdisciplinary team under section 245A.65, subdivision 2, paragraph (b). The restriction must be implemented in the least restrictive manner necessary to protect the resident and provide support to reduce or eliminate the need for the restriction.

Subd. 11. **Adult foster care service termination for elderly waiver participants.** (a) This subdivision applies to foster care services for a resident served under chapter 256S.

(b) The foster care license holder must establish policies and procedures for service termination that promote continuity of care and service coordination with the resident and the case manager and with another licensed caregiver, if any, who also provides support to the resident. The policy must include the requirements specified in paragraphs (c) to (h).

(c) The license holder must allow a resident to remain in the program and cannot terminate services unless:

(1) the termination is necessary for the resident's health, safety, and well-being and the resident's needs cannot be met in the facility;

(2) the safety of the resident or another resident in the program is endangered and positive support strategies were attempted and have not achieved and effectively maintained safety for the resident or another resident in the program;

(3) the health, safety, and well-being of the resident or another resident in the program would otherwise be endangered;

(4) the program was not paid for services;

(5) the program ceases to operate; or

(6) the resident was terminated by the lead agency from waiver eligibility.

(d) Before giving notice of service termination, the license holder must document the action taken to minimize or eliminate the need for termination. The action taken by the license holder must include, at a minimum:

(1) consultation with the resident's interdisciplinary team to identify and resolve issues leading to a notice of service termination; and

(2) a request to the case manager or other professional consultation or intervention services to support the resident in the program. This requirement does not apply to a notice of service termination issued under paragraph (c), clause (4) or (5).

(e) If, based on the best interests of the resident, the circumstances at the time of notice were such that the license holder was unable to take the action specified in paragraph (d), the license holder must document the specific circumstances and the reason the license holder was unable to take the action.

(f) The license holder must notify the resident or the resident's legal representative and the case manager in writing of the intended service termination. The notice must include:

(1) the reason for the action;

(2) except for service termination under paragraph (c), clause (4) or (5), a summary of the action taken to minimize or eliminate the need for termination and the reason the action failed to prevent the termination;

(3) the resident's right to appeal the service termination under section 256.045, subdivision 3, paragraph (a); and

(4) the resident's right to seek a temporary order staying the service termination according to the procedures in section 256.045, subdivision 4a, or subdivision 6, paragraph (c).

(g) Notice of the proposed service termination must be given at least 30 days before terminating a resident's service.

(h) After the resident receives the notice of service termination and before the services are terminated, the license holder must:

(1) work with the support team or expanded support team to develop reasonable alternatives to support continuity of care and to protect the resident;

(2) provide information requested by the resident or case manager; and

(3) maintain information about the service termination, including the written notice of service termination, in the resident's record.

Subd. 12. **License holder qualifications for child foster care.** (a) Child foster care license holders must maintain the ability to care for a foster child and ensure a safe home environment for children placed in their care. License holders must immediately notify the licensing agency of:

(1) any changes to the license holder or household member's physical or behavioral health that may affect the license holder's ability to care for a foster child or pose a risk to a foster child's health; or

(2) changes related to the care of a child or vulnerable adult for whom the license holder is a parent or legally responsible, including living out of the home for treatment for physical or behavioral health, modified parenting time arrangements, legal custody, or placement in foster care.

(b) The licensing agency may request a license holder or household member to undergo an evaluation by a specialist in areas such as physical or behavioral health to evaluate the license holder's ability to provide a safe environment for a foster child. Prior to assigning a specialist to evaluate, the licensing agency must tell the license holder or household member why the licensing agency has requested a specialist evaluation and request a release of information from the license holder or household member.

History: *1987 c 333 s 12; 1988 c 411 s 6; 1990 c 568 art 2 s 47; 1992 c 513 art 9 s 14; 1993 c 10 s 1; 1995 c 224 s 79; 1997 c 203 art 7 s 4; 1997 c 248 s 31; 2000 c 327 s 6; 2001 c 4 s 1,2; 1Sp2003 c 14 art 6 s 10-12; 2004 c 288 art 1 s 25; art 5 s 2; 2007 c 112 s 13; 2009 c 79 art 1 s 3-5; art 8 s 9; 2009 c 173 art 1 s 3; 2010 c 352 art 1 s 6; 1Sp2011 c 9 art 4 s 6; 2012 c 216 art 9 s 4,5; 2012 c 247 art 4 s 7-9; 2013 c 108 art 8 s 16-20; 2013 c 125 art 1 sec 108; 2015 c 78 art 4 s 13; 2016 c 163 art 3 s 5; 2016 c 189 art 18 s 7; 2017 c 40 art 1 s 51; 2017 c 90 s 1; 1Sp2017 c 6 art 2 s 5-7; 2019 c 54 art 2 s 7-10; 2020 c 83 art 1 s 68; 1Sp2020 c 2 art 2 s 2; art 8 s 47; 2022 c 98 art 4 s 11-13; art 17 s 26; 2023 c 61 art 1 s 3,4; 2023 c 70 art 8 s 17; 2024 c 85 s 55; 2024 c 108 art 1 s 2; 2024 c 125 art 1 s 5; 2024 c 127 art 46 s 5; art 62 s 10; 2026 c 95 art 4 s 4,41*

NOTE: The amendments to subdivision 2a by Laws 2022, chapter 98, article 4, section 12, are effective upon federal approval. The amendments to paragraphs (d) to (e) expire 365 calendar days after federal approval is obtained and the language of Minnesota Statutes 2020, section 245A.11, subdivision 2a, paragraphs (d) and (e), is revived and reenacted as of that date. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained. Laws 2022, chapter 98, article 4, section 12, the effective date.

245A.12 VOLUNTARY RECEIVERSHIP FOR RESIDENTIAL OR NONRESIDENTIAL PROGRAMS.

Subdivision 1. **Definitions.** For purposes of this section and section 245A.13, the following terms have the meanings given them.

(a) "Controlling individual" has the meaning in section 245A.02, subdivision 5a. When used in this section and section 245A.13, it means only those individuals controlling the residential or nonresidential program prior to the commencement of the receivership period.

(b) "Physical plant" means the building or buildings in which a residential or nonresidential program is located; all equipment affixed to the building and not easily subject to transfer as specified in the building and fixed equipment tables of the depreciation guidelines; and auxiliary buildings in the nature of sheds, garages, and storage buildings located on the same site if used for purposes related to resident or client care.

(c) "Related party" means a person who is a close relative of a provider or a provider group; an affiliate of a provider or a provider group; a close relative of an affiliate of a provider or provider group; or an affiliate of a close relative of an affiliate of a provider or provider group. For the purposes of this paragraph, the following terms have the meanings given them.

(1) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.

(2) "Person" means an individual, a corporation, a partnership, an association, a trust, an unincorporated organization, or a government or political subdivision.

(3) "Close relative of an affiliate of a provider or provider group" means an individual whose relationship by blood, marriage, or adoption to an individual who is an affiliate to a provider or a provider group is no more remote than first cousin.

(4) "Control" includes the terms "controlling," "controlled by," and "under common control with" and means the possession, direct or indirect, of the power to direct or cause the direction of the management, operations, or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(5) "Provider or provider group" means the license holder or controlling individual prior to the effective date of the receivership.

Subd. 2. **Receivership agreement.** A majority of controlling individuals of a residential or nonresidential program licensed or certified by the commissioner may at any time ask the commissioner to assume operation of the program through appointment of a receiver. On receiving the request for a receiver, the commissioner may enter into an agreement with a majority of controlling individuals and become the receiver and operate the residential or nonresidential program under conditions acceptable to both the commissioner and the majority of controlling individuals. The agreement must specify the terms and conditions of the receivership and preserve the rights of the persons being served by the program. A receivership set up under this section terminates at the time specified by the parties to the agreement.

Subd. 3. **Management agreement.** When the commissioner agrees to become the receiver of a residential or nonresidential program, the commissioner may enter into a management agreement with another entity or group to act as the managing agent during the receivership period. The managing agent will be responsible for the day-to-day operations of the program subject at all times to the review and approval of the commissioner. A reasonable fee may be paid to the managing agent for the performance of these services.

Subd. 4. **Rate adjustment.** The provisions of section 245A.13, subdivisions 7 and 8, shall also apply to voluntary receiverships.

Subd. 5. **Controlling individuals; restrictions on licensure.** No controlling individual of a residential or nonresidential program placed into receivership under this section shall apply for or receive a license or certification from the commissioner to operate a residential or nonresidential program for five years from the commencement of the receivership period. This subdivision does not apply to residential programs that are owned or operated by controlling individuals, that were in existence prior to the date of the receivership agreement, and that have not been placed into receivership.

Subd. 6. **Liability.** The controlling individuals of a residential or nonresidential program placed into receivership remain liable for any claims made against the program that arose from incidents or events that occurred prior to the commencement of the receivership period. Neither the commissioner nor the managing agent of the commissioner assumes this liability.

Subd. 7. **Liability for financial obligations.** Neither the commissioner nor the managing agent of the commissioner shall be liable for payment of any financial obligations of the residential or nonresidential program or of its controlling individuals incurred prior to the commencement of the receivership period unless such liability is expressly assumed in the receivership agreement. Those financial obligations remain the liability of the program and its controlling individuals. Financial obligations of the program incurred after the commencement of the receivership period are the responsibility of the commissioner or the managing agent of the commissioner to the extent such obligations are expressly assumed by each in the receivership or management agreements. The controlling individuals of the residential or nonresidential program remain liable for any financial obligations incurred after the commencement of the receivership period to the extent

these obligations are not reimbursed in the rate paid to the program and are reasonable and necessary to the operation of the program. These financial obligations, or any other financial obligations incurred by the program prior to the commencement of the receivership period which are necessary to the continued operation of the program, may be deducted from any rental payments owed to the controlling individuals of the program as part of the receivership agreement.

Subd. 8. **Physical plant of the residential or nonresidential program.** Occupation of the physical plant after commencement of the receivership period shall be controlled by paragraphs (a) and (b).

(a) If the physical plant of a residential or nonresidential program placed in receivership is owned by a controlling individual or related party, the physical plant may be used by the commissioner or the managing agent for purposes of the receivership as long as the receivership period continues. A fair monthly rental for the physical plant shall be paid by the commissioner or managing agent to the owner of the physical plant. This fair monthly rental shall be determined by considering all relevant factors necessary to meet required arm's-length obligations of controlling individuals such as the mortgage payments owed on the physical plant, the real estate taxes, and special assessments. This rental shall not include any allowance for profit or be based on any formula that includes an allowance for profit.

(b) If the owner of the physical plant of a residential or nonresidential program placed in receivership is not a related party, the controlling individual shall continue as the lessee of the property. However, during the receivership period, rental payments shall be made to the owner of the physical plant by the commissioner or the managing agent on behalf of the controlling individual. Neither the commissioner nor the managing agent assumes the obligations of the lease unless expressly stated in the receivership agreement. Should the lease expire during the receivership, the commissioner or the managing agent may negotiate a new lease for the term of the receivership period.

Subd. 9. **Receivership accounting.** The commissioner may use the medical assistance account and funds for receivership cash flow and accounting purposes.

Subd. 10. **Receivership costs.** The commissioner may use the accounts and funds that would have been available for the room and board, services, and program costs of persons in the program for costs, cash flow, and accounting purposes related to the receivership.

History: *1987 c 333 s 13; 1989 c 282 art 2 s 82; 1990 c 568 art 2 s 48; 1994 c 434 s 4; 2015 c 78 art 4 s 14*

245A.13 INVOLUNTARY RECEIVERSHIP FOR RESIDENTIAL OR NONRESIDENTIAL PROGRAMS.

Subdivision 1. **Application.** (a) In addition to any other remedy provided by law, the commissioner may petition the district court in Ramsey County for an order directing the controlling individuals of a residential or nonresidential program licensed or certified by the commissioner to show cause why the commissioner should not be appointed receiver to operate the program. The petition to the district court must contain proof by affidavit that one or more of the following circumstances exists:

(1) the commissioner has commenced proceedings to suspend or revoke the program's license or refused to renew the program's license;

(2) there is a threat of imminent abandonment by the program or its controlling individuals;

(3) the program has shown a pattern of failure to meet ongoing financial obligations such as failing to pay for food, pharmaceuticals, personnel costs, or required insurance;

(4) the health, safety, or rights of the residents or persons receiving care from the program appear to be in jeopardy due to the manner in which the program may close, the program's financial condition, or violations of federal or state law or rules committed by the program; or

(5) the commissioner has notified the program or its controlling individuals that the program's federal Medicare or Medicaid provider agreement will be terminated, revoked, canceled, or not renewed.

(b) If the license holder, applicant, or controlling individual operates more than one program, the commissioner's petition must specify and be limited to the program for which it seeks receivership.

(c) The order to show cause must be personally served on the program through its authorized agent or, in the event the authorized agent cannot be located, on any controlling individual for the program.

Subd. 2. **Appointment of receiver.** (a) If the court finds that involuntary receivership is necessary as a means of protecting the health, safety, or rights of persons being served by the program, the court shall appoint the commissioner as receiver to operate the program. The commissioner as receiver may contract with another entity or group to act as the managing agent during the receivership period. The managing agent will be responsible for the day-to-day operations of the program subject at all times to the review and approval of the commissioner. A managing agent shall not:

(1) be the license holder or controlling individual of the program;

(2) have a financial interest in the program at the time of the receivership;

(3) be otherwise affiliated with the program; or

(4) have had a licensed program that has been ordered into receivership.

(b) Notwithstanding state contracting requirements in chapter 16C, the commissioner shall establish and maintain a list of qualified persons or entities with experience in delivering services and with winding down programs under chapter 245A, 245D, or 245G, or other service types licensed by the commissioner. The list shall be a resource for selecting a managing agent, and the commissioner may update the list at any time.

Subd. 3. **Powers and duties of receiver.** (a) A receiver appointed pursuant to this section shall, within 18 months after the receivership order, determine whether to close the program or to make other provisions with the intent to keep the program open. If the receiver determines that program closure is appropriate, the commissioner shall provide for the orderly transfer of individuals served by the program to other programs or make other provisions to protect the health, safety, and rights of individuals served by the program.

(b) During the receivership, the receiver or the managing agent shall correct or eliminate deficiencies in the program that the commissioner determines endanger the health, safety, or welfare of the persons being served by the program unless the correction or elimination of deficiencies at a residential program involves major alteration in the structure of the physical plant. If the correction or elimination of the deficiencies at a residential program requires major alterations in the structure of the physical plant, the receiver shall take actions designed to result in the immediate transfer of persons served by the residential program. During the period of the receivership, the receiver and the managing agent shall operate the residential or nonresidential program in a manner designed to preserve the health, safety, rights, adequate care, and supervision of the persons served by the program.

(c) The receiver or the managing agent may make contracts and incur lawful expenses.

(d) The receiver or the managing agent shall use the building, fixtures, furnishings, and any accompanying consumable goods in the provision of care and services to the clients during the receivership period. The receiver shall take action as is reasonably necessary to protect or conserve the tangible assets or property during receivership.

(e) The receiver or the managing agent shall collect incoming payments from all sources and apply them to the cost incurred in the performance of the functions of the receivership, including the fee set under subdivision 4. No security interest in any real or personal property comprising the program or contained within it, or in any fixture of the physical plant, shall be impaired or diminished in priority by the receiver or the managing agent.

(f) The receiver has authority to hire, direct, manage, and discharge any employees of the program, including management-level staff for the program.

(g) The commissioner, as the receiver appointed by the court, may hire a managing agent to work on the commissioner's behalf to operate the program during the receivership. The managing agent is entitled to a reasonable fee. The receiver and managing agent shall be liable only in an official capacity for injury to persons and property by reason of the conditions of the program. The receiver and managing agent shall not be personally liable, except for gross negligence or intentional acts. The commissioner shall assist the managing agent in carrying out the managing agent's duties.

Subd. 3a. **Liability.** The provisions contained in section 245A.12, subdivision 6, shall also apply to receiverships ordered according to this section.

Subd. 3b. **Liability for financial obligations.** The provisions contained in section 245A.12, subdivision 7, also apply to receiverships ordered according to this section.

Subd. 3c. **Physical plant of the program.** Occupation of the physical plant under an involuntary receivership shall be governed by paragraphs (a) and (b).

(a) The physical plant owned by a controlling individual of the program or related party must be made available for the use of the program throughout the receivership period. The court shall determine a fair monthly rental for the physical plant, taking into account all relevant factors necessary to meet required arm's-length obligations of controlling individuals such as mortgage payments, real estate taxes, and special assessments. The rental fee must be paid by the receiver to the appropriate controlling individuals or related parties for each month that the receivership remains in effect. No payment made to a controlling individual or related party by the receiver or the managing agent or any state agency during a period of the receivership shall include any allowance for profit or be based on any formula that includes an allowance for profit.

(b) If the owner of the physical plant of a program is not a related party, the court shall order the controlling individual to continue as the lessee of the property during the receivership period. Rental payments during the receivership period shall be made to the owner of the physical plant by the commissioner or the managing agent on behalf of the controlling individual.

Subd. 4. **Fee.** A receiver appointed under an involuntary receivership or the managing agent is entitled to a reasonable fee as determined by the court.

Subd. 5. **Termination.** An involuntary receivership terminates 18 months after the date on which it was ordered or at any other time designated by the court or when any of the following events occurs:

(1) the commissioner determines that the program's license or certification application should be granted or should not be suspended or revoked;

(2) a new license or certification is granted to the program;

(3) the commissioner determines that all persons residing in a residential program have been provided with alternative residential programs or that all persons receiving services in a nonresidential program have been referred to other programs; or

(4) the court determines that the receivership is no longer necessary because the conditions which gave rise to the receivership no longer exist.

Subd. 6. **Emergency procedure.** (a) If it appears from the petition filed under subdivision 1, from an affidavit or affidavits filed with the petition, or from testimony of witnesses under oath if the court determines it necessary, that there is probable cause to believe that an emergency exists in a residential or nonresidential program, the court shall issue a temporary order for appointment of a receiver within two days after receipt of the petition.

(b) Notice of the petition must be served on the authorized agent of the program that is subject to the receivership petition or, if the authorized agent is not immediately available for service, on at least one of the controlling individuals for the program. A hearing on the petition must be held within five days after notice is served unless the authorized agent or other controlling individual consents to a later date. After the hearing, the court may continue, modify, or terminate the temporary order.

Subd. 7. **Rate recommendation.** For any program receiving Medicaid funds and ordered into receivership, the commissioner of human services may review rates of a residential or nonresidential program that has needs or deficiencies documented by the Department of Health; the Department of Children, Youth, and Families; or the Department of Human Services. If the commissioner of human services determines that a review of the rate established under sections 256B.5012 and 256B.5013 is needed, the commissioner shall:

(1) review the order or determination that cites the deficiencies or needs; and

(2) determine the need for additional staff, additional annual hours by type of employee, and additional consultants, services, supplies, equipment, repairs, or capital assets necessary to satisfy the needs or deficiencies.

Subd. 8. **Adjustment to the rate.** Upon review of rates under subdivision 7, the commissioner may adjust the program's payment rate. The commissioner shall review the circumstances, together with the program's most recent income and expense report, to determine whether or not the deficiencies or needs can be corrected or met by reallocating program staff, costs, revenues, or any other resources including investments. If the commissioner determines that any deficiency cannot be corrected or the need cannot be met with the payment rate currently being paid, the commissioner shall determine the payment rate adjustment by dividing the additional annual costs established during the commissioner's review by the program's actual client days from the most recent income and expense report or the estimated client days in the projected receivership period. The payment rate adjustment remains in effect during the period of the receivership or until another date set by the commissioner. Upon the subsequent sale, closure, or transfer of the program, the commissioner may recover amounts that were paid as payment rate adjustments under this subdivision. This recovery shall be determined through a review of actual costs and client days in the receivership period. The costs the commissioner finds to be allowable shall be divided by the actual client days for the receivership period. This rate shall be compared to the rate paid throughout the receivership period, with the difference multiplied by client days, being the amount to be repaid to the commissioner. Allowable costs shall be determined by the commissioner as those ordinary, necessary, and related to client care by prudent and cost-conscious management. The buyer or transferee shall repay this amount to the commissioner within 60

days after the commissioner notifies the buyer or transferee of the obligation to repay. This provision does not limit the liability of the seller to the commissioner pursuant to section 256B.0641.

Subd. 9. **Receivership accounting.** The commissioner may adjust Medicaid rates and use Medicaid funds, including but not limited to waiver funds, and the medical assistance account and funds for receivership cash flow, receivership administrative fees, and accounting purposes, to the extent permitted by the state's approved Medicaid plan.

Subd. 10. **Receivership costs.** The commissioner may use the accounts and funds that would have been available for the room and board, services, and program costs of persons in the program for costs, cash flow, and accounting purposes related to the receivership.

Subd. 11. **Controlling individuals; restrictions on licensure.** No controlling individual of a program placed into receivership under this section may apply for or receive a license or certification to operate a residential or nonresidential program for five years from the commencement of the receivership period. This subdivision does not apply to programs that are owned or operated by controlling individuals that were in existence before the date of the receivership agreement, and that have not been placed into receivership.

History: *1987 c 333 s 14; 1988 c 411 s 7; 1989 c 282 art 2 s 83; 1990 c 568 art 2 s 49; 1992 c 513 art 9 s 15; 1994 c 434 s 5-7; 1Sp2001 c 9 art 3 s 1,2; 2002 c 379 art 1 s 113; 2015 c 78 art 4 s 15; 2023 c 61 art 7 s 6-12; 2024 c 80 art 2 s 52*

245A.14 SPECIAL CONDITIONS FOR NONRESIDENTIAL PROGRAMS.

Subdivision 1. **Permitted single-family residential use.** A licensed nonresidential program with a licensed capacity of 12 or fewer persons shall be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations.

Subd. 2. **Permitted multifamily use.** Except as otherwise provided in subdivision 1 or in a town, municipal, or county regulation, a licensed nonresidential program with a licensed capacity of 13 to 16 persons shall be considered a permitted multifamily residential use of property for purposes of zoning. A town, municipal, or county zoning authority may require a conditional use or special use permit in order to assure proper maintenance and operation of the program. Conditions imposed on the nonresidential program must not be more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones unless the additional conditions are necessary to protect the health and safety of the persons being served by the nonresidential program. Nothing in this chapter shall be construed to exclude or prohibit nonresidential programs from single-family zones if otherwise permitted by local zoning regulations.

Subd. 3. [Renumbered 142B.41, subd 3]

Subd. 4. [Renumbered 142B.41, subd 4]

Subd. 4a. [Renumbered 142B.41, subd 5]

Subd. 5. MS 1990 [Repealed, 1992 c 513 art 9 s 44]

Subd. 6. [Renumbered 142B.41, subd 6]

Subd. 7. MS 2006 [Repealed, 2007 c 112 s 59]

Subd. 8. [Renumbered 142B.41, subd 7]

Subd. 9. MS 2006 [Repealed, 2007 c 112 s 59]

Subd. 9a. MS 2006 [Repealed, 2007 c 112 s 59]

Subd. 10. [Renumbered 142B.41, subd 8]

Subd. 11. [Renumbered 142B.41, subd 9]

Subd. 12. MS 2006 [Repealed, 2007 c 112 s 59]

Subd. 13. MS 2006 [Repealed, 2007 c 112 s 59]

Subd. 14. **Attendance records for publicly funded services.** (a) An adult day services program licensed under this chapter and according to Minnesota Rules, parts 9555.5105 to 9555.6265, must maintain documentation of actual attendance for each adult day service recipient for which the license holder is reimbursed by a governmental program. The records must be accessible to the commissioner during the program's hours of operation, they must be completed on the actual day of attendance, and they must include:

(1) the first, middle, and last name of the recipient;

(2) the time of day that the recipient was dropped off; and

(3) the time of day that the recipient was picked up.

(b) Adult day services programs licensed under this chapter that are designated for remote adult day services must maintain documentation of actual participation for each adult day service recipient for whom the license holder is reimbursed by a governmental program. The records must be accessible to the commissioner during the program's hours of operation, must be completed on the actual day service is provided, and must include the:

(1) first, middle, and last name of the recipient;

(2) time of day the remote services started;

(3) time of day that the remote services ended; and

(4) means by which the remote services were provided, through audio remote services or through audio and video remote services.

Subd. 15. [Renumbered 142B.41, subd 11]

Subd. 16. [Renumbered 142B.41, subd 12]

Subd. 17. [Renumbered 142B.41, subd 13]

History: *1987 c 333 s 15; 1988 c 608 s 4; 1990 c 568 art 2 s 50,51; 1991 c 143 s 1; 1995 c 207 art 4 s 1; 2000 c 327 s 6; 2000 c 489 art 1 s 22; 2005 c 98 art 1 s 24; 1Sp2005 c 4 art 1 s 17,18; 2006 c 207 s 2,3; 2006 c 264 s 5,6; 2012 c 216 art 17 s 2; 2015 c 78 art 4 s 16; 1Sp2019 c 9 art 2 s 42,43; 2022 c 98 art 7 s 1; 2024 c 80 art 2 s 53,54; 2024 c 115 art 19 s 5*

245A.142 EARLY INTENSIVE DEVELOPMENTAL AND BEHAVIORAL INTERVENTION PROVISIONAL LICENSURE.

Subdivision 1. **Definitions.** The definitions in section 256B.0949, subdivision 2, apply to this section.

Subd. 2. **Regulatory powers.** The commissioner shall regulate early intensive developmental and behavioral intervention (EIDBI) agencies pursuant to this section.

Subd. 3. **Provisional license.** (a) Beginning January 1, 2026, the commissioner must begin issuing provisional licenses to agencies enrolled under chapter 256B to provide EIDBI services.

(b) Agencies enrolled before July 1, 2025, have until May 31, 2026, to submit an application for provisional licensure on the forms and in the manner prescribed by the commissioner.

(c) Beginning June 1, 2026, an agency must not operate if it has not submitted an application for provisional licensure under this section. The commissioner shall disenroll an agency from providing EIDBI services under chapter 256B if the agency fails to submit an application for provisional licensure by May 31, 2026.

(d) The commissioner must determine whether a provisional license applicant complies with all applicable rules and laws and either issue a provisional license to the applicant or deny the application by December 31, 2026.

(e) A provisional license is effective until comprehensive EIDBI agency licensure standards are in effect unless the provisional license is suspended or revoked.

(f) Initial provisional license applications are subject to the application fee under section 245A.10, subdivision 3, paragraph (a).

Subd. 4. **Provisional license regulatory functions.** The commissioner may:

(1) enter the physical premises of an agency and access the program without advance notice in accordance with section 245A.04, subdivision 5;

(2) investigate reports of maltreatment;

(3) investigate complaints against EIDBI agencies;

(4) take action on a license pursuant to sections 245A.06 and 245A.07;

(5) deny an application for provisional licensure pursuant to section 245A.05; and

(6) take other action reasonably required to accomplish the purposes of this section.

Subd. 5. **Provisional license requirements.** A provisional license holder must:

(1) identify all controlling individuals, as defined in section 245A.02, subdivision 5a, of the agency;

(2) provide documented disclosures surrounding the use of billing agencies or other consultants, available to the department upon request;

(3) establish provider policies and procedures related to staff training, staff qualifications, quality assurance, and service activities;

(4) document contracts with independent contractors, including the number of hours contracted and responsibilities, available to the department upon request; and

(5) comply with section 256B.0949, including exceptions to qualifications, standards, and requirements granted by the commissioner under section 256B.0949, subdivision 17.

Subd. 6. **Reconsideration requests and appeals.** An applicant or provisional license holder has reconsideration and appeal rights under sections 245A.05, 245A.06, and 245A.07.

Subd. 7. **Disenrollment.** The commissioner shall disenroll an agency from providing EIDBI services under chapter 256B if:

(1) the agency's application has been denied or the agency's provisional license has been suspended or revoked; and

(2) if the agency appealed the application denial or the provisional license suspension or revocation, the commissioner has issued a final order on the appeal affirming the action.

History: *1Sp2025 c 9 art 6 s 1; 2026 c 121 art 4 s 10*

245A.143 FAMILY ADULT DAY SERVICES.

Subdivision 1. **Scope.** (a) The licensing standards in this section must be met to obtain and maintain a license to provide family adult day services. For the purposes of this section, family adult day services means a program operating fewer than 24 hours per day that provides functionally impaired adults age 18 or older with an individualized and coordinated set of services including health services, social services, and nutritional services that are directed at maintaining or improving the participants' capabilities for self-care.

(b) A family adult day services license shall only be issued when the services are provided in the license holder's primary residence, and the license holder is the primary provider of care. The license holder may not serve more than eight adults at one time, including residents, if any, served under a license issued under Minnesota Rules, parts 9555.5105 to 9555.6265.

(c) An adult foster care license holder may provide family adult day services under the license holder's adult foster care license if the license holder meets the requirements of this section.

Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the following meanings unless otherwise provided for by text.

(b) "Caregiver" means a spouse, adult child, parent, relative, friend, or others who normally provide unpaid support or care to the individual needing assistance. For the purpose of this section, the caregiver may or may not have legal or financial responsibility for the participant.

(c) "Participant" means a functionally impaired adult receiving family adult day services.

(d) "Consultation by a health care professional" means the review and oversight of the participant's health-related services by a registered nurse, physician, physician assistant, or mental health professional.

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.

Subd. 4. **Admission screening and evaluation.** (a) Before admitting an individual into the family adult day services program, the license holder shall screen the individual to determine how or whether the license holder can serve the individual, based on the license holder's policies, services, expertise, and the individual's needs and condition. If possible, the screening shall include an interview with the individual and with the individual's caregiver.

(b) The screening required under paragraph (a) shall include an evaluation of the health, nutritional, and social services needs of the individual.

Subd. 5. **Service delivery plan.** Before providing family adult day services, an individual, the individual's caregiver, the legal representative if there is one, the county or private case manager, if applicable, and the license holder shall develop a service delivery plan. At a minimum, the service delivery plan shall include:

(1) a description of the health services, nutritional services, and social services to be arranged or provided by the license holder and the frequency of those services and that the services will be based on the needs of the individual;

(2) scheduled days and hours of participant's attendance at the license holder's home;

(3) transportation arrangements for getting the participant to and from the license holder's home;

(4) contingency plans if scheduled services cannot be provided by the license holder;

(5) identification of responsibilities of the participant and the license holder with respect to payment for the services;

(6) circumstances when emergency services will be called; and

(7) identification of the license holder's discharge policy when services are no longer needed or when the participant's needs can no longer be met by the license holder.

Subd. 6. **Individual service plan.** (a) The service plan must be coordinated with other plans of services for the participant, as appropriate.

(b) The service plan must be dated and revised when there is a change in the needs of the participant or annually, whichever occurs sooner.

Subd. 7. **Health services.** (a) The license holder shall provide health services as specified in the service delivery plan under the direction of the designated caregiver or county or private case manager. Health services must include:

(1) monitoring the participant's level of function and health while participating; taking appropriate action for a change in condition including immediately reporting changes to the participant's caregiver, physician, physician assistant, mental health professional, or registered nurse; and seeking consultation;

(2) offering information to participants and caregivers on good health and safety practices; and

(3) maintaining a listing of health resources available for referrals as needed by participants and caregivers.

(b) Unless the person is a licensed health care practitioner qualified to administer medications, the person responsible for medication administration or assistance shall provide a certificate verifying successful completion of a trained medication aid program for unlicensed personnel approved by the Minnesota Department of Health or comparable program, or biennially provide evidence of competency as demonstrated to a registered nurse, physician, or physician assistant.

(c) The license holder must have secure storage and safeguarding of all medications with storage of medications in their original container, know what information regarding medication administration must be reported to a health care professional, and must maintain a record of all medications administered.

Subd. 8. **Nutritional services.** (a) The license holder shall ensure that food served is nutritious and meets any special dietary needs of the participants as prescribed by the participant's physician, advanced practice registered nurse, physician assistant, or dietitian as specified in the service delivery plan.

(b) Food and beverages must be obtained, handled, and properly stored to prevent contamination, spoilage, or a threat to the health of a resident.

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.

Subd. 11. **Staffing.** Whenever participants are in the home, there must be present at least one individual who is trained in basic first aid and certified in cardiopulmonary resuscitation and the treatment of obstructed airways. Whenever there are six, seven, or eight participants present, there must be a second staff person present.

Subd. 12. **Training.** The license holder and license holder's staff must annually complete 12 hours of training related to the health, nutritional, and social needs of the license holder's target population. License holders with six or more years of licensure under this section or as an adult foster care provider must annually complete six hours of training. The annual training must include training on the reporting of maltreatment of vulnerable adults under sections 626.557 and 626.5572; license holder requirements governing maltreatment of vulnerable adults under section 245A.65; and, when a license holder serves participants who rely on medical monitoring equipment to sustain life or monitor a medical condition, training on medical equipment as required under section 245A.155 for foster care providers. A record of all training must be maintained in the home.

Subd. 13. **Residential requirements.** (a) The home where family adult day services are to be provided shall be classified as a residential group R-3 occupancy under the State Building Code and State Fire Code for purposes of building code and fire code inspections. A building code inspection is not required for licensure under this section. The state or local fire marshal must inspect the family adult day services home operating in the residence for compliance with the residential group R-3 occupancy provisions of the State Fire Code.

(b) The licensed capacity of the home shall be limited by the amount of indoor space available for use by participants. The total indoor space available for use by participants must equal at least 35 square feet for each participant, the license holder, and each staff member present in the home. In determining the square footage of usable indoor space available, the following must not be counted: hallways, stairways, closets, offices, restrooms, and utility and storage areas. The usable indoor space available must include a room or an area that can be used as private space for providing personal hygiene services or social services to participants.

(c) The residence must comply with all applicable local ordinances.

Subd. 14. **Variances.** The commissioner may grant a variance to any of the requirements in this section if the conditions in section 245A.04, subdivision 9, are met.

History: *2004 c 288 art 1 s 27; 2005 c 56 s 1; 2007 c 147 art 7 s 75; 1Sp2011 c 9 art 4 s 7; 2020 c 115 art 4 s 77; 2022 c 58 s 96-98*

245A.1434 [Renumbered 142B.60]

245A.1435 REDUCTION OF RISK OF SUDDEN UNEXPECTED INFANT DEATH.

Programs licensed under this chapter must comply with the requirements of section 142B.46 whenever caring for infants.

History: *2007 c 112 s 15; 2009 c 142 art 2 s 19; 2013 c 108 art 3 s 14; 2014 c 291 art 1 s 2; 2020 c 115 art 4 s 78; 2022 c 58 s 99; 2023 c 70 art 8 s 19; 2024 c 80 art 2 s 55*

245A.144 TRAINING ON RISK OF SUDDEN UNEXPECTED INFANT DEATH AND ABUSIVE HEAD TRAUMA FOR CHILD FOSTER CARE PROVIDERS.

(a) Licensed child foster care providers that care for infants or children through five years of age must document that before staff persons assist in the care of infants or children through five years of age, they are instructed on the standards in section 142B.46 and receive training on reducing the risk of sudden unexpected infant death and abusive head trauma from shaking infants and young children. The training on reducing the risk of sudden unexpected infant death and abusive head trauma may be provided as:

(1) orientation training to child foster care providers, who care for infants or children through five years of age, under Minnesota Rules, part 2960.3070, subpart 1; or

(2) in-service training to child foster care providers, who care for infants or children through five years of age, 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 unexpected infant death and abusive head trauma, means of reducing the risk of sudden unexpected infant death and abusive head trauma, and license holder communication with parents regarding reducing the risk of sudden unexpected infant death and abusive head trauma.

(c) Training for child foster care providers must be approved by the county that is responsible for monitoring the child foster care provider under section 245A.16. The approved training fulfills, in part, training required under Minnesota Rules, part 2960.3070.

History: *1Sp2001 c 9 art 14 s 23; 2002 c 375 art 1 s 16; 2002 c 379 art 1 s 113; 1Sp2005 c 4 art 1 s 19; 2007 c 112 s 16; 2009 c 26 s 1; 2010 c 329 art 1 s 9; 2013 c 108 art 3 s 15; 2024 c 115 art 16 s 10*

245A.1443 SUBSTANCE USE DISORDER TREATMENT LICENSED PROGRAMS THAT SERVE PARENTS WITH THEIR CHILDREN.

Subdivision 1. **Application.** This section applies to residential substance use disorder treatment facilities that are licensed under this chapter and chapter 245G and that provide services in accordance with section 245G.19.

Subd. 2. **Requirements for providing education.** (a) On or before the date of a child's initial physical presence at the facility, the license holder must provide education to the child's parent related to safe bathing

and reducing the risk of sudden unexpected infant death and abusive head trauma from shaking infants and young children. The license holder must use the educational material developed by the commissioner to comply with this requirement. At a minimum, the education must address:

(1) instruction that a child or infant should never be left unattended around water, a tub should be filled with only two to four inches of water for infants, and an infant should never be put into a tub when the water is running; and

(2) the risk factors related to sudden unexpected infant death and abusive head trauma from shaking infants and young children, and means of reducing the risks, including the safety precautions identified in section 142B.46 and the risks of co-sleeping.

(b) The license holder must document the parent's receipt of the education and keep the documentation in the parent's file. The documentation must indicate whether the parent agrees to comply with the safeguards. If the parent refuses to comply, program staff must provide additional education to the parent as described in the parental supervision plan. The parental supervision plan must include the intervention, frequency, and staff responsible for the duration of the parent's participation in the program or until the parent agrees to comply with the safeguards.

Subd. 3. **Parental supervision of children.** (a) On or before the date of a child's initial physical presence at the facility, the license holder must document the parent's capacity to meet the health and safety needs of the child while on the facility premises considering the following factors:

(1) the parent's physical and mental health;

(2) the parent being under the influence of drugs, alcohol, medications, or other chemicals;

(3) the child's physical and mental health; and

(4) any other information available to the license holder that indicates the parent may not be able to adequately care for the child.

(b) The license holder must have written procedures specifying the actions to be taken by staff if a parent is or becomes unable to adequately care for the parent's child.

(c) If the parent refuses to comply with the safeguards described in subdivision 2 or is unable to adequately care for the child, the license holder must develop a parental supervision plan in conjunction with the client. The plan must account for any factors in paragraph (a) that contribute to the parent's inability to adequately care for the child. The plan must be dated and signed by the staff person who completed the plan.

Subd. 4. **Alternative supervision arrangements.** The license holder must have written procedures addressing whether the program permits a parent to arrange for supervision of the parent's child by another client in the program. If permitted, the facility must have a procedure that requires staff approval of the supervision arrangement before the supervision by the nonparental client occurs. The procedure for approval must include an assessment of the nonparental client's capacity to assume the supervisory responsibilities using the criteria in subdivision 3. The license holder must document the license holder's approval of the supervisory arrangement and the assessment of the nonparental client's capacity to supervise the child, and must keep this documentation in the file of the parent of the child being supervised.

History: *2015 c 78 art 4 s 17; 2018 c 182 art 2 s 11; 2022 c 98 art 12 s 3; 2024 c 80 art 2 s 56*

245A.1444 TRAINING BY OTHER PROGRAMS ON RISK OF SUDDEN UNEXPECTED INFANT DEATH AND ABUSIVE HEAD TRAUMA.

A licensed substance use disorder treatment program that serves clients with infants or children through five years of age, who sleep at the program and a licensed children's residential facility that serves infants or children through five years of age, must document that before program staff persons or volunteers assist in the care of infants or children through five years of age, they are instructed on the standards in section 142B.46 and receive training on reducing the risk of sudden unexpected infant death and abusive head trauma from shaking infants and young children. The training conducted under this section may be used to fulfill training requirements under section 245G.19, subdivision 4, clause (2), and Minnesota Rules, part 2960.0100, subpart 3.

History: *2007 c 112 s 17; 2009 c 26 s 2; 2013 c 108 art 3 s 16; 2018 c 182 art 2 s 12; 2022 c 98 art 4 s 51; 2024 c 80 art 2 s 57*

245A.1445 [Renumbered 142B.48]

245A.145 [Renumbered 142B.61]

245A.146 CRIB SAFETY REQUIREMENTS.

Subdivision 1. **Crib safety requirements.** The commissioner and all licensed children's residential facilities, substance use disorder treatment programs with children in care, and residential habilitation programs serving children with developmental disabilities must follow the requirements of section 142B.45.

Subd. 2. [Renumbered 142B.45, subd 2]

Subd. 3. [Renumbered 142B.45, subd 3]

Subd. 4. [Renumbered 142B.45, subd 4]

Subd. 5. [Renumbered 142B.45, subd 5]

Subd. 6. [Renumbered 142B.45, subd 6]

History: *2005 c 139 s 1; 2024 c 80 art 2 s 58-61*

245A.147 [Renumbered 142B.75]

245A.148 [Renumbered 142B.76]

245A.149 [Renumbered 142B.77]

245A.15 [Renumbered 142B.78]

245A.151 FIRE MARSHAL INSPECTION.

When licensure under this chapter or certification under chapter 142C requires an inspection by a fire marshal to determine compliance with the State Fire Code under section 299F.011, a local fire code inspector approved by the state fire marshal may conduct the inspection. If a community does not have a local fire code inspector or if the local fire code inspector does not perform the inspection, the state fire marshal must conduct the inspection. A local fire code inspector or the state fire marshal may recover the cost of these inspections through a fee of no more than $50 per inspection charged to the applicant or license holder or

license-exempt child care center certification holder. The fees collected by the state fire marshal under this section are appropriated to the commissioner of public safety for the purpose of conducting the inspections.

History: *2002 c 375 art 1 s 17; 2005 c 136 art 9 s 14; 1Sp2019 c 9 art 2 s 47; 2024 c 80 art 3 s 3*

245A.1511 Renumbered [142B.79]

245A.152 [Renumbered 142B.62]

245A.153 MS 2018 [Expired, 1Sp2017 c 6 art 9 s 10]

245A.155 CARE OF INDIVIDUALS ON MEDICAL MONITORING EQUIPMENT.

Subdivision 1. **Licensed foster care and respite care.** This section applies to foster care agencies and licensed foster care providers who place, supervise, or care for individuals who rely on medical monitoring equipment to sustain life or monitor a medical condition that could become life-threatening without proper use of the medical equipment in respite care or foster care.

Subd. 2. **Foster care agency requirements.** In order for an agency to place an individual who relies on medical equipment to sustain life or monitor a medical condition that could become life-threatening without proper use of the medical equipment with a foster care provider, the agency must ensure that the foster care provider has received the training to operate such equipment as observed and confirmed by a qualified source, and that the provider:

(1) is currently caring for an individual who is using the same equipment in the foster home; or

(2) has written documentation that the foster care provider has cared for an individual who relied on such equipment within the past six months; or

(3) has successfully completed training with the individual being placed with the provider.

Subd. 3. **Foster care provider requirements.** A foster care provider shall not care for an individual who relies on medical equipment to sustain life or monitor a medical condition unless the provider has received the training to operate such equipment as observed and confirmed by a qualified source, and:

(1) is currently caring for an individual who is using the same equipment in the foster home; or

(2) has written documentation that the foster care provider has cared for an individual who relied on such equipment within the past six months; or

(3) has successfully completed training with the individual being placed with the provider.

Subd. 4. **Qualified source definition.** For purposes of this section, a "qualified source" includes a health care professional or an individual who provides training on such equipment.

Subd. 5. **Foster care provider training and skills form.** The agency supervising the foster care provider shall keep a training and skills form on file for each foster care provider and update the form annually. The agency placing the individual shall obtain a copy of the training and skills form from the foster care provider or the agency supervising the foster care provider and shall keep it and any updated information on file for the duration of the placement. The form must be made available to the parents or the primary caregiver and social worker of the individual, or the individual, whichever is applicable, in order to make an informed

placement decision. The agency shall use the training and skills form developed by the commissioner of human services.

History: *2000 c 338 s 1; 2015 c 71 art 7 s 5,6*

245A.156 DISCLOSURE OF COMMUNICABLE DISEASE.

Subdivision 1. **Licensed foster care.** This section applies to county agencies and individuals who place children or adults who have a known communicable disease, as defined in section 144.4172, subdivision 2, in foster care settings licensed under this chapter.

Subd. 2. **Placing agency's or individual's duties.** Notwithstanding sections 144.291 to 144.298, before a county 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: *2002 c 290 s 1; 2007 c 147 art 10 s 15; 2024 c 80 art 2 s 63,64*

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

Subdivision 1. **Delegation of authority to agencies.** (a) County agencies that have been designated by the commissioner to perform licensing functions and activities under section 245A.04; 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 child foster residence setting and community residential setting;

(2) until the responsibility for family child foster care transfers to the commissioner of children, youth, and families under Laws 2023, chapter 70, article 12, section 30, dual licensure of family child foster care and family adult foster care;

(3) until the responsibility for family child care transfers to the commissioner of children, youth, and families under Laws 2023, chapter 70, article 12, section 30, dual licensure of family adult foster care and family child care;

(4) adult foster care or community residential setting maximum capacity;

(5) adult foster care or community residential setting minimum age requirement;

(6) child foster care maximum age requirement;

(7) variances regarding disqualified individuals;

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

(9) variances to requirements relating to chemical use problems of a license holder or a household member of a license holder; and

(10) variances to section 142B.46 for the use of a cradleboard for a cultural accommodation.

(b) Once the respective responsibilities transfer from the commissioner of human services to the commissioner of children, youth, and families, under Laws 2023, chapter 70, article 12, section 30, the commissioners of human services and children, youth, and families must both approve a variance for dual licensure of family child foster care and family adult foster care or family adult foster care and family child care. Variances under this paragraph are excluded from the delegation of variance authority and may be issued only by both commissioners.

(c) An adult foster care, family adult day services, child foster residence setting, or community residential services license issued under this section may be issued for up to two years until implementation of the provider licensing and reporting hub. Upon implementation of the provider licensing and reporting hub, licenses may be issued each calendar year.

(d) During implementation of chapter 245D, the commissioner shall consider:

(1) the role of counties in quality assurance;

(2) the duties of county licensing staff; and

(3) the possible use of joint powers agreements, according to section 471.59, with counties through which some licensing duties under chapter 245D may be delegated by the commissioner to the counties.

Any consideration related to this paragraph must meet all of the requirements of the corrective action plan ordered by the federal Centers for Medicare and Medicaid Services.

(e) Licensing authority specific to section 245D.06, subdivisions 5, 6, 7, and 8, or successor provisions; and section 245D.061 or successor provisions, for family child foster care programs providing out-of-home respite, as identified in section 245D.03, subdivision 1, paragraph (b), clause (1), is excluded from the delegation of authority to county agencies.

Subd. 2. **Investigations.** (a) The county or private agency shall conduct timely investigations of allegations of maltreatment of children or adults in programs for which the county or private agency is the commissioner's designated representative and record a disposition of each complaint in accordance with applicable law or rule. The county or private agency shall conduct similar investigations of allegations of violations of rules governing licensure of the program.

(b) If an investigation conducted under paragraph (a) results in evidence that the commissioner should deny an application or suspend, revoke, or make conditional a license, the county or private agency shall make that recommendation to the commissioner within ten working days.

Subd. 3. **Recommendations to commissioner.** The county agency shall not make recommendations to the commissioner regarding licensure without first conducting an inspection. The county agency must forward its recommendation to the commissioner regarding the appropriate licensing action within 20 working days of receipt of a completed application.

Subd. 4. **Enforcement of commissioner's orders.** The county or private agency shall enforce the commissioner's orders under sections 245A.07, 245A.08, subdivision 5, and chapter 245C, according to the instructions of the commissioner. The county attorney shall assist the county agency in the enforcement and defense of the commissioner's orders under sections 245A.07, 245A.08, and chapter 245C, according to the instructions of the commissioner, unless a conflict of interest exists between the county attorney and the commissioner. For purposes of this section, a conflict of interest means that the county attorney has a direct or shared financial interest with the license holder or has a personal relationship or family relationship with a party in the licensing action.

Subd. 5. **Instruction and technical assistance.** The commissioner shall provide instruction and technical assistance to county agencies that are subject to this section. County agencies shall cooperate with the commissioner in carrying out this section by ensuring that affected employees participate in instruction and technical assistance provided by the commissioner.

Subd. 6. **Certification by commissioner.** The commissioner shall ensure that rules are uniformly enforced throughout the state by reviewing each county and private agency for compliance with this section and other applicable laws and rules at least every four years. County agencies that comply with this section shall be certified by the commissioner. If a county agency fails to be certified by the commissioner, the commissioner shall certify a reduction of state administrative aids in an amount up to 20 percent of the county's state portion of Vulnerable Children and Adults Act funding.

Subd. 7. [Renumbered 142B.30, subd 7]

Subd. 8. **Notice of county recommendation.** The county or private agency shall provide written notice to the license holder when the agency recommends a licensing action to the commissioner under subdivision 2 or 3. The written notice shall inform the license holder about the process for determining a licensing action and how the license holder will be notified of a licensing action determination. The notice shall include the following:

(1) that the county or private agency made a recommendation to the commissioner to deny an application or suspend, revoke, or make conditional a license;

(2) that the commissioner will review the recommendation from the county or private agency and then determine if a licensing action will be issued;

(3) that the license holder will receive written notice from the commissioner indicating the reasons for the licensing action issued; and

(4) instructions on how to request reconsideration or appeal, if a licensing action is issued.

County or private agency recommendations under this section are classified as confidential data under chapter 13 and may only be disclosed as permitted by law.

Subd. 9. [Renumbered 142B.30, subd 9]

Subd. 10. **Licensing and reporting hub.** Upon implementation of the provider licensing and reporting hub, county staff who perform licensing functions must use the hub in the manner prescribed by the commissioner.

Subd. 11. [Renumbered 142B.30, subd 11]

History: *1987 c 333 s 17; 1989 c 282 art 2 s 86; 1990 c 568 art 2 s 52,53; 1991 c 142 s 3; 1992 c 513 art 9 s 16; 1993 c 338 s 9; 1997 c 248 s 32; 1Sp2001 c 9 art 14 s 24; 2002 c 375 art 1 s 18; 2002 c 379 art 1 s 113; 2003 c 15 art 1 s 33; 2004 c 288 art 1 s 28,29; 2005 c 98 art 3 s 14; 1Sp2005 c 4 art 1 s 20,21; 2007 c 147 art 3 s 3,4; 2009 c 79 art 1 s 6,7; 2009 c 142 art 2 s 20; 1Sp2011 c 9 art 1 s 20; 2013 c 108 art 8 s 21; 2014 c 312 art 27 s 8; 2015 c 78 art 4 s 19; 1Sp2017 c 6 art 16 s 5; 2018 c 200 s 8,9; 1Sp2019 c 9 art 2 s 48; 1Sp2020 c 2 art 1 s 9; 2023 c 25 s 124; 2023 c 50 art 1 s 15; 2023 c 70 art 8 s 21,23,24; art 17 s 18; 2024 c 80 art 2 s 65-67; 2024 c 115 art 16 s 11; art 19 s 6; 2024 c 127 art 62 s 11; 2025 c 38 art 5 s 7*

245A.167 PUBLIC FUNDS PROGRAM INTEGRITY MONITORING.

(a) An applicant or a license holder that has enrolled to receive public funding reimbursement for services is required to comply with the registration or enrollment requirements as licensing standards.

(b) Compliance with the licensing standards established under paragraph (a) may be monitored during a licensing investigation or inspection. Noncompliance with these licensure standards may result in:

(1) a correction order or a conditional license under section 245A.06, or sanctions under section 245A.07;

(2) nonpayment of claims submitted by the license holder for public program reimbursement according to the statute applicable to that program;

(3) recovery of payments made for the service according to the statute applicable to that program;

(4) disenrollment in the public payment program according to the statute applicable to that program; or

(5) a referral for other administrative, civil, or criminal penalties as provided by law.

History: *2012 c 216 art 17 s 3*

245A.17 MS 1990 [Repealed, 1992 c 513 art 9 s 44]

245A.175 CHILD FOSTER CARE TRAINING REQUIREMENT; MENTAL HEALTH TRAINING; FETAL ALCOHOL SPECTRUM DISORDERS TRAINING.

Prior to a nonemergency placement of a child in a foster care home, the child foster care license holder and all staff providing care in foster residence settings 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 training requirement for the foster residence staff must be on children's mental health issues and treatment. Except for providers and services under chapter 245D, the annual training must also include at least one hour of training on fetal alcohol spectrum disorders, which must be counted toward the 12 hours of required in-service training per year. Training curriculum shall be approved by the commissioner of human services.

History: *2007 c 147 art 8 s 11; 2015 c 78 art 4 s 20; 2016 c 101 s 1; 2018 c 188 s 1; 2024 c 115 art 16 s 12*

245A.18 CHILD PASSENGER RESTRAINT SYSTEMS.

Subdivision 1. **Seat belt and child passenger restraint system use.** All license holders that transport children must comply with the requirements of section 142B.51, subdivision 1, and license holders that transport a child or children under nine years of age must document training that fulfills the requirements in section 142B.51, subdivision 2.

Subd. 2. MS 2023 Supp [Repealed, 2024 c 80 art 2 s 75]

History: *1990 c 568 art 2 s 54; 1993 c 13 art 1 s 31; 1Sp2005 c 4 art 1 s 22; 2006 c 254 s 1; 2007 c 112 s 20; 2010 c 382 s 46; 2010 c 385 s 1; 2012 c 216 art 16 s 11; 1Sp2019 c 9 art 2 s 49; 2023 c 70 art 8 s 25; 2024 c 80 art 2 s 68; 1Sp2025 c 3 art 14 s 19*

245A.19 HIV TRAINING IN SUBSTANCE USE DISORDER TREATMENT PROGRAM.

(a) Applicants and license holders for substance use disorder residential and nonresidential programs must demonstrate compliance with HIV minimum standards before their application is complete. The HIV

minimum standards contained in the HIV-1 Guidelines for substance use disorder treatment and care programs in Minnesota are not subject to rulemaking.

(b) The applicant or license holder shall orient all substance use disorder treatment staff and clients to the HIV minimum standards. Thereafter, orientation shall be provided to all staff and clients, within 72 hours of employment or admission to the program. In-service training shall be provided to all staff on at least an annual basis and the license holder shall maintain records of training and attendance.

(c) The license holder shall maintain a list of referral sources for the purpose of making necessary referrals of clients to HIV-related services. The list of referral services shall be updated at least annually.

(d) Written policies and procedures, consistent with HIV minimum standards, shall be developed and followed by the license holder. All policies and procedures concerning HIV minimum standards shall be approved by the commissioner. The commissioner must outline the content required in the annual staff training under paragraph (b).

(e) The commissioner may permit variances from the requirements in this section. License holders seeking variances must follow the procedures in section 245A.04, subdivision 9.

History: *1992 c 513 art 9 s 17; 2022 c 98 art 4 s 51; 2023 c 49 s 3*

245A.191 PROVIDER ELIGIBILITY FOR PAYMENTS FROM THE BEHAVIORAL HEALTH FUND.

(a) When a substance use disorder treatment provider licensed under this chapter, and governed by the standards of chapter 245G or Minnesota Rules, parts 2960.0430 to 2960.0490, agrees to meet the applicable requirements under sections 254B.0505 and 254B.0507 to be eligible for enhanced funding from the behavioral health fund, the applicable requirements under sections 254B.0501 to 254B.0507 are also licensing requirements that may be monitored for compliance through licensing investigations and licensing inspections.

(b) Noncompliance with the requirements identified under paragraph (a) may result in:

(1) a correction order or a conditional license under section 245A.06, or sanctions under section 245A.07;

(2) nonpayment of claims submitted by the license holder for public program reimbursement;

(3) recovery of payments made for the service;

(4) disenrollment in the public payment program; or

(5) other administrative, civil, or criminal penalties as provided by law.

History: *2012 c 216 art 16 s 12; 2015 c 21 art 1 s 45; 1Sp2017 c 6 art 8 s 13; 2021 c 30 art 13 s 83; 1Sp2025 c 9 art 4 s 55; 2026 c 88 art 1 s 103*

245A.1915 MS 2016 [Repealed, 1Sp2017 c 6 art 8 s 77]

245A.192 MS 2016 [Repealed, 1Sp2017 c 6 art 8 s 77]

245A.20 MS 1996 [Repealed, 1997 c 248 s 51]

245A.21 MS 1996 [Repealed, 1997 c 248 s 51]

245A.211 PRONE RESTRAINT PROHIBITION.

Subdivision 1. **Applicability.** This section applies to all programs licensed or certified under this chapter, chapters 142C, 142H, 142I, 245D, 245F, and 245G, and sections 245I.20 and 245I.23. The requirements in this section are in addition to any applicable requirements for the use of holds or restraints for each license or certification type.

[See Note.]

Subd. 2. **Definitions.** (a) "Mechanical restraint" means a restraint device that limits the voluntary movement of a person or the person's limbs.

(b) "Prone restraint" means a restraint that places a person in a face-down position with the person's chest in contact with the floor or other surface.

(c) "Restraint" means a physical hold, physical restraint, manual restraint, restraint equipment, or mechanical restraint that holds a person immobile or limits the voluntary movement of a person or the person's limbs.

Subd. 3. **Prone restraint prohibition.** (a) A license or certification holder must not use a prone restraint on any person receiving services in a program, except in the instances allowed by paragraphs (b) to (d).

(b) If a person rolls into a prone position during the use of a restraint, the person must be restored to a nonprone position as quickly as possible.

(c) If the applicable licensing requirements allow a program to use mechanical restraints, a person may be briefly held in a prone restraint for the purpose of applying mechanical restraints if the person is restored to a nonprone position as quickly as possible.

(d) If the applicable licensing requirements allow a program to use seclusion, a person may be briefly held in a prone restraint to allow staff to safely exit a seclusion room.

Subd. 4. **Contraindicated physical restraints.** A license or certification holder must not implement a restraint on a person receiving services in a program in a way that is contraindicated for any of the person's known medical or psychological conditions. Prior to using restraints on a person with a known medical or psychological conditions that restraints are contraindicated for, the license or certification holder must document the contraindication and the type of restraints that will not be used on the person based on this determination.

History: *2023 c 70 art 17 s 19; 2024 c 80 art 3 s 3; 2024 c 127 art 62 s 12; 2026 c 127 art 12 s 38*

NOTE: The amendment to subdivision 1 by Laws 2026, chapter 127, article 12, section 38, is effective July 1, 2027. Laws 2026, chapter 127, article 12, section 41.

245A.22 MS 2022 [Repealed, 2023 c 70 art 17 s 63]

245A.23 [Renumbered 142B.63]

245A.24 MANDATORY REPORTING.

Any individual engaging in licensing functions and activities under this chapter, including authorities delegated under section 245A.16, must immediately report any suspected fraud to county human services investigators or the Department of Human Services Office of Inspector General.

History: *1Sp2019 c 9 art 2 s 50*

245A.242 EMERGENCY OVERDOSE TREATMENT.

Subdivision 1. **Applicability.** This section applies to the following licenses issued under this chapter:

(1) substance use disorder treatment programs licensed according to chapter 245G;

(2) children's residential facility substance use disorder treatment programs licensed according to Minnesota Rules, parts 2960.0010 to 2960.0220 and 2960.0430 to 2960.0490;

(3) detoxification programs licensed according to Minnesota Rules, parts 9530.6510 to 9530.6590;

(4) withdrawal management programs licensed according to chapter 245F; and

(5) intensive residential treatment services or residential crisis stabilization licensed according to chapter 245I and section 245I.23.

Subd. 2. **Emergency overdose treatment.** (a) A license holder must maintain a supply of opiate antagonists as defined in section 604A.04, subdivision 1, available for emergency treatment of opioid overdose. For administration via intramuscular injection, a license holder must have a written standing order protocol by a physician who is licensed under chapter 147, advanced practice registered nurse who is licensed under chapter 148, or physician assistant who is licensed under chapter 147A, that permits the license holder to maintain a supply of intramuscular injection opiate antagonists on site. A license holder must require staff to undergo training in the specific mode of administration used at the program, which may include intranasal administration, intramuscular injection, or both, before the staff has direct contact, as defined in section 245C.02, subdivision 11, with a person served by the program.

(b) Notwithstanding any requirements to the contrary in Minnesota Rules, chapters 2960 and 9530, and Minnesota Statutes, chapters 245F, 245G, and 245I:

(1) emergency opiate antagonist medications are not required to be stored in a locked area and staff and adult clients may carry this medication on them and store it in an unlocked location;

(2) staff persons who only administer emergency opiate antagonist medications only require the training required by paragraph (a), which any knowledgeable trainer may provide. The trainer is not required to be a registered nurse or part of an accredited educational institution; and

(3) nonresidential substance use disorder treatment programs that do not administer client medications beyond emergency opiate antagonist medications are not required to have the policies and procedures required in section 245G.08, subdivisions 5 and 6, and must instead describe the program's procedures for administering opiate antagonist medications in the license holder's description of health care services under section 245G.08, subdivision 1.

History: *2023 c 61 art 5 s 6; 2024 c 127 art 62 s 13; 2025 c 38 art 5 s 8; 2026 c 121 art 4 s 11*

245A.245 CHILDREN'S RESIDENTIAL FACILITY SUBSTANCE USE DISORDER TREATMENT PROGRAMS.

Subdivision 1. **Applicability.** A license holder of a children's residential facility substance use disorder treatment program license issued under this chapter and Minnesota Rules, parts 2960.0010 to 2960.0220 and 2960.0430 to 2960.0490, must comply with this section.

Subd. 2. **Former students.** (a) "Alcohol and drug counselor" means an individual qualified according to Minnesota Rules, part 2960.0460, subpart 5.

(b) "Former student" means an individual that meets the requirements in section 148F.11, subdivision 2a, to practice as a former student.

(c) An alcohol and drug counselor must supervise and be responsible for a treatment service performed by a former student and must review and sign each assessment, individual treatment plan, progress note, and treatment plan review prepared by a former student.

(d) A former student must receive the orientation and training required for permanent staff members.

History: *2023 c 70 art 6 s 33*

245A.25 RESIDENTIAL PROGRAM CERTIFICATIONS FOR COMPLIANCE WITH THE FAMILY FIRST PREVENTION SERVICES ACT.

Subdivision 1. **Certification scope and applicability.** (a) This section establishes the requirements that a children's residential facility or child foster residence setting must meet to be certified for the purposes of Title IV-E funding requirements as:

(1) a qualified residential treatment program;

(2) a residential setting specializing in providing care and supportive services for youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation;

(3) a residential setting specializing in providing prenatal, postpartum, or parenting support for youth; or

(4) a supervised independent living setting for youth who are 18 years of age or older.

(b) This section does not apply to a foster family setting in which the license holder resides in the foster home.

(c) Children's residential facilities licensed as detention settings according to Minnesota Rules, parts 2960.0230 to 2960.0290, or secure programs according to Minnesota Rules, parts 2960.0300 to 2960.0420, may not be certified under this section.

(d) For purposes of this section, "license holder" means an individual, organization, or government entity that was issued a children's residential facility or foster residence setting license by the commissioner of human services under this chapter or by the commissioner of corrections under chapter 241.

(e) Certifications issued under this section for foster residence settings may only be issued by the commissioner of human services and are not delegated to county or private licensing agencies under section 245A.16.

Subd. 2. **Program certification types and requests for certification.** (a) By July 1, 2021, the commissioner of human services must offer certifications to license holders for the following types of programs:

(1) qualified residential treatment programs;

(2) residential settings specializing in providing care and supportive services for youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation;

(3) residential settings specializing in providing prenatal, postpartum, or parenting support for youth; and

(4) supervised independent living settings for youth who are 18 years of age or older.

(b) An applicant or license holder must submit a request for certification under this section on a form and in a manner prescribed by the commissioner of human services. The decision of the commissioner of human services to grant or deny a certification request is final and not subject to appeal under chapter 14.

Subd. 3. **Trauma-informed care.** (a) Programs certified under subdivision 4 or 5 must provide services to a person according to a trauma-informed model of care that meets the requirements of this subdivision, except that programs certified under subdivision 5 are not required to meet the requirements of paragraph (e).

(b) For the purposes of this section, "trauma-informed care" means care that:

(1) acknowledges the effects of trauma on a person receiving services and on the person's family;

(2) modifies services to respond to the effects of trauma on the person receiving services;

(3) emphasizes skill and strength-building rather than symptom management; and

(4) focuses on the physical and psychological safety of the person receiving services and the person's family.

(c) The license holder must have a process for identifying the signs and symptoms of trauma in a youth and must address the youth's needs related to trauma. This process must include:

(1) screening for trauma by completing a trauma-specific screening tool with each youth upon the youth's admission or obtaining the results of a trauma-specific screening tool that was completed with the youth within 30 days prior to the youth's admission to the program; and

(2) ensuring that trauma-based interventions targeting specific trauma-related symptoms are available to each youth when needed to assist the youth in obtaining services. For qualified residential treatment programs, this must include the provision of services in paragraph (e).

(d) The license holder must develop and provide services to each youth according to the principles of trauma-informed care including:

(1) recognizing the impact of trauma on a youth when determining the youth's service needs and providing services to the youth;

(2) allowing each youth to participate in reviewing and developing the youth's individualized treatment or service plan;

(3) providing services to each youth that are person-centered and culturally responsive; and

(4) adjusting services for each youth to address additional needs of the youth.

(e) In addition to the other requirements of this subdivision, qualified residential treatment programs must use a trauma-based treatment model that includes:

(1) assessing each youth to determine if the youth needs trauma-specific treatment interventions;

(2) identifying in each youth's treatment plan how the program will provide trauma-specific treatment interventions to the youth;

(3) providing trauma-specific treatment interventions to a youth that target the youth's specific trauma-related symptoms; and

(4) training all clinical staff of the program on trauma-specific treatment interventions.

(f) At the license holder's program, the license holder must provide a physical, social, and emotional environment that:

(1) promotes the physical and psychological safety of each youth;

(2) avoids aspects that may be retraumatizing;

(3) responds to trauma experienced by each youth and the youth's other needs; and

(4) includes designated spaces that are available to each youth for engaging in sensory and self-soothing activities.

(g) The license holder must base the program's policies and procedures on trauma-informed principles. In the program's policies and procedures, the license holder must:

(1) describe how the program provides services according to a trauma-informed model of care;

(2) describe how the program's environment fulfills the requirements of paragraph (f);

(3) prohibit the use of aversive consequences for a youth's violation of program rules or any other reason;

(4) describe the process for how the license holder incorporates trauma-informed principles and practices into the organizational culture of the license holder's program; and

(5) if the program is certified to use restrictive procedures under Minnesota Rules, part 2960.0710, describe how the program uses restrictive procedures only when necessary for a youth in a manner that addresses the youth's history of trauma and avoids causing the youth additional trauma.

(h) Prior to allowing a staff person to have direct contact, as defined in section 245C.02, subdivision 11, with a youth and annually thereafter, the license holder must train each staff person about:

(1) concepts of trauma-informed care and how to provide services to each youth according to these concepts; and

(2) impacts of each youth's culture, race, gender, and sexual orientation on the youth's behavioral health and traumatic experiences.

Subd. 4. **Qualified residential treatment programs; certification requirements.** (a) To be certified as a qualified residential treatment program, a license holder must meet:

(1) the definition of a qualified residential treatment program in section 260C.007, subdivision 26d;

(2) the requirements for providing trauma-informed care and using a trauma-based treatment model in subdivision 3; and

(3) the requirements of this subdivision.

(b) For each youth placed in the license holder's program, the license holder must collaborate with the responsible social services agency and other appropriate parties to implement the youth's out-of-home placement plan and the youth's short-term and long-term mental health and behavioral health goals in the assessment required by sections 260C.212, subdivision 1; 260C.704; and 260C.708.

(c) A qualified residential treatment program must use a trauma-based treatment model that meets all of the requirements of subdivision 3 that is designed to address the needs, including clinical needs, of youth with serious emotional or behavioral disorders or disturbances. The license holder must develop, document, and review a treatment plan for each youth according to the requirements of Minnesota Rules, parts 2960.0180, subpart 2, item B; and 2960.0190, subpart 2.

(d) The following types of staff must be on-site according to the program's treatment model and must be available 24 hours a day and seven days a week to provide care within the scope of their practice:

(1) a registered nurse or licensed practical nurse licensed by the Minnesota Board of Nursing to practice professional nursing or practical nursing as defined in section 148.171, subdivisions 14 and 15; and

(2) other licensed clinical staff to meet each youth's clinical needs.

(e) A qualified residential treatment program must be accredited by one of the following independent, not-for-profit organizations:

(1) the Commission on Accreditation of Rehabilitation Facilities (CARF);

(2) the Joint Commission;

(3) the Council on Accreditation (COA); or

(4) another independent, not-for-profit accrediting organization approved by the Secretary of the United States Department of Health and Human Services.

(f) The license holder must facilitate participation of a youth's family members in the youth's treatment program, consistent with the youth's best interests and according to the youth's out-of-home placement plan required by sections 260C.212, subdivision 1; and 260C.708.

(g) The license holder must contact and facilitate outreach to each youth's family members, including the youth's siblings, and must document outreach to the youth's family members in the youth's file, including the contact method and each family member's contact information. In the youth's file, the license holder must record and maintain the contact information for all known biological family members and fictive kin of the youth.

(h) The license holder must document in the youth's file how the program integrates family members into the treatment process for the youth, including after the youth's discharge from the program, and how the program maintains the youth's connections to the youth's siblings.

(i) The program must provide discharge planning and family-based aftercare support to each youth for at least six months after the youth's discharge from the program. When providing aftercare to a youth, the program must have monthly contact with the youth and the youth's caregivers to promote the youth's

engagement in aftercare services and to regularly evaluate the family's needs. The program's monthly contact with the youth may be face-to-face, by telephone, or virtual.

(j) The license holder must maintain a service delivery plan that describes how the program provides services according to the requirements in paragraphs (b) to (i).

Subd. 5. **Residential settings specializing in providing care and supportive services for youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation; certification requirements.** (a) To be certified as a residential setting specializing in providing care and supportive services for youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation, a license holder must meet the requirements of this subdivision.

(b) Settings certified according to this subdivision are exempt from the requirements of section 245A.04, subdivision 11, paragraph (b).

(c) The program must use a trauma-informed model of care that meets all of the applicable requirements of subdivision 3, and that is designed to address the needs, including emotional and mental health needs, of youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation.

(d) The program must provide high-quality care and supportive services for youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation and must:

(1) offer a safe setting to each youth designed to prevent ongoing and future trafficking of the youth;

(2) provide equitable, culturally responsive, and individualized services to each youth;

(3) assist each youth with accessing medical, mental health, legal, advocacy, and family services based on the youth's individual needs;

(4) provide each youth with relevant educational, life skills, and employment supports based on the youth's individual needs;

(5) offer a trafficking prevention education curriculum and provide support for each youth at risk of future sex trafficking or commercial sexual exploitation; and

(6) engage with the discharge planning process for each youth and the youth's family.

(e) The license holder must maintain a service delivery plan that describes how the program provides services according to the requirements in paragraphs (c) and (d).

(f) The license holder must ensure that each staff person who has direct contact, as defined in section 245C.02, subdivision 11, with a youth served by the license holder's program completes a human trafficking training approved by the Department of Human Services' Children and Family Services Administration before the staff person has direct contact with a youth served by the program and annually thereafter. For programs certified prior to January 1, 2022, the license holder must ensure that each staff person at the license holder's program completes the initial training by January 1, 2022.

Subd. 6. **Residential settings specializing in providing prenatal, postpartum, or parenting supports for youth; certification requirements.** (a) To be certified as a residential setting specializing in providing prenatal, postpartum, or parenting supports for youth, a license holder must meet the requirements of this subdivision.

(b) The license holder must collaborate with the responsible social services agency and other appropriate parties to implement each youth's out-of-home placement plan required by section 260C.212, subdivision 1.

(c) The license holder must specialize in providing prenatal, postpartum, or parenting supports for youth and must:

(1) provide equitable, culturally responsive, and individualized services to each youth;

(2) assist each youth with accessing postpartum services during the same period of time that a woman is considered pregnant for the purposes of medical assistance eligibility under section 256B.055, subdivision 6, including providing each youth with:

(i) sexual and reproductive health services and education; and

(ii) a postpartum mental health assessment and follow-up services; and

(3) discharge planning that includes the youth and the youth's family.

(d) On or before the date of a child's initial physical presence at the facility, the license holder must provide education to the child's parent related to safe bathing and reducing the risk of sudden unexpected infant death and abusive head trauma from shaking infants and young children. The license holder must use the educational material developed by the commissioner of human services to comply with this requirement. At a minimum, the education must address:

(1) instruction that: (i) a child or infant should never be left unattended around water; (ii) a tub should be filled with only two to four inches of water for infants; and (iii) an infant should never be put into a tub when the water is running; and

(2) the risk factors related to sudden unexpected infant death and abusive head trauma from shaking infants and young children and means of reducing the risks, including the safety precautions identified in section 142B.46 and the risks of co-sleeping.

The license holder must document the parent's receipt of the education and keep the documentation in the parent's file. The documentation must indicate whether the parent agrees to comply with the safeguards described in this paragraph. If the parent refuses to comply, program staff must provide additional education to the parent as described in the parental supervision plan. The parental supervision plan must include the intervention, frequency, and staff responsible for the duration of the parent's participation in the program or until the parent agrees to comply with the safeguards described in this paragraph.

(e) On or before the date of a child's initial physical presence at the facility, the license holder must document the parent's capacity to meet the health and safety needs of the child while on the facility premises considering the following factors:

(1) the parent's physical and mental health;

(2) the parent being under the influence of drugs, alcohol, medications, or other chemicals;

(3) the child's physical and mental health; and

(4) any other information available to the license holder indicating that the parent may not be able to adequately care for the child.

(f) The license holder must have written procedures specifying the actions that staff shall take if a parent is or becomes unable to adequately care for the parent's child.

(g) If the parent refuses to comply with the safeguards described in paragraph (d) or is unable to adequately care for the child, the license holder must develop a parental supervision plan in conjunction with the parent. The plan must account for any factors in paragraph (e) that contribute to the parent's inability to adequately care for the child. The plan must be dated and signed by the staff person who completed the plan.

(h) The license holder must have written procedures addressing whether the program permits a parent to arrange for supervision of the parent's child by another youth in the program. If permitted, the facility must have a procedure that requires staff approval of the supervision arrangement before the supervision by the nonparental youth occurs. The procedure for approval must include an assessment of the nonparental youth's capacity to assume the supervisory responsibilities using the criteria in paragraph (e). The license holder must document the license holder's approval of the supervisory arrangement and the assessment of the nonparental youth's capacity to supervise the child and must keep this documentation in the file of the parent whose child is being supervised by the nonparental youth.

(i) The license holder must maintain a service delivery plan that describes how the program provides services according to paragraphs (b) to (h).

Subd. 7. **Supervised independent living settings for youth 18 years of age or older; certification requirements.** (a) To be certified as a supervised independent living setting for youth who are 18 years of age or older, a license holder must meet the requirements of this subdivision.

(b) A license holder must provide training, counseling, instruction, supervision, and assistance for independent living, according to the needs of the youth being served.

(c) A license holder may provide services to assist the youth with locating housing, money management, meal preparation, shopping, health care, transportation, and any other support services necessary to meet the youth's needs and improve the youth's ability to conduct such tasks independently.

(d) The service plan for the youth must contain an objective of independent living skills.

(e) The license holder must maintain a service delivery plan that describes how the program provides services according to paragraphs (b) to (d).

Subd. 8. **Monitoring and inspections.** (a) For a program licensed by the commissioner of human services, the commissioner of human services may review a program's compliance with certification requirements by conducting an inspection, a licensing review, or an investigation of the program. The commissioner may issue a correction order to the license holder for a program's noncompliance with the certification requirements of this section. For a program licensed by the commissioner of human services, a license holder must make a request for reconsideration of a correction order according to section 245A.06, subdivision 2.

(b) For a program licensed by the commissioner of children, youth, and families or the commissioner of corrections, the commissioner of human services may review the program's compliance with the requirements for a certification issued under this section biennially and may issue a correction order identifying the program's noncompliance with the requirements of this section. The correction order must state the following:

(1) the conditions that constitute a violation of a law or rule;

(2) the specific law or rule violated; and

(3) the time allowed for the program to correct each violation.

(c) For a program licensed by the commissioner of children, youth, and families or the commissioner of corrections, if a license holder believes that there are errors in the correction order of the commissioner of human services, the license holder may ask the Department of Human Services to reconsider the parts of the correction order that the license holder alleges are in error. To submit a request for reconsideration, the license holder must send a written request for reconsideration by United States mail to the commissioner of human services. The request for reconsideration must be postmarked within 20 calendar days of the date that the correction order was received by the license holder and must:

(1) specify the parts of the correction order that are alleged to be in error;

(2) explain why the parts of the correction order are in error; and

(3) include documentation to support the allegation of error.

A request for reconsideration does not stay any provisions or requirements of the correction order. The commissioner of human services' disposition of a request for reconsideration is final and not subject to appeal under chapter 14.

(d) Nothing in this subdivision prohibits the commissioner of human services from decertifying a license holder according to subdivision 9 prior to issuing a correction order.

Subd. 9. **Decertification.** (a) The commissioner of human services may rescind a certification issued under this section if a license holder fails to comply with the certification requirements in this section.

(b) The license holder may request reconsideration of a decertification by notifying the commissioner of human services by certified mail or personal service. The license holder must request reconsideration of a decertification in writing. If the license holder sends the request for reconsideration of a decertification by certified mail, the license holder must send the request by United States mail to the commissioner of human services and the request must be postmarked within 20 calendar days after the license holder received the notice of decertification. If the license holder requests reconsideration of a decertification by personal service, the request for reconsideration must be received by the commissioner of human services within 20 calendar days after the license holder received the notice of decertification. When submitting a request for reconsideration of a decertification, the license holder must submit a written argument or evidence in support of the request for reconsideration.

(c) The commissioner of human services' disposition of a request for reconsideration is final and not subject to appeal under chapter 14.

Subd. 10. **Variances.** The commissioner of human services may grant variances to the requirements in this section that do not affect a youth's health or safety or compliance with federal requirements for Title IV-E funding if the conditions in section 245A.04, subdivision 9, are met.

History: *2021 c 30 art 10 s 10; 2024 c 80 art 2 s 69-71; 2024 c 115 art 16 s 47*

245A.26 CHILDREN'S RESIDENTIAL FACILITY CRISIS STABILIZATION SERVICES.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Clinical trainee" means a staff person who is qualified under section 245I.04, subdivision 6.

(c) "License holder" means an individual, organization, or government entity that was issued a license by the commissioner of human services under this chapter for residential mental health treatment for children with mental illness according to Minnesota Rules, parts 2960.0010 to 2960.0220 and 2960.0580 to 2960.0700, or shelter care services according to Minnesota Rules, parts 2960.0010 to 2960.0120 and 2960.0510 to 2960.0530.

(d) "Mental health professional" means an individual who is qualified under section 245I.04, subdivision 2.

Subd. 2. **Scope and applicability.** (a) This section establishes additional licensing requirements for a children's residential facility to provide children's residential crisis stabilization services to a client who is experiencing a mental health crisis and is in need of residential treatment services.

(b) A children's residential facility may provide residential crisis stabilization services only if the facility is licensed to provide:

(1) residential mental health treatment for children with mental illness according to Minnesota Rules, parts 2960.0010 to 2960.0220 and 2960.0580 to 2960.0700; or

(2) shelter care services according to Minnesota Rules, parts 2960.0010 to 2960.0120 and 2960.0510 to 2960.0530.

(c) If a client receives residential crisis stabilization services for 35 days or fewer in a facility licensed according to paragraph (b), clause (1), the facility is not required to complete a diagnostic assessment or treatment plan under Minnesota Rules, part 2960.0180, subpart 2, and part 2960.0600.

(d) If a client receives residential crisis stabilization services for 35 days or fewer in a facility licensed according to paragraph (b), clause (2), the facility is not required to develop a plan for meeting the client's immediate needs under Minnesota Rules, part 2960.0520, subpart 3.

Subd. 3. **Eligibility for services.** An individual is eligible for children's residential crisis stabilization services if the individual is under 21 years of age and meets the eligibility criteria for crisis services under section 245I.24, subdivision 3.

[See Note.]

Subd. 4. **Required services; providers.** (a) A license holder providing residential crisis stabilization services must continually follow a client's individual crisis treatment plan to improve the client's functioning.

(b) The license holder must offer and have the capacity to directly provide the following treatment services to a client:

(1) crisis stabilization services as described in section 245I.24, subdivision 9;

(2) mental health services as specified in the client's individual crisis treatment plan, according to the client's treatment needs;

(3) health services and medication administration, if applicable; and

(4) referrals for the client to community-based treatment providers and support services for the client's transition from residential crisis stabilization to another treatment setting.

(c) Children's residential crisis stabilization services must be provided by a qualified staff person listed in section 245I.24, subdivision 9, paragraph (b), according to the scope of practice for the individual staff person's position.

[See Note.]

Subd. 5. **Assessment and treatment planning.** (a) Within 12 hours of a client's admission for residential crisis stabilization, the license holder must assess the client and document the client's immediate needs, including the client's:

(1) health and safety, including the need for crisis assistance;

(2) need for connection to family and other natural supports;

(3) if applicable, housing and legal issues; and

(4) if applicable, responsibilities for children, family, and other natural supports, and employers.

(b) Within 24 hours of a client's admission for residential crisis stabilization, the license holder must complete a crisis treatment plan for the client, according to the requirements for a crisis treatment plan under section 245I.24, subdivision 11. The license holder must base the client's crisis treatment plan on the client's referral information and the assessment of the client's immediate needs under paragraph (a). A mental health professional or a clinical trainee under the supervision of a mental health professional must complete the crisis treatment plan. A crisis treatment plan completed by a clinical trainee must contain documentation of approval, as defined in section 245I.02, subdivision 2, by a mental health professional within five business days of initial completion by the clinical trainee.

(c) A mental health professional must review a client's crisis treatment plan each week and document the weekly reviews in the client's client file.

(d) For a client receiving children's residential crisis stabilization services who is 18 years of age or older, the license holder must complete an individual abuse prevention plan for the client, pursuant to section 245A.65, subdivision 2, as part of the client's crisis treatment plan.

[See Note.]

Subd. 6. **Staffing requirements.** Staff members of facilities providing services under this section must have access to a mental health professional or clinical trainee within 30 minutes, either in person or by telephone. The license holder must maintain a current schedule of available mental health professionals or clinical trainees and include contact information for each mental health professional or clinical trainee. The schedule must be readily available to all staff members.

History: *2022 c 99 art 1 s 12; 2025 c 38 art 8 s 52,53; 2026 c 121 art 8 s 7-9*

NOTE: The amendments to subdivisions 3 to 5 by Laws 2026, chapter 121, article 8, sections 7 to 9, are effective January 1, 2028. Laws 2026, chapter 121, article 8, section 17.

JUVENILE FACILITIES LICENSING PROHIBITION

245A.30 LICENSING PROHIBITION FOR CERTAIN FACILITIES SERVING CHILDREN.

The commissioner may not:

(1) issue any license under Minnesota Rules, parts 2960.0010 to 2960.0710, for the residential placement of children at a facility if the facility accepts children who reside outside of Minnesota without an agreement with the entity placing the child at the facility that obligates the entity to pay the educational and medical expenses of the child; or

(2) renew a license under Minnesota Rules, parts 2960.0010 to 2960.0710, for the residential placement of children if the facility accepts children who reside outside of Minnesota without an agreement with the entity placing the child at the facility that obligates the entity to pay the educational and medical expenses of the child.

History: *1998 c 367 art 10 s 3; 1999 c 245 art 8 s 2; 2010 c 329 art 1 s 10*

245A.40 Subdivision 1. [Renumbered 142B.65, subdivision 1]

Subd. 1a. [Renumbered 142B.65, subd 2]

Subd. 2. [Renumbered 142B.65, subd 3]

Subd. 3. [Renumbered 142B.65, subd 4]

Subd. 4. [Renumbered 142B.65, subd 5]

Subd. 5. [Renumbered 142B.65, subd 6]

Subd. 5a. [Renumbered 142B.65, subd 7]

Subd. 6. [Renumbered 142B.65, subd 8]

Subd. 7. [Renumbered 142B.65, subd 9]

Subd. 8. MS 2018 [Repealed by amendment, 1Sp2019 c 9 art 2 s 51]

Subd. 9. MS 2018 [Repealed by amendment, 1Sp2019 c 9 art 2 s 51]

Subd. 10. [Renumbered 142B.65, subd 10]

245A.41 [Renumbered 142B.66]

245A.42 [Renumbered 142B.67]

245A.50 [Renumbered 142B.70]

245A.51 [Renumbered 142B.71]

245A.52 [Renumbered 142B.72]

245A.53 [Renumbered 142B.74]

VULNERABLE ADULTS

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 within 30 calendar days 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 immediately upon the commissioner's request. For the purposes of this section, 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, paragraph (a), clause (2), must determine whether the person is a vulnerable adult under section 626.5572, subdivision 21, paragraph (a), 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, paragraph (a), clause (4), all requirements relative to vulnerable adults under this chapter and section 626.557 must be met by the license holder.

(c) Notwithstanding paragraph (a), clause (1), a license holder providing mobile crisis services must make the required determination within 24 hours of first providing crisis stabilization services to an adult under section 245I.24, subdivision 9.

[See Note.]

Subd. 2. **Abuse prevention plans.** All license holders shall establish and enforce ongoing written program abuse prevention plans and individual abuse prevention plans as required under section 626.557, subdivision 14.

(a) The scope of the program abuse prevention plan is limited to the population, physical plant, and environment within the control of the license holder and the location where licensed services are provided. In addition to the requirements in section 626.557, subdivision 14, the program abuse prevention plan shall meet the requirements in clauses (1) to (5).

(1) The assessment of the population shall include an evaluation of the following factors: age, gender, mental functioning, physical and emotional health or behavior of the client; the need for specialized programs of care for clients; the need for training of staff to meet identified individual needs; and the knowledge a license holder may have regarding previous abuse that is relevant to minimizing risk of abuse for clients.

(2) The assessment of the physical plant where the licensed services are provided shall include an evaluation of the following factors: the condition and design of the building as it relates to the safety of the clients; and the existence of areas in the building which are difficult to supervise.

(3) The assessment of the environment for each facility and for each site when living arrangements are provided by the agency shall include an evaluation of the following factors: the location of the program in a particular neighborhood or community; the type of grounds and terrain surrounding the building; the type of internal programming; and the program's staffing patterns.

(4) The license holder shall provide an orientation to the program abuse prevention plan for clients receiving services. If applicable, the client's legal representative must be notified of the orientation. The license holder 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.

(5) The license holder's governing body or the governing body's delegated representative shall review the plan at least annually using the assessment factors in the plan and any substantiated maltreatment findings that occurred since the last review. The governing body or the governing body's delegated representative shall revise the plan, if necessary, to reflect the review results.

(6) A copy of the program abuse prevention plan shall be posted in a prominent location in the program and be available upon request to mandated reporters, persons receiving services, and legal representatives.

(b) In addition to the requirements in section 626.557, subdivision 14, the individual abuse prevention plan shall meet the requirements in clauses (1) and (2).

(1) The plan shall include a statement of measures that will be taken to minimize the risk of abuse to the vulnerable adult when the individual assessment required in section 626.557, subdivision 14, paragraph (b), indicates the need for measures in addition to the specific measures identified in the program abuse prevention plan. The measures shall include the specific actions the program will take to minimize the risk of abuse within the scope of the licensed services, and will identify referrals made when the vulnerable adult is susceptible to abuse outside the scope or control of the licensed services. When the assessment indicates that the vulnerable adult does not need specific risk reduction measures in addition to those identified in the program abuse prevention plan, the individual abuse prevention plan shall document this determination.

(2) An individual abuse prevention plan shall be developed for each new person as part of the initial individual program plan or service plan required under the applicable licensing rule or statute. The review and evaluation of the individual abuse prevention plan shall be done as part of the review of the program plan, service plan, or treatment plan. The person receiving services shall participate in the development of the individual abuse prevention plan to the full extent of the person's abilities. If applicable, the person's legal representative shall be given the opportunity to participate with or for the person in the development of the plan. The interdisciplinary team shall document the review of all abuse prevention plans at least annually, using the individual assessment and any reports of abuse relating to the person. The plan shall be revised to reflect the results of this review.

Subd. 3. **Orientation of mandated reporters.** The license holder shall ensure that each new mandated reporter, as defined in section 626.5572, subdivision 16, who is under the control of the license holder, receives an orientation within 72 hours of first providing direct contact services as defined in section 245C.02, subdivision 11, to a vulnerable adult and annually thereafter. The orientation and annual review shall inform the mandated reporters of the reporting requirements and definitions in sections 626.557 and 626.5572, the requirements of this section, the license holder's program abuse prevention plan, and all internal policies and procedures related to the prevention and reporting of maltreatment of individuals receiving services.

History: *1997 c 248 s 34; 2003 c 15 art 1 s 33; 2007 c 112 s 23,24; 2014 c 228 art 2 s 15; 2015 c 71 art 7 s 7; 2021 c 30 art 17 s 48; 2026 c 121 art 7 s 7*

NOTE: The amendment to subdivision 1a by Laws 2026, chapter 121, article 7, section 7, is effective January 1, 2028. Laws 2026, chapter 121, article 7, section 56.

245A.655 MS 2012 [Repealed, 2013 c 108 art 2 s 45]

MALTREATMENT OF MINORS

245A.66 REQUIREMENTS; MALTREATMENT OF MINORS.

Subdivision 1. **Internal review.** License holders serving children are subject to the requirements of section 142B.54, subdivision 1.

Subd. 2. [Renumbered 142B.54, subd 2]

Subd. 3. [Renumbered 142B.54, subd 3]

Subd. 4. **Ongoing training requirement.** (a) In addition to the orientation training required by the applicable licensing rules and statutes, children's residential facility license holders must provide a training

annually on the maltreatment of minors reporting requirements and definitions in chapter 260E to each mandatory reporter, as described in section 260E.06, subdivision 1.

(b) In addition to the orientation training required by the applicable licensing rules and statutes, all foster residence setting staff and volunteers that are mandatory reporters as described in section 260E.06, subdivision 1, must complete training each year on the maltreatment of minors reporting requirements and definitions in chapter 260E.

History: *2007 c 112 s 25; 2010 c 329 art 1 s 12; 2014 c 228 art 2 s 16; 2023 c 70 art 8 s 36; 2024 c 80 art 2 s 72,73; 2024 c 115 art 16 s 13; art 19 s 9*

REMOTE ADULT DAY SERVICES

245A.70 REMOTE ADULT DAY SERVICES.

(a) For the purposes of sections 245A.70 to 245A.75, the following terms have the meanings given.

(b) "Adult day care" and "adult day services" have the meanings given in section 245A.02, subdivision 2a.

(c) "Remote adult day services" means an individualized and coordinated set of services provided via live two-way communication by an adult day care or adult day services center.

(d) "Live two-way communication" means real-time audio or audio and video transmission of information between a participant and an actively involved staff member.

History: *2022 c 98 art 7 s 2*

245A.71 APPLICABILITY AND SCOPE.

Subdivision 1. **Licensing requirements.** Adult day care centers or adult day services centers that provide remote adult day services must be licensed under this chapter and comply with the requirements set forth in this section.

Subd. 2. **Standards for licensure.** License holders seeking to provide remote adult day services must submit a request in the manner prescribed by the commissioner. Remote adult day services must not be delivered until approved by the commissioner. The designation to provide remote services is voluntary for license holders. Upon approval, the designation of approval for remote adult day services must be printed on the center's license and identified on the commissioner's public website.

Subd. 3. **Federal requirements.** Adult day care centers or adult day services centers that provide remote adult day services to participants receiving alternative care under section 256B.0913, essential community supports under section 256B.0922, or home and community-based services waivers under chapter 256S or section 256B.092 or 256B.49 must comply with federally approved waiver plans.

Subd. 4. **Service limitations.** Remote adult day services must be provided during the days and hours of in-person services specified on the license of the adult day care center or adult day services center.

History: *2022 c 98 art 7 s 3*

245A.72 RECORD REQUIREMENTS.

Adult day care centers and adult day services centers providing remote adult day services must comply with participant record requirements set forth in Minnesota Rules, part 9555.9660. The center must document how remote services will help a participant reach the short- and long-term objectives in the participant's plan of care.

History: *2022 c 98 art 7 s 4*

245A.73 REMOTE ADULT DAY SERVICES STAFF.

Subdivision 1. **Staff ratios.** (a) A staff person who provides remote adult day services without two-way interactive video must only provide services to one participant at a time.

(b) A staff person who provides remote adult day services through two-way interactive video must not provide services to more than eight participants at one time.

Subd. 2. **Staff training.** A center licensed under section 245A.71 must document training provided to each staff person regarding the provision of remote services in the staff person's record. The training must be provided prior to a staff person delivering remote adult day services without supervision. The training must include:

(1) how to use the equipment, technology, and devices required to provide remote adult day services via live two-way communication;

(2) orientation and training on each participant's plan of care as directly related to remote adult day services; and

(3) direct observation by a manager or supervisor of the staff person while providing supervised remote service delivery sufficient to assess staff competency.

History: *2022 c 98 art 7 s 5*

245A.74 INDIVIDUAL SERVICE PLANNING.

Subdivision 1. **Eligibility.** (a) A person must be eligible for and receiving in-person adult day services to receive remote adult day services from the same provider. The same provider must deliver both in-person adult day services and remote adult day services to a participant.

(b) The license holder must update the participant's plan of care according to Minnesota Rules, part 9555.9700.

(c) For a participant who chooses to receive remote adult day services, the license holder must document in the participant's plan of care the participant's proposed schedule and frequency for receiving both in-person and remote services. The license holder must also document in the participant's plan of care that remote services:

(1) are chosen as a service delivery method by the participant or the participant's legal representative;

(2) will meet the participant's assessed needs;

(3) are provided within the scope of adult day services; and

(4) will help the participant achieve identified short- and long-term objectives specific to the provision of remote adult day services.

Subd. 2. **Participant daily service limitations.** In a 24-hour period, a participant may receive:

(1) a combination of in-person adult day services and remote adult day services on the same day but not at the same time;

(2) a combination of in-person and remote adult day services that does not exceed 12 hours in total; and

(3) up to six hours of remote adult day services.

Subd. 3. **Minimum in-person requirement.** A participant who receives remote services must receive services in-person as assigned in the participant's plan of care at least quarterly.

History: *2022 c 98 art 7 s 6*

245A.75 SERVICE AND PROGRAM REQUIREMENTS.

Remote adult day services must be in the scope of adult day services provided in Minnesota Rules, part 9555.9710, subparts 3 to 7.

History: *2022 c 98 art 7 s 7*