CHAPTER 245D

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245D.01 CITATION.

This chapter may be cited as the "Home and Community-Based Services Standards" or "HCBS Standards."

History: *2012 c 216 art 18 s 16*

245D.02 DEFINITIONS.

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

Subd. 2. **Annual and annually.** "Annual" and "annually" have the meaning given in section 245A.02, subdivision 2b.

Subd. 2a. **Authorized representative.** "Authorized representative" means a parent, family member, advocate, or other adult authorized by the person or the person's legal representative, to serve as a representative in connection with the provision of services licensed under this chapter. This authorization must be in writing or by another method that clearly indicates the person's free choice. The authorized representative must have no financial interest in the provision of any services included in the person's service delivery plan and must be capable of providing the support necessary to assist the person in the use of home and community-based services licensed under this chapter.

Subd. 2b. **Aversive procedure.** "Aversive procedure" means the application of an aversive stimulus contingent upon the occurrence of a behavior for the purposes of reducing or eliminating the behavior.

Subd. 2c. **Aversive stimulus.** "Aversive stimulus" means an object, event, or situation that is presented immediately following a behavior in an attempt to suppress the behavior. Typically, an aversive stimulus is unpleasant and penalizes or confines.

Subd. 3. **Case manager.** "Case manager" means the individual designated to provide waiver case management services, care coordination, or long-term care consultation, as specified in chapter 256S and sections 256B.0913, 256B.092, and 256B.49, or successor provisions. For purposes of this chapter, "case manager" includes case management services as defined in Minnesota Rules, part 9520.0902, subpart 3.

Subd. 3a. **Certification.** "Certification" means the commissioner's written authorization for a license holder to provide specialized services based on certification standards in section 245D.33. The term certification and its derivatives have the same meaning and may be substituted for the term licensure and its derivatives in this chapter and chapter 245A.

Subd. 3b. **Chemical restraint.** "Chemical restraint" means the administration of a drug or medication to control the person's behavior or restrict the person's freedom of movement and is not a standard treatment or dosage for the person's medical or psychological condition.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or the commissioner's designated representative.

Subd. 4a. **Community residential setting.** "Community residential setting" means a residential program where residential supports and services identified in section 245D.03, subdivision 1, paragraph (c), clause (3), items (i) and (ii), are provided to adults, as defined in section 245A.02, subdivision 2, and the license holder is the owner, lessor, or tenant of the facility licensed according to this chapter, and the license holder does not reside in the facility.

Subd. 4b. **Support plan.** "Support plan" has the meaning given in sections 256B.0913, subdivision 8; 256B.092, subdivision 1b; 256B.49, subdivision 15; and 256S.10, or successor provisions. For purposes of this chapter, "support plan" includes the individual program plan or individual treatment plan as defined in Minnesota Rules, part 9520.0510, subpart 12.

Subd. 4c. **Support plan addendum.** "Support plan addendum" means the documentation that this chapter requires of the license holder for each person receiving services.

Subd. 4d. **Corporate foster care.** "Corporate foster care" means a child foster residence setting licensed according to Minnesota Rules, parts 2960.3000 to 2960.3340, or an adult foster care home licensed according to Minnesota Rules, parts 9555.5105 to 9555.6265, where the license holder does not live in the home.

Subd. 4e. **Cultural competence or culturally competent.** "Cultural competence" or "culturally competent" means the ability and the will to respond to the unique needs of a person that arise from the person's culture and the ability to use the person's culture as a resource or tool to assist with the intervention and help meet the person's needs.

Subd. 4f. **Day services facility.** "Day services facility" means a facility licensed according to this chapter at which persons receive day services licensed under this chapter from the license holder's direct support staff for a cumulative total of more than 30 days within any 12-month period and the license holder is the owner, lessor, or tenant of the facility.

Subd. 5. **Department.** "Department" means the Department of Human Services.

Subd. 5a. **Deprivation procedure.** "Deprivation procedure" means the removal of a positive reinforcer following a response resulting in, or intended to result in, a decrease in the frequency, duration, or intensity of that response. Oftentimes the positive reinforcer available is goods, services, or activities to which the person is normally entitled. The removal is often in the form of a delay or postponement of the positive reinforcer.

Subd. 6. **Direct contact.** "Direct contact" has the meaning given in section 245C.02, subdivision 11, and is used interchangeably with the term "direct support service."

Subd. 6a. **Direct support staff or staff.** "Direct support staff" or "staff" means employees of the license holder who have direct contact with persons served by the program and includes temporary staff or subcontractors, regardless of employer, providing program services for hire under the control of the license holder who have direct contact with persons served by the program.

Subd. 7. **Drug.** "Drug" has the meaning given in section 151.01, subdivision 5.

Subd. 8. **Emergency.** "Emergency" means any event that affects the ordinary daily operation of the program including, but not limited to, fires, severe weather, natural disasters, power failures, or other events that threaten the immediate health and safety of a person receiving services and that require calling 911, emergency evacuation, moving to an emergency shelter, or temporary closure or relocation of the program to another facility or service site for more than 24 hours.

Subd. 8a. **Emergency use of manual restraint.** "Emergency use of manual restraint" means using a manual restraint when a person poses an imminent risk of physical harm to self or others and is the least restrictive intervention that would achieve safety. Property damage, verbal aggression, or a person's refusal to receive or participate in treatment or programming on their own do not constitute an emergency.

Subd. 8b. **Expanded support team.** "Expanded support team" means the members of the support team defined in subdivision 34 and a licensed health or mental health professional or other licensed, certified, or qualified professionals or consultants working with the person and included in the team at the request of the person or the person's legal representative.

Subd. 8c. **Family foster care.** "Family foster care" means a child foster family setting licensed according to Minnesota Rules, parts 2960.3000 to 2960.3340, or an adult foster care home licensed according to Minnesota Rules, parts 9555.5105 to 9555.6265, where the license holder lives in the home.

Subd. 9. **Health services.** "Health services" means any service or treatment consistent with the physical and mental health needs of the person, such as medication administration and monitoring, medical, dental, nutritional, health monitoring, wellness education, and exercise.

Subd. 10. **Home and community-based services.** "Home and community-based services" means the services identified in section 245D.03, subdivision 1, and as defined in:

(1) the federally approved waiver plans governed by United States Code, title 42, sections 1396 et seq., including the waivers for persons with disabilities under section 256B.49, subdivision 11, including the brain injury (BI) waiver plan; the community alternative care (CAC) waiver plan; the community access for disability inclusion (CADI) waiver plan; the developmental disabilities (DD) waiver plan under section 256B.092, subdivision 5; the elderly waiver (EW) plan under section 256S.01, subdivision 1; or successor plans respective to each waiver; or

(2) the alternative care (AC) program under section 256B.0913.

Subd. 11. **Incident.** "Incident" means an occurrence which involves a person and requires the program to make a response that is not a part of the program's ordinary provision of services to that person, and includes:

(1) serious injury of a person as determined by section 245.91, subdivision 6;

(2) a person's death;

(3) any medical emergency, unexpected serious illness, or significant unexpected change in an illness or medical condition of a person that requires the program to call 911; physician, advanced practice registered nurse, or physician assistant treatment; or hospitalization;

(4) any mental health crisis that requires the program to call 911, a mental health crisis intervention team, or a similar mental health response team or service when available and appropriate;

(5) an act or situation involving a person that requires the program to call 911, law enforcement, or the fire department;

(6) a person's unauthorized or unexplained absence from a program;

(7) conduct by a person receiving services against another person receiving services that:

(i) is so severe, pervasive, or objectively offensive that it substantially interferes with a person's opportunities to participate in or receive service or support;

(ii) places the person in actual and reasonable fear of harm;

(iii) places the person in actual and reasonable fear of damage to property of the person; or

(iv) substantially disrupts the orderly operation of the program;

(8) any sexual activity between persons receiving services involving force or coercion as defined under section 609.341, subdivisions 3 and 14;

(9) any emergency use of manual restraint as identified in section 245D.061 or successor provisions; or

(10) a report of alleged or suspected child or vulnerable adult maltreatment under section 626.557 or chapter 260E.

Subd. 11a. **Intermediate care facility for persons with developmental disabilities or ICF/DD.** "Intermediate care facility for persons with developmental disabilities" or "ICF/DD" means a residential program licensed to serve four or more persons with developmental disabilities under section 252.28 and chapter 245A and licensed as a supervised living facility under chapter 144, which together are certified by the Department of Health as an intermediate care facility for persons with developmental disabilities.

Subd. 11b. **Least restrictive alternative.** "Least restrictive alternative" means the alternative method for providing supports and services that is the least intrusive and most normalized given the level of supervision and protection required for the person. This level of supervision and protection allows risk taking to the extent that there is no reasonable likelihood that serious harm will happen to the person or others.

Subd. 12. **Legal representative.** "Legal representative" means the parent of a person who is under 18 years of age, a court-appointed guardian, or other representative with legal authority to make decisions about

services for a person. Other representatives with legal authority to make decisions include but are not limited to a health care agent or an attorney-in-fact authorized through a health care directive or power of attorney.

Subd. 13. **License.** "License" has the meaning given in section 245A.02, subdivision 8.

Subd. 14. **Licensed health professional.** "Licensed health professional" means a person licensed in Minnesota to practice those professions described in section 214.01, subdivision 2.

Subd. 15. **License holder.** "License holder" has the meaning given in section 245A.02, subdivision 9.

Subd. 15a. **Manual restraint.** "Manual restraint" means physical intervention intended to hold a person immobile or limit a person's voluntary movement by using body contact as the only source of physical restraint.

Subd. 15b. **Mechanical restraint.** (a) "Mechanical restraint" means the use of devices, materials, or equipment attached or adjacent to the person's body, or the use of practices that are intended to restrict freedom of movement or normal access to one's body or body parts, or limits a person's voluntary movement or holds a person immobile as an intervention precipitated by a person's behavior. The term applies to the use of mechanical restraint used to prevent injury with persons who engage in self-injurious behaviors, such as head-banging, gouging, or other actions resulting in tissue damage that have caused or could cause medical problems resulting from the self-injury.

(b) Mechanical restraint does not include the following:

(1) devices worn by the person that trigger electronic alarms to warn staff that a person is leaving a room or area, which do not, in and of themselves, restrict freedom of movement; or

(2) the use of adaptive aids or equipment or orthotic devices ordered by a health care professional used to treat or manage a medical condition.

Subd. 16. **Medication.** "Medication" means a prescription drug or over-the-counter drug. For purposes of this chapter, "medication" includes dietary supplements.

Subd. 17. MS 2012 [Repealed by amendment, 2013 c 108 art 8 s 22]

Subd. 18. MS 2012 [Repealed by amendment, 2013 c 108 art 8 s 22]

Subd. 19. MS 2012 [Repealed by amendment, 2013 c 108 art 8 s 22]

Subd. 20. **Mental health crisis intervention team.** "Mental health crisis intervention team" means a mental health crisis response provider as identified in section 256B.0624.

Subd. 20a. **Most integrated setting.** "Most integrated setting" means a setting that enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible.

Subd. 21. **Over-the-counter drug.** "Over-the-counter drug" means a drug that is not required by federal law to bear the statement "Caution: Federal law prohibits dispensing without prescription."

Subd. 21a. **Outcome.** "Outcome" means the behavior, action, or status attained by the person that can be observed, measured, and determined reliable and valid.

Subd. 22. **Person.** "Person" has the meaning given in section 245A.02, subdivision 11.

Subd. 23. **Person with a disability.** "Person with a disability" means a person determined to have a disability by the commissioner's state medical review team as identified in section 256B.055, subdivision

7, the Social Security Administration, or the person is determined to have a developmental disability or a related condition as defined in Minnesota Rules, part 9525.0016, subpart 2, items A to E.

Subd. 23a. **Physician.** "Physician" means a person who is licensed under chapter 147.

Subd. 23b. **Positive support transition plan.** "Positive support transition plan" means the plan required in section 245D.06, subdivision 8, to be developed by the expanded support team to implement positive support strategies to:

(1) eliminate the use of prohibited procedures as identified in section 245D.06, subdivision 5;

(2) avoid the emergency use of manual restraint as identified in section 245D.061; and

(3) prevent the person from physically harming self or others.

Subd. 24. **Prescriber.** "Prescriber" means a person who is authorized under section 148.235; 151.01, subdivision 23; or 151.37 to prescribe drugs.

Subd. 25. **Prescription drug.** "Prescription drug" has the meaning given in section 151.01, subdivision 16.

Subd. 26. **Program.** "Program" means either the nonresidential or residential program as defined in section 245A.02, subdivisions 10 and 14.

Subd. 27. **Psychotropic medication.** "Psychotropic medication" means any medication prescribed to treat the symptoms of mental illness that affect thought processes, mood, sleep, or behavior. The major classes of psychotropic medication are antipsychotic (neuroleptic), antidepressant, antianxiety, mood stabilizers, anticonvulsants, and stimulants and nonstimulants for the treatment of attention deficit/hyperactivity disorder. Other miscellaneous medications are considered to be a psychotropic medication when they are specifically prescribed to treat a mental illness or to control or alter behavior.

Subd. 28. **Restraint.** "Restraint" means manual restraint as defined in subdivision 15a or mechanical restraint as defined in subdivision 15b, or any other form of restraint that results in limiting of the free and normal movement of body or limbs.

Subd. 29. **Seclusion.** "Seclusion" means: (1) removing a person involuntarily to a room from which exit is prohibited by a staff person or a mechanism such as a lock, a device, or an object positioned to hold the door closed or otherwise prevent the person from leaving the room; or (2) otherwise involuntarily removing or separating a person from an area, activity, situation, or social contact with others and blocking or preventing the person's return.

Subd. 29a. **Self-determination.** "Self-determination" means the person makes decisions independently, plans for the person's own future, determines how money is spent for the person's supports, and takes responsibility for making these decisions. If a person has a legal representative, the legal representative's decision-making authority is limited to the scope of authority granted by the court or allowed in the document authorizing the legal representative to act.

Subd. 29b. **Semi-independent living services.** "Semi-independent living services" has the meaning given in section 252.275.

Subd. 30. **Service.** "Service" means care, training, supervision, counseling, consultation, or medication assistance assigned to the license holder in the support plan.

Subd. 31. MS 2012 [Repealed by amendment, 2013 c 108 art 8 s 22]

Subd. 32. **Service site.** "Service site" means the location where the service is provided to the person, including, but not limited to, a facility licensed according to chapter 245A; a location where the license holder is the owner, lessor, or tenant; a person's own home; or a community-based location.

Subd. 32a. **Sexual violence.** "Sexual violence" means the use of sexual actions or words that are unwanted or harmful to another person.

Subd. 33. MS 2012 [Repealed by amendment, 2013 c 108 art 8 s 22]

Subd. 33a. **Supervised living facility.** "Supervised living facility" has the meaning given in Minnesota Rules, part 4665.0100, subpart 10.

Subd. 33b. **Supervision.** (a) "Supervision" means:

(1) oversight by direct support staff as specified in the person's support plan or support plan addendum and awareness of the person's needs and activities;

(2) responding to situations that present a serious risk to the health, safety, or rights of the person while services are being provided; and

(3) the presence of direct support staff at a service site while services are being provided, unless a determination has been made and documented in the person's support plan or support plan addendum that the person does not require the presence of direct support staff while services are being provided.

(b) For the purposes of this definition, "while services are being provided," means any period of time during which the license holder will seek reimbursement for services.

Subd. 34. **Support team.** "Support team" means the service planning team identified in section 256B.49, subdivision 15; the interdisciplinary team identified in Minnesota Rules, part 9525.0004, subpart 14; or the case management team as defined in Minnesota Rules, part 9520.0902, subpart 6.

Subd. 34a. **Time out.** "Time out" means the involuntary removal of a person for a period of time to a designated area from which the person is not prevented from leaving. For the purpose of this chapter, "time out" does not mean voluntary removal or self-removal for the purpose of calming, prevention of escalation, or de-escalation of behavior; nor does it mean taking a brief break or rest from an activity for the purpose of providing the person an opportunity to regain self-control.

Subd. 35. MS 2012 [Repealed by amendment, 2013 c 108 art 8 s 22]

Subd. 35a. **Treatment.** "Treatment" means the provision of care, other than medications, ordered or prescribed by a licensed health or mental health professional, provided to a person to cure, rehabilitate, or ease symptoms.

Subd. 35b. **Unlicensed staff.** "Unlicensed staff" means individuals not otherwise licensed or certified by a governmental health board or agency.

Subd. 36. **Volunteer.** "Volunteer" means an individual who, under the direction of the license holder, provides direct services without pay to a person served by the license holder.

Subd. 37. **Working day.** "Working day" means Monday, Tuesday, Wednesday, Thursday, or Friday, excluding any legal holiday.

History: *2012 c 216 art 18 s 17; 2013 c 108 art 8 s 22; 2014 c 275 art 1 s 45-47; 2014 c 312 art 27 s 9-18; 2015 c 71 art 7 s 10; 2015 c 78 art 6 s 31; 2019 c 54 art 2 s 11-13; 1Sp2019 c 9 art 5 s 93; 2020 c 115 art 4 s 81; 1Sp2020 c 2 art 2 s 3; art 8 s 63; 2021 c 30 art 17 s 49; 2022 c 58 s 102; 2022 c 98 art 17 s 26; 2025 c 38 art 5 s 12*

245D.03 APPLICABILITY AND EFFECT.

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

(b) Basic support services provide the level of assistance, supervision, and care that is necessary to ensure the health and welfare of the person and do not include services that are specifically directed toward the training, treatment, habilitation, or rehabilitation of the person. Basic support services include:

(1) in-home and out-of-home respite care services as defined in section 245A.02, subdivision 15, and under the brain injury, community alternative care, community access for disability inclusion, developmental disabilities, and elderly waiver plans, excluding out-of-home respite care provided to children in a family child foster care home licensed under Minnesota Rules, parts 2960.3000 to 2960.3100, when the child foster care license holder complies with the requirements under section 245D.06, subdivisions 5, 6, 7, and 8, or successor provisions; and section 245D.061 or successor provisions, which must be stipulated in the statement of intended use required under Minnesota Rules, part 2960.3000, subpart 4;

(2) adult companion services as defined under the elderly waiver plan, excluding adult companion services provided under the Corporation for National and Community Services Senior Companion Program established under the Domestic Volunteer Service Act of 1973, Public Law 98-288;

(3) 24-hour emergency assistance, personal emergency response as defined under the community access for disability inclusion and developmental disabilities waiver plans;

(4) night supervision services as defined under the brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans;

(5) homemaker services as defined under the community access for disability inclusion, brain injury, community alternative care, developmental disabilities, and elderly waiver plans, excluding providers licensed by the Department of Health under chapter 144A and those providers providing cleaning services only;

(6) individual community living support under section 256S.13; and

(7) individualized home supports without training services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans.

(c) Intensive support services provide assistance, supervision, and care that is necessary to ensure the health and welfare of the person and services specifically directed toward the training, habilitation, or rehabilitation of the person. Intensive support services include:

(1) intervention services, including:

(i) positive support services as defined under the brain injury and community access for disability inclusion, community alternative care, and developmental disabilities waiver plans;

(ii) in-home or out-of-home crisis respite services as defined under the brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans; and

(iii) specialist services as defined under the current brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans;

(2) in-home support services, including:

(i) semi-independent living services;

(ii) individualized home support with training services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans; and

(iii) individualized home support with family training services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans;

(3) residential supports and services, including:

(i) community residential services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans provided in a corporate child foster care residence, a community residential setting, or a supervised living facility;

(ii) family residential services as defined in the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans provided in a family child foster care residence or a family adult foster care residence;

(iii) residential services provided to more than four persons with developmental disabilities in a supervised living facility, including ICFs/DD; and

(iv) life sharing as defined in the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans;

(4) day services, including:

(i) day support services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans;

(ii) day training and habilitation services under sections 252.41 to 252.46; and

(iii) prevocational services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans;

(5) employment exploration services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans;

(6) employment development services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans;

(7) employment support services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans; and

(8) integrated community support as defined under the brain injury and community access for disability inclusion waiver plans beginning January 1, 2021, and community alternative care and developmental disabilities waiver plans beginning January 1, 2023.

[See Note.]

Subd. 1a. **Effect.** The home and community-based services standards establish health, safety, welfare, and rights protections for persons receiving services governed by this chapter. The standards recognize the diversity of persons receiving these services and require that these services are provided in a manner that meets each person's individual needs and ensures continuity in service planning, care, and coordination between the license holder and members of each person's support team or expanded support team.

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

(b) This chapter does not apply to corporate or family child foster care homes that do not provide services licensed under this chapter.

(c) A family adult foster care site controlled by a license holder providing services governed by this chapter is exempt from compliance with Minnesota Rules, parts 9555.6185; 9555.6225, subpart 8; 9555.6245; and 9555.6265. These exemptions apply to family adult foster care homes where at least one resident is receiving residential supports and services licensed according to this chapter. This chapter does not apply to family adult foster care homes that do not provide services licensed under this chapter.

(d) A license holder providing services licensed according to this chapter in a supervised living facility is exempt from compliance with section 245D.04.

(e) A license holder providing residential services to persons in an ICF/DD is exempt from compliance with sections 245D.04; 245D.05, subdivision 1b; 245D.06, subdivision 2, clauses (4) and (5); 245D.071, subdivisions 4 and 5; 245D.081, subdivision 2; 245D.09, subdivision 7; 245D.095, subdivision 2; and 245D.11, subdivision 3.

(f) A license holder providing homemaker services licensed according to this chapter and registered according to chapter 144A is exempt from compliance with section 245D.04.

(g) Nothing in this chapter prohibits a license holder from concurrently serving persons without disabilities or people who are or are not age 65 and older, provided this chapter's standards are met as well as other relevant standards.

(h) The documentation required under sections 245D.07 and 245D.071 must meet the individual program plan requirements identified in section 256B.092 or successor provisions.

Subd. 3. **Variance.** If the conditions in section 245A.04, subdivision 9, are met, the commissioner may grant a variance to any of the requirements in this chapter, except sections 245D.04; 245D.06, subdivision 4, paragraph (b), and subdivision 6, or successor provisions; and provisions governing data practices and information rights of persons.

Subd. 4. MS 2012 [Repealed by amendment, 2013 c 108 art 8 s 23]

Subd. 5. **Program certification.** An applicant or a license holder may apply for program certification as identified in section 245D.33.

History: *2012 c 216 art 18 s 18; 2013 c 108 art 8 s 23; 2014 c 275 art 1 s 48; 2014 c 312 art 27 s 19-22,77; 2015 c 78 art 6 s 31; 2017 c 90 s 10; 1Sp2017 c 6 art 1 s 2; 2019 c 54 art 2 s 14; 1Sp2019 c 9 art 5 s 11,93; 2023 c 25 s 127; 2023 c 50 art 1 s 16; 2023 c 61 art 1 s 5; 2026 c 88 art 1 s 105*

NOTE: The amendment to subdivision 1 by Laws 2023, chapter 61, article 1, section 5, is effective upon federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained. Laws 2023, chapter 61, article 1, section 5, the effective date.

245D.04 SERVICE RECIPIENT RIGHTS.

Subdivision 1. **License holder responsibility for individual rights of persons served by the program.** The license holder must:

(1) provide each person or each person's legal representative with a written notice that identifies the service recipient rights in subdivisions 2 and 3, and an explanation of those rights within five working days of service initiation and annually thereafter;

(2) make reasonable accommodations to provide this information in other formats or languages as needed to facilitate understanding of the rights by the person and the person's legal representative, if any;

(3) maintain documentation of the person's or the person's legal representative's receipt of a copy and an explanation of the rights; and

(4) ensure the exercise and protection of the person's rights in the services provided by the license holder and as authorized in the support plan.

Subd. 2. **Service-related rights.** A person's service-related rights include the right to:

(1) participate in the development and evaluation of the services provided to the person;

(2) have services and supports identified in the support plan and the support plan addendum provided in a manner that respects and takes into consideration the person's preferences according to the requirements in sections 245D.07 and 245D.071;

(3) refuse or terminate services and be informed of the consequences of refusing or terminating services;

(4) know, in advance, limits to the services available from the license holder, including the license holder's knowledge, skill, and ability to meet the person's service and support needs;

(5) know conditions and terms governing the provision of services, including the license holder's admission criteria and policies and procedures related to temporary service suspension and service termination;

(6) a coordinated transfer to ensure continuity of care when there will be a change in the provider;

(7) know what the charges are for services, regardless of who will be paying for the services, and be notified of changes in those charges;

(8) know, in advance, whether services are covered by insurance, government funding, or other sources, and be told of any charges the person or other private party may have to pay; and

(9) receive services from an individual who is competent and trained, who has professional certification or licensure, as required, and who meets additional qualifications identified in the person's support plan or support plan addendum.

Subd. 3. **Protection-related rights.** (a) A person's protection-related rights include the right to:

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

(2) access records and recorded information about the person in accordance with applicable state and federal law, regulation, or rule;

(3) be free from maltreatment;

(4) be free from restraint, time out, seclusion, restrictive intervention, or other prohibited procedure identified in section 245D.06, subdivision 5, or successor provisions, except for: (i) emergency use of manual restraint to protect the person from imminent danger to self or others according to the requirements in section 245D.061 or successor provisions; or (ii) the use of safety interventions as part of a positive support transition plan under section 245D.06, subdivision 8, or successor provisions;

(5) receive services in a clean and safe environment when the license holder is the owner, lessor, or tenant of the service site;

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

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

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

(9) be informed of and use the license holder's grievance policy and procedures, including knowing how to contact persons responsible for addressing problems and to appeal under section 256.045;

(10) know the name, telephone number, and the website, email, and street addresses of protection and advocacy services, including the appropriate state-appointed ombudsman, and a brief description of how to file a complaint with these offices;

(11) assert these rights personally, or have them asserted by the person's family, authorized representative, or legal representative, without retaliation;

(12) give or withhold written informed consent to participate in any research or experimental treatment;

(13) associate with other persons of the person's choice in the community;

(14) personal privacy, including the right to use the lock on the person's bedroom or unit door;

(15) engage in chosen activities; and

(16) access to the person's personal possessions at any time, including financial resources.

(b) For a person residing in a residential site licensed according to chapter 245A, or where the license holder is the owner, lessor, or tenant of the residential service site, protection-related rights also include the right to:

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

(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) choose the person's visitors and time of visits and have privacy for visits with the person's spouse, next of kin, legal counsel, religious adviser, or others, in accordance with section 363A.09 of the Human Rights Act, including privacy in the person's bedroom;

(5) have access to three nutritionally balanced meals and nutritious snacks between meals each day;

(6) have freedom and support to access food and potable water at any time;

(7) have the freedom to furnish and decorate the person's bedroom or living unit;

(8) a setting that is clean and free from accumulation of dirt, grease, garbage, peeling paint, mold, vermin, and insects;

(9) a setting that is free from hazards that threaten the person's health or safety; and

(10) a setting that meets the definition of a dwelling unit within a residential occupancy as defined in the State Fire Code.

(c) Except as provided under subdivision 4, restriction of a person's rights under paragraph (a), clauses (13) to (16), or paragraph (b), clauses (1) to (7), is allowed only if determined necessary to ensure the health, safety, and well-being of the person. Any restriction of those rights must be documented in the person's support plan or support plan addendum. The restriction must be implemented in the least restrictive alternative manner necessary to protect the person and provide support to reduce or eliminate the need for the restriction in the most integrated setting and inclusive manner. The documentation must include the following information:

(1) the justification for the restriction based on an assessment of the person's vulnerability related to exercising the right without restriction;

(2) the objective measures set as conditions for ending the restriction;

(3) a schedule for reviewing the need for the restriction based on the conditions for ending the restriction to occur semiannually from the date of initial approval, at a minimum, or more frequently if requested by the person, the person's legal representative, if any, and case manager; and

(4) signed and dated approval for the restriction from the person, or the person's legal representative, if any. A restriction may be implemented only when the required approval has been obtained. Approval may be withdrawn at any time. If approval is withdrawn, the right must be immediately and fully restored.

Subd. 4. **Rights of minor children.** (a) For the purposes of this subdivision:

(1) "developmentally appropriate" means, for a person under 18 years of age, activities or items that are determined to be developmentally appropriate based on the development of a person's cognitive, emotional, physical, and behavioral capacities that are typical for the person's age or age group; and

(2) "reasonable and prudent parenting" means, for a person under 18 years of age, the standards characterized by careful and sensible parenting decisions that maintain a person's health and safety; cultural, religious, and Tribal values; and best interests while encouraging the person's emotional and developmental growth.

(b) A person under 18 years of age who is receiving services under this chapter has a right to:

(1) participate in activities or events that are generally accepted as suitable for minor children of the same chronological age or are developmentally appropriate; and

(2) receive reasonable and prudent parenting.

(c) Restriction of the rights under subdivision 3, paragraph (a), clauses (13) to (16), or (b), clauses (1) to (4), for a person under 18 years of age is allowed only if determined necessary to ensure the health, safety, and well-being of the person or pursuant to reasonable and prudent parenting standards.

History: *2012 c 216 art 18 s 19; 2013 c 108 art 8 s 24; 2014 c 275 art 1 s 49; 2014 c 312 art 27 s 23; 2017 c 90 s 11; 1Sp2017 c 6 art 2 s 8; 1Sp2020 c 2 art 5 s 23; 2022 c 98 art 17 s 26; 2026 c 95 art 5 s 4,5; 2026 c 121 art 4 s 23*

245D.05 HEALTH SERVICES.

Subdivision 1. **Health needs.** (a) The license holder is responsible for meeting health service needs assigned in the support plan or the support plan addendum, consistent with the person's health needs. Unless directed otherwise in the support plan or the support plan addendum, the license holder is responsible for promptly notifying the person's legal representative, if any, and the case manager of changes in a person's physical and mental health needs affecting health service needs assigned to the license holder in the support plan or the support plan addendum, when discovered by the license holder, unless the license holder has reason to know the change has already been reported. The license holder must document when the notice is provided.

(b) If responsibility for meeting the person's health service needs has been assigned to the license holder in the support plan or the support plan addendum, the license holder must maintain documentation on how the person's health needs will be met, including a description of the procedures the license holder will follow in order to:

(1) provide medication setup, assistance, or administration according to this chapter. Unlicensed staff responsible for medication setup or medication administration under this section must complete training according to section 245D.09, subdivision 4a, paragraph (d);

(2) monitor health conditions according to written instructions from a licensed health professional;

(3) assist with or coordinate medical, dental, and other health service appointments; or

(4) use medical equipment, devices, or adaptive aides or technology safely and correctly according to written instructions from a licensed health professional.

Subd. 1a. **Medication setup.** (a) For the purposes of this subdivision, "medication setup" means the arranging of medications according to instructions from the pharmacy, the prescriber, or a licensed nurse, for later administration when the license holder is assigned responsibility in the support plan or the support plan addendum. A prescription label or the prescriber's written or electronically recorded order for the prescription is sufficient to constitute written instructions from the prescriber.

(b) If responsibility for medication setup is assigned to the license holder in the support plan or the support plan addendum, or if the license holder provides it as part of medication assistance or medication administration, the license holder must document in the person's medication administration record: dates of setup, name of medication, quantity of dose, times to be administered, and route of administration at time of setup; and, when the person will be away from home, to whom the medications were given.

Subd. 1b. **Medication assistance.** (a) For purposes of this subdivision, "medication assistance" means any of the following:

(1) bringing to the person and opening a container of previously set up medications, emptying the container into the person's hand, or opening and giving the medications in the original container to the person under the direction of the person;

(2) bringing to the person liquids or food to accompany the medication; or

(3) providing reminders, in person, remotely, or through programming devices such as telephones, alarms, or medication boxes, to take regularly scheduled medication or perform regularly scheduled treatments and exercises.

(b) If responsibility for medication assistance is assigned to the license holder in the support plan or the support plan addendum, the license holder must ensure that medication assistance is provided in a manner that enables a person to self-administer medication or treatment when the person is capable of directing the person's own care, or when the person's legal representative is present and able to direct care for the person.

Subd. 2. **Medication administration.** (a) For purposes of this subdivision, "medication administration" means:

(1) checking the person's medication record;

(2) preparing the medication as necessary;

(3) administering the medication or treatment to the person;

(4) documenting the administration of the medication or treatment or the reason for not administering the medication or treatment; and

(5) reporting to the prescriber or a nurse any concerns about the medication or treatment, including side effects, effectiveness, or a pattern of the person refusing to take the medication or treatment as prescribed. Adverse reactions must be immediately reported to the prescriber or a nurse.

(b)(1) If responsibility for medication administration is assigned to the license holder in the support plan or the support plan addendum, the license holder must implement medication administration procedures to ensure a person takes medications and treatments as prescribed. The license holder must ensure that the requirements in clauses (2) and (3) have been met before administering medication or treatment.

(2) The license holder must obtain written authorization from the person or the person's legal representative to administer medication or treatment. This authorization shall remain in effect unless it is withdrawn in writing and may be withdrawn at any time. If the person or the person's legal representative refuses to authorize the license holder to administer medication, the medication must not be administered. The refusal to authorize medication administration must be reported to the prescriber as expediently as possible.

(3) For a license holder providing intensive support services, the medication or treatment must be administered according to the license holder's medication administration policy and procedures as required under section 245D.11, subdivision 2, clause (3).

(c) The license holder must ensure the following information is documented in the person's medication administration record:

(1) the information on the current prescription label or the prescriber's current written or electronically recorded order or prescription that includes the person's name, description of the medication or treatment to be provided, and the frequency and other information needed to safely and correctly administer the medication or treatment to ensure effectiveness;

(2) information on any risks or other side effects that are reasonable to expect, and any contraindications to its use. This information must be readily available to all staff administering the medication;

(3) the possible consequences if the medication or treatment is not taken or administered as directed;

(4) instruction on when and to whom to report the following:

(i) if a dose of medication is not administered or treatment is not performed as prescribed, whether by error by the staff or the person or by refusal by the person; and

(ii) the occurrence of possible adverse reactions to the medication or treatment;

(5) notation of any occurrence of a dose of medication not being administered or treatment not performed as prescribed, whether by error by the staff or the person or by refusal by the person, or of adverse reactions, and when and to whom the report was made; and

(6) notation of when a medication or treatment is started, administered, changed, or discontinued.

Subd. 3. MS 2012 [Repealed by amendment, 2013 c 108 art 8 s 25]

Subd. 4. **Reviewing and reporting medication and treatment issues.** (a) When assigned responsibility for medication administration, the license holder must ensure that the information maintained in the medication administration record is current and is regularly reviewed to identify medication administration errors. At a minimum, the review must be conducted every three months, or more frequently as directed in the support plan or support plan addendum or as requested by the person or the person's legal representative. Based on the review, the license holder must develop and implement a plan to correct patterns of medication administration errors when identified.

(b) If assigned responsibility for medication assistance or medication administration, the license holder must report the following to the person's legal representative and case manager as they occur or as otherwise directed in the support plan or the support plan addendum:

(1) any reports required under subdivision 2, paragraph (c), clause (4);

(2) a person's refusal or failure to take or receive medication or treatment as prescribed; or

(3) concerns about a person's self-administration of medication or treatment.

Subd. 5. **Injectable medications.** Injectable medications may be administered according to a prescriber's order and written instructions when one of the following conditions has been met:

(1) a registered nurse or licensed practical nurse will administer the injection;

(2) a supervising registered nurse with a physician's order has delegated the administration of injectable medication to an unlicensed staff member and has provided the necessary training; or

(3) there is an agreement signed by the license holder, the prescriber, and the person or the person's legal representative specifying what injections may be given, when, how, and that the prescriber must retain responsibility for the license holder's giving the injections. A copy of the agreement must be placed in the person's service recipient record.

Only licensed health professionals are allowed to administer psychotropic medications by injection.

History: *2012 c 216 art 18 s 20; 2013 c 108 art 8 s 25; 2014 c 312 art 27 s 24-29; 2015 c 71 art 7 s 11,12; 2022 c 98 art 17 s 26*

245D.051 PSYCHOTROPIC MEDICATION USE AND MONITORING.

Subdivision 1. **Conditions for psychotropic medication administration.** (a) When a person is prescribed a psychotropic medication and the license holder is assigned responsibility for administration of the medication in the person's support plan or the support plan addendum, the license holder must ensure that the requirements in section 245D.05, subdivision 2, are met.

(b) The license holder must develop, implement, and maintain the following documentation in the person's support plan addendum according to the requirements in sections 245D.07 and 245D.071:

(1) a description of the target symptoms that the psychotropic medication is to alleviate; and

(2) documentation methods the license holder will use to monitor and measure changes in the target symptoms that are to be alleviated by the psychotropic medication if required by the prescriber. The license holder must collect and report on medication and symptom-related data as instructed by the prescriber. The license holder must provide the monitoring data to the expanded support team for review every three months, or as otherwise requested by the person or the person's legal representative.

For the purposes of this section, "target symptom" refers to any perceptible diagnostic criteria for a person's diagnosed mental disorder, as defined by the Diagnostic and Statistical Manual of Mental Disorders Fourth Edition Text Revision (DSM-IV-TR) or successive editions, that has been identified for alleviation.

Subd. 2. **Refusal to authorize psychotropic medication.** If the person or the person's legal representative refuses to authorize the administration of a psychotropic medication as ordered by the prescriber, the license holder must not administer the medication. The refusal to authorize medication administration must be reported to the prescriber as expediently as possible. After reporting the refusal to the prescriber, the license holder must follow any directives or orders given by the prescriber. A refusal may not be overridden without a court order. Refusal to authorize administration of a specific psychotropic medication is not grounds for service termination and does not constitute an emergency. A decision to terminate services must be reached in compliance with section 245D.10, subdivision 3.

History: *2013 c 108 art 8 s 26; 2014 c 275 art 1 s 50,140; 2014 c 312 art 27 s 30; 2022 c 98 art 17 s 26*

245D.06 PROTECTION STANDARDS.

Subdivision 1. **Incident response and reporting.** (a) The license holder must respond to incidents under section 245D.02, subdivision 11, that occur while providing services to protect the health and safety of and minimize risk of harm to the person.

(b) The license holder must maintain information about and report incidents to the person's legal representative or designated emergency contact and case manager within 24 hours of an incident occurring while services are being provided, within 24 hours of discovery or receipt of information that an incident occurred, unless the license holder has reason to know that the incident has already been reported, or as otherwise directed in a person's support plan or support plan addendum. An incident of suspected or alleged maltreatment must be reported as required under paragraph (d), and an incident of serious injury or death must be reported as required under paragraph (e).

(c) When the incident involves more than one person, the license holder must not disclose personally identifiable information about any other person when making the report to each person and case manager unless the license holder has the consent of the person.

(d) Within 24 hours of reporting maltreatment as required under section 626.557 or chapter 260E, the license holder must inform the case manager of the report unless there is reason to believe that the case manager is involved in the suspected maltreatment. The license holder must disclose the nature of the activity or occurrence reported and the agency that received the report.

(e) The license holder must report the death or serious injury of the person as required in paragraph (b) and to the Department of Human Services Licensing Division, and the Office of Ombudsman for Mental Health and Developmental Disabilities as required under section 245.94, subdivision 2a, within 24 hours of the death or serious injury, or receipt of information that the death or serious injury occurred, unless the license holder has reason to know that the death or serious injury has already been reported.

(f) When a death or serious injury occurs in a facility certified as an intermediate care facility for persons with developmental disabilities, the death or serious injury must be reported to the Department of Health, Office of Health Facility Complaints, and the Office of Ombudsman for Mental Health and Developmental Disabilities, as required under sections 245.91 and 245.94, subdivision 2a, unless the license holder has reason to know that the death or serious injury has already been reported.

(g) The license holder must conduct an internal review of incident reports of deaths and serious injuries that occurred while services were being provided and that were not reported by the program as alleged or suspected maltreatment, for identification of incident patterns, and implementation of corrective action as necessary to reduce occurrences. 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 persons or the services involved, and whether there is a need for corrective action by the license holder to protect the health and safety of persons receiving services. 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 staff or the license holder, if any.

(h) The license holder must verbally report the emergency use of manual restraint of a person as required in paragraph (b) within 24 hours of the occurrence. The license holder must ensure the written report and internal review of all incident reports of the emergency use of manual restraints are completed according to the requirements in section 245D.061 or successor provisions.

Subd. 2. **Environment and safety.** The license holder must:

(1) ensure the following when the license holder is the owner, lessor, or tenant of the service site:

(i) the service site is a safe and hazard-free environment;

(ii) that toxic substances or dangerous items are inaccessible to persons served by the program only to protect the safety of a person receiving services when a known safety threat exists and not as a substitute for staff supervision or interactions with a person who is receiving services. If toxic substances or dangerous items are made inaccessible, the license holder must document an assessment of the physical plant, its environment, and its population identifying the risk factors which require toxic substances or dangerous items to be inaccessible and a statement of specific measures to be taken to minimize the safety risk to persons receiving services and to restore accessibility to all persons receiving services at the service site;

(iii) doors are locked from the inside to prevent a person from exiting only when necessary to protect the safety of a person receiving services and not as a substitute for staff supervision or interactions with the person. If doors are locked from the inside, the license holder must document an assessment of the physical plant, the environment and the population served, identifying the risk factors which require the use of locked doors, and a statement of specific measures to be taken to minimize the safety risk to persons receiving services at the service site;

(iv) a staff person is available at the service site who is trained in basic first aid and, when required in a person's support plan or support plan addendum, cardiopulmonary resuscitation (CPR) whenever persons are present and staff are required to be at the site to provide direct support service. The CPR training must include instruction, hands-on practice, and an observed skills assessment under the direct supervision of a CPR instructor; and

(v) that sharpened or metal knives are presumed to be inaccessible to an individual provisionally discharged from a commitment as mentally ill and dangerous who is residing in a licensed state-operated community-based program and whose provisional discharge plan restricts access to inherently dangerous instruments, including but not limited to knives, firearms, and explosives or incendiary material or devices, unless unsupervised access is approved by the individual, county case manager, and the individual's support team. Approval must be reflected in the support plan, the support plan addendum, or the self-management assessment. This provision does not apply to an individual who has been fully discharged from a commitment;

(2) maintain equipment, vehicles, supplies, and materials owned or leased by the license holder in good condition when used to provide services;

(3) follow procedures to ensure safe transportation, handling, and transfers of the person and any equipment used by the person, when the license holder is responsible for transportation of a person or a person's equipment;

(4) be prepared for emergencies and follow emergency response procedures to ensure the person's safety in an emergency; and

(5) follow universal precautions and sanitary practices, including hand washing, for infection prevention and control, and to prevent communicable diseases.

Subd. 3. MS 2012 [Repealed by amendment, 2013 c 108 art 8 s 27]

Subd. 4. **Funds and property; legal representative restrictions.** (a) Whenever the license holder assists a person with the safekeeping of funds or other property according to section 245A.04, subdivision 13, the license holder must obtain written authorization to do so from the person or the person's legal representative and the case manager. Authorization must be obtained within five working days of service initiation and renewed annually thereafter. At the time initial authorization is obtained, the license holder must survey, document, and implement the preferences of the person or the person's legal representative and the case

manager for frequency of receiving a statement that itemizes receipts and disbursements of funds or other property. The license holder must document changes to these preferences when they are requested.

(b) A license holder or staff person may not accept powers-of-attorney from a person receiving services from the license holder for any purpose. This does not apply to license holders that are Minnesota counties or other units of government or to staff persons employed by license holders who were acting as attorney-in-fact for specific individuals prior to implementation of this chapter. The license holder must maintain documentation of the power-of-attorney in the service recipient record.

(c) A license holder or staff person is restricted from accepting an appointment as a guardian as follows:

(1) under section 524.5-309 of the Uniform Probate Code, any individual or agency that provides residence, custodial care, medical care, employment training, or other care or services for which the individual or agency receives a fee may not be appointed as guardian unless related to the respondent by blood, marriage, or adoption; and

(2) under section 245A.03, subdivision 2, paragraph (a), clause (1), a related individual as defined under section 245A.02, subdivision 13, is excluded from licensure. Services provided by a license holder to a person under the license holder's guardianship are not licensed services.

(d) Upon the transfer or death of a person, any funds or other property of the person must be surrendered to the person or the person's legal representative, or given to the executor or administrator of the estate in exchange for an itemized receipt.

Subd. 5. **Prohibited procedures.** The license holder is prohibited from using chemical restraints, mechanical restraints, manual restraints, time out, seclusion, or any other aversive or deprivation procedure, as a substitute for adequate staffing, for a behavioral or therapeutic program to reduce or eliminate behavior, as punishment, or for staff convenience.

Subd. 6. **Restricted procedures.** (a) The following procedures are allowed when the procedures are implemented in compliance with the standards governing their use as identified in clauses (1) to (3). Allowed but restricted procedures include:

(1) permitted actions and procedures subject to the requirements in subdivision 7;

(2) procedures identified in a positive support transition plan subject to the requirements in subdivision 8; or

(3) emergency use of manual restraint subject to the requirements in section 245D.061.

(b) A restricted procedure identified in paragraph (a) must not:

(1) be implemented with a child in a manner that constitutes sexual abuse, neglect, physical abuse, or mental injury, as defined in section 260E.03;

(2) be implemented with an adult in a manner that constitutes abuse or neglect as defined in section 626.5572, subdivision 2 or 17;

(3) be implemented in a manner that violates a person's rights identified in section 245D.04;

(4) restrict a person's normal access to a nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions, necessary clothing, or any protection required by state licensing standards or federal regulations governing the program;

(5) deny the person visitation or ordinary contact with legal counsel, a legal representative, or next of kin;

(6) be used for the convenience of staff, as punishment, as a substitute for adequate staffing, or as a consequence if the person refuses to participate in the treatment or services provided by the program;

(7) use prone restraint. For purposes of this section, "prone restraint" means use of manual restraint that places a person in a face-down position. Prone restraint does not include brief physical holding of a person who, during an emergency use of manual restraint, rolls into a prone position, if the person is restored to a standing, sitting, or side-lying position as quickly as possible;

(8) apply back or chest pressure while a person is in a prone position as identified in clause (7), supine position, or side-lying position; or

(9) be implemented in a manner that is contraindicated for any of the person's known medical or psychological limitations.

Subd. 7. **Permitted actions and procedures.** (a) Use of the instructional techniques and intervention procedures as identified in paragraphs (b) and (c) is permitted when used on an intermittent or continuous basis. When used on a continuous basis, it must be addressed in a person's support plan addendum as identified in sections 245D.07 and 245D.071.

(b) Physical contact or instructional techniques must use the least restrictive alternative possible to meet the needs of the person and may be used:

(1) to calm or comfort a person by holding that person with no resistance from that person;

(2) to protect a person known to be at risk of injury due to frequent falls as a result of a medical condition;

(3) to facilitate the person's completion of a task or response when the person does not resist or the person's resistance is minimal in intensity and duration;

(4) to block or redirect a person's limbs or body without holding the person or limiting the person's movement to interrupt the person's behavior that may result in injury to self or others with less than 60 seconds of physical contact by staff; or

(5) to redirect a person's behavior when the behavior does not pose a serious threat to the person or others and the behavior is effectively redirected with less than 60 seconds of physical contact by staff.

(c) Restraint may be used as an intervention procedure to:

(1) allow a licensed health care professional to safely conduct a medical examination or to provide medical treatment ordered by a licensed health care professional;

(2) assist in the safe evacuation or redirection of a person in the event of an emergency and the person is at imminent risk of harm; or

(3) position a person with physical disabilities in a manner specified in the person's support plan addendum.

Any use of manual restraint as allowed in this paragraph must comply with the restrictions identified in subdivision 6, paragraph (b).

(d) Use of adaptive aids or equipment, orthotic devices, or other medical equipment ordered by a licensed health professional to treat a diagnosed medical condition do not in and of themselves constitute the use of mechanical restraint.

Subd. 8. **Positive support transition plan.** (a) License holders must develop a positive support transition plan on the forms and in the manner prescribed by the commissioner for a person who requires intervention in order to maintain safety when it is known that the person's behavior poses an immediate risk of physical harm to self or others. The positive support transition plan must phase out any existing plans for the emergency or programmatic use of restrictive interventions prohibited under this chapter within the following timelines:

(1) for persons receiving services from the license holder before January 1, 2014, the plan must be developed and implemented by February 1, 2014, and phased out no later than December 31, 2014; and

(2) for persons admitted to the program on or after January 1, 2014, the plan must be developed and implemented within 30 calendar days of service initiation and phased out no later than 11 months from the date of plan implementation.

(b) The commissioner has limited authority to grant approval for the emergency use of procedures identified in subdivision 6 that had been part of an approved positive support transition plan when a person is at imminent risk of serious injury as defined in section 245.91, subdivision 6, due to self-injurious behavior and the following conditions are met:

(1) the person's expanded support team approves the emergency use of the procedures; and

(2) the interim review panel established in section 245.8251, subdivision 4, recommends commissioner approval of the emergency use of the procedures.

(c) Written requests for the emergency use of the procedures must be developed and submitted to the commissioner by the designated coordinator with input from the person's expanded support team in accordance with the requirements set by the interim review panel, in addition to the following:

(1) a copy of the person's current positive support transition plan and copies of each positive support transition plan review containing data on the progress of the plan from the previous year;

(2) documentation of a good faith effort to eliminate the use of the procedures that had been part of an approved positive support transition plan;

(3) justification for the continued use of the procedures that identifies the imminent risk of serious injury due to the person's self-injurious behavior if the procedures were eliminated;

(4) documentation of the clinicians consulted in creating and maintaining the positive support transition plan; and

(5) documentation of the expanded support team's approval and the recommendation from the interim panel required under paragraph (b).

(d) A copy of the written request, supporting documentation, and the commissioner's final determination on the request must be maintained in the person's service recipient record.

History: *2012 c 216 art 18 s 21; 2013 c 108 art 8 s 27; 2014 c 312 art 27 s 31-36; 2015 c 71 art 7 s 13-15; 2016 c 158 art 1 s 95-97; 1Sp2020 c 2 art 5 s 24; art 8 s 64,65; 2022 c 98 art 17 s 26*

245D.061 EMERGENCY USE OF MANUAL RESTRAINTS.

Subdivision 1. **Standards for emergency use of manual restraints.** The license holder must ensure that emergency use of manual restraints complies with the requirements of this chapter and the license holder's policy and procedures as required under subdivision 9.

Subd. 2. **Conditions for emergency use of manual restraint.** Emergency use of manual restraint must meet the following conditions:

(1) immediate intervention must be needed to protect the person or others from imminent risk of physical harm; and

(2) the type of manual restraint used must be the least restrictive intervention to eliminate the immediate risk of harm and effectively achieve safety. The manual restraint must end when the threat of harm ends.

Subd. 3. MS 2014 [Repealed, 2015 c 78 art 6 s 32]

Subd. 4. **Monitoring emergency use of manual restraint.** The license holder shall monitor a person's health and welfare during an emergency use of a manual restraint. Staff monitoring the procedure must not be the staff implementing the procedure when possible. The license holder shall complete a monitoring form, approved by the commissioner, for each incident involving the emergency use of a manual restraint.

Subd. 5. **Reporting emergency use of manual restraint incident.** (a) Within three calendar days after an emergency use of a manual restraint, the staff person who implemented the emergency use must report in writing to the designated coordinator the following information about the emergency use:

(1) the staff and persons receiving services who were involved in the incident leading up to the emergency use of manual restraint;

(2) a description of the physical and social environment, including who was present before and during the incident leading up to the emergency use of manual restraint;

(3) a description of what less restrictive alternative measures were attempted to de-escalate the incident and maintain safety before the manual restraint was implemented that identifies when, how, and how long the alternative measures were attempted before manual restraint was implemented;

(4) a description of the mental, physical, and emotional condition of the person who was restrained, and other persons involved in the incident leading up to, during, and following the manual restraint;

(5) whether there was any injury to the person who was restrained or other persons involved in the incident, including staff, before or as a result of the use of manual restraint;

(6) whether there was a debriefing with the staff, and, if not contraindicated, with the person who was restrained and other persons who were involved in or who witnessed the restraint, following the incident and the outcome of the debriefing. If the debriefing was not conducted at the time the incident report was made, the report should identify whether a debriefing is planned; and

(7) a copy of the report must be maintained in the person's service recipient record.

(b) Each single incident of emergency use of manual restraint must be reported separately. For the purposes of this subdivision, an incident of emergency use of manual restraint is a single incident when the following conditions have been met:

(1) after implementing the manual restraint, staff attempt to release the person at the moment staff believe the person's conduct no longer poses an imminent risk of physical harm to self or others and less restrictive strategies can be implemented to maintain safety;

(2) upon the attempt to release the restraint, the person's behavior immediately re-escalates; and

(3) staff must immediately reimplement the restraint in order to maintain safety.

Subd. 6. **Internal review of emergency use of manual restraint.** (a) Within five working days of the emergency use of manual restraint, the license holder must complete and document an internal review of each report of emergency use of manual restraint. The review must include an evaluation of whether:

(1) the person's service and support strategies developed according to sections 245D.07 and 245D.071 need to be revised;

(2) related policies and procedures were followed;

(3) the policies and procedures were adequate;

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

(5) the reported event is similar to past events with the persons, staff, or the services involved; and

(6) there is a need for corrective action by the license holder to protect the health and welfare of persons.

(b) Based on the results of the internal review, the license holder must develop, document, and implement a corrective action plan for the program designed to correct current lapses and prevent future lapses in performance by individuals or the license holder, if any. The corrective action plan, if any, must be implemented within 30 days of the internal review being completed.

(c) The license holder must maintain a copy of the internal review and the corrective action plan, if any, in the person's service recipient record.

Subd. 7. **Expanded support team review.** (a) Within five working days after the completion of the internal review required in subdivision 6, the license holder must consult with the expanded support team following the emergency use of manual restraint to:

(1) discuss the incident reported in subdivision 5, to define the antecedent or event that gave rise to the behavior resulting in the manual restraint and identify the perceived function the behavior served; and

(2) determine whether the person's support plan addendum needs to be revised according to sections 245D.07 and 245D.071 to positively and effectively help the person maintain stability and to reduce or eliminate future occurrences requiring emergency use of manual restraint.

(b) The license holder must maintain a written summary of the expanded support team's discussion and decisions required in paragraph (a) in the person's service recipient record.

Subd. 8. **External review and reporting.** Within five working days of the expanded support team review, the license holder must submit the following to the Department of Human Services, and the Office of the Ombudsman for Mental Health and Developmental Disabilities, as required under section 245.94, subdivision 2a:

(1) the report required under subdivision 5;

(2) the internal review and the corrective action plan required under subdivision 6; and

(3) the summary of the expanded support team review required under subdivision 7.

Subd. 9. **Emergency use of manual restraints policy and procedures.** The license holder must develop, document, and implement a policy and procedures that promote service recipient rights and protect health and welfare during the emergency use of manual restraints. The policy and procedures must comply with the requirements of this section and must specify the following:

(1) a description of the positive support strategies and techniques staff must use to attempt to de-escalate a person's behavior before it poses an imminent risk of physical harm to self or others;

(2) a description of the types of manual restraints the license holder allows staff to use on an emergency basis, if any. If the license holder will not allow the emergency use of manual restraint, the policy and procedure must identify the alternative measures the license holder will require staff to use when a person's conduct poses an imminent risk of physical harm to self or others and less restrictive strategies would not achieve safety;

(3) instructions for safe and correct implementation of the allowed manual restraint procedures;

(4) the training that staff must complete and the timelines for completion, before they may implement an emergency use of manual restraint. In addition to the training on this policy and procedure and the orientation and annual training required in section 245D.09, subdivision 4, the training for emergency use of manual restraint must incorporate the following subjects:

(i) alternatives to manual restraint procedures, including techniques to identify events and environmental factors that may escalate conduct that poses an imminent risk of physical harm to self or others;

(ii) de-escalation methods, positive support strategies, and how to avoid power struggles;

(iii) simulated experiences of administering and receiving manual restraint procedures allowed by the license holder on an emergency basis;

(iv) how to properly identify thresholds for implementing and ceasing restrictive procedures;

(v) how to recognize, monitor, and respond to the person's physical signs of distress, including positional asphyxia;

(vi) the physiological and psychological impact on the person and the staff when restrictive procedures are used;

(vii) the communicative intent of behaviors; and

(viii) relationship building;

(5) the procedures and forms to be used to monitor the emergency use of manual restraints, including what must be monitored and the frequency of monitoring per each incident of emergency use of manual restraint, and the person or position who is responsible for monitoring the use;

(6) the instructions, forms, and timelines required for completing and submitting an incident report by the person or persons who implemented the manual restraint; and

(7) the procedures and timelines for conducting the internal review and the expanded support team review, and the person or position responsible for completing the reviews and for ensuring that corrective action is taken or the person's support plan addendum is revised, when determined necessary.

History: *2013 c 108 art 8 s 28; 2014 c 312 art 27 s 77; 2015 c 21 art 1 s 50; 2016 c 158 art 1 s 98; 2022 c 98 art 17 s 26*

245D.07 SERVICE PLANNING AND DELIVERY.

Subdivision 1. **Provision of services.** The license holder must provide services as assigned in the support plan. The provision of services must comply with the requirements of this chapter and the federal waiver plans.

Subd. 1a. **Person-centered planning and service delivery.** (a) The license holder must provide services in response to the person's identified needs, interests, preferences, and desired outcomes as specified in the support plan and the support plan addendum, and in compliance with the requirements of this chapter. License holders providing intensive support services must also provide outcome-based services according to the requirements in section 245D.071.

(b) Services must be provided in a manner that supports the person's preferences, daily needs, and activities and accomplishment of the person's personal goals and service outcomes, consistent with the principles of:

(1) person-centered service planning and delivery that:

(i) identifies and supports what is important to the person as well as what is important for the person, including preferences for when, how, and by whom direct support service is provided;

(ii) uses that information to identify outcomes the person desires; and

(iii) respects each person's history, dignity, and cultural background;

(2) self-determination that supports and provides:

(i) opportunities for the development and exercise of functional and age-appropriate skills, decision making and choice, personal advocacy, and communication; and

(ii) the affirmation and protection of each person's civil and legal rights; and

(3) providing the most integrated setting and inclusive service delivery that supports, promotes, and allows:

(i) inclusion and participation in the person's community as desired by the person in a manner that enables the person to interact with nondisabled persons to the fullest extent possible and supports the person in developing and maintaining a role as a valued community member;

(ii) opportunities for self-sufficiency as well as developing and maintaining social relationships and natural supports; and

(iii) a balance between risk and opportunity, meaning the least restrictive supports or interventions necessary are provided in the most integrated settings in the most inclusive manner possible to support the person to engage in activities of the person's own choosing that may otherwise present a risk to the person's health, safety, or rights.

Subd. 2. **Service planning requirements for basic support services.** (a) License holders providing basic support services must meet the requirements of this subdivision.

(b) Within 15 calendar days of service initiation the license holder must complete a preliminary support plan addendum based on the support plan.

(c) Within 60 calendar days of service initiation the license holder must review and revise as needed the preliminary support plan addendum to document the services that will be provided including how, when, and by whom services will be provided, and the person responsible for overseeing the delivery and coordination of services.

(d) The license holder must participate in service planning and support team meetings for the person following stated timelines established in the person's support plan or as requested by the person or the person's legal representative, the support team or the expanded support team.

Subd. 3. **Reports.** The license holder must provide written reports regarding the person's progress or status as requested by the person, the person's legal representative, the case manager, or the team.

History: *2012 c 216 art 18 s 22; 2013 c 108 art 8 s 29; 2015 c 71 art 7 s 16; 2022 c 98 art 17 s 26*

245D.071 SERVICE PLANNING AND DELIVERY; INTENSIVE SUPPORT SERVICES.

Subdivision 1. **Requirements for intensive support services.** Except for services identified in section 245D.03, subdivision 1, paragraph (c), clauses (1) and (2), item (ii), a license holder providing intensive support services identified in section 245D.03, subdivision 1, paragraph (c), must comply with the requirements in this section and section 245D.07, subdivisions 1, 1a, and 3. Services identified in section 245D.03, subdivision 1, paragraph (c), clauses (1) and (2), item (ii), must comply with the requirements in section 245D.07, subdivision 2.

Subd. 2. **Abuse prevention.** Prior to or upon initiating services, the license holder must develop, document, and implement an abuse prevention plan according to section 245A.65, subdivision 2.

Subd. 3. **Assessment and initial service planning.** (a) Within 15 days of service initiation the license holder must complete a preliminary support plan addendum based on the support plan.

(b) Within the scope of services, the license holder must, at a minimum, complete assessments in the following areas before providing 45 days of service or within 60 calendar days of service initiation, whichever is shorter:

(1) the person's ability to self-manage health and medical needs to maintain or improve physical, mental, and emotional well-being, including, when applicable, allergies, seizures, choking, special dietary needs, chronic medical conditions, self-administration of medication or treatment orders, preventative screening, and medical and dental appointments;

(2) the person's ability to self-manage personal safety to avoid injury or accident in the service setting, including, when applicable, risk of falling, mobility, regulating water temperature, community survival skills, water safety skills, and sensory disabilities; and

(3) the person's ability to self-manage symptoms or behavior that may otherwise result in an incident as defined in section 245D.02, subdivision 11, clauses (4) to (7), suspension or termination of services by the license holder, or other symptoms or behaviors that may jeopardize the health and welfare of the person or others.

Assessments must produce information about the person that describes the person's overall strengths, functional skills and abilities, and behaviors or symptoms. Assessments must be based on the person's status within the last 12 months at the time of service initiation. Assessments based on older information must be documented and justified. Assessments must be conducted annually at a minimum or within 30 days of a written request from the person or the person's legal representative or case manager. The results must be reviewed by the support team or expanded support team as part of a service plan review.

(c) Before providing 45 days of service or within 60 calendar days of service initiation, whichever is shorter, the license holder must hold an initial planning meeting with the person, the person's legal representative, the case manager, other members of the support team or expanded support team, and other people as identified by the person or the person's legal representative to determine the following based on information obtained from the assessments identified in paragraph (b), the person's identified needs in the support plan, and the requirements in subdivision 4 and section 245D.07, subdivision 1a:

(1) the scope of the services to be provided to support the person's daily needs and activities;

(2) the person's desired outcomes and the supports necessary to accomplish the person's desired outcomes;

(3) the person's preferences for how services and supports are provided, including how the provider will support the person to have control of the person's schedule;

(4) whether the current service setting is the most integrated setting available and appropriate for the person;

(5) opportunities to develop and maintain essential and life-enriching skills, abilities, strengths, interests, and preferences;

(6) opportunities for community access, participation, and inclusion in preferred community activities;

(7) opportunities to develop and strengthen personal relationships with other persons of the person's choice in the community;

(8) opportunities to seek competitive employment and work at competitively paying jobs in the community; and

(9) how services must be coordinated across other providers licensed under this chapter serving the person and members of the support team or expanded support team to ensure continuity of care and coordination of services for the person.

(d) A discussion of how technology might be used to meet the person's desired outcomes must be included in the initial planning meeting. The support plan or support plan addendum must include a summary of this discussion. The summary must include a statement regarding any decision that is made regarding the use of technology and a description of any further research that needs to be completed before a decision regarding the use of technology can be made. Nothing in this paragraph requires that the support plan include the use of technology for the provision of services.

Subd. 4. **Service outcomes and supports.** (a) Within ten working days of the initial planning meeting, the license holder must develop a service plan that documents the service outcomes and supports based on the assessments completed under subdivision 3 and the requirements in section 245D.07, subdivision 1a. The outcomes and supports must be included in the support plan addendum.

(b) The license holder must document the supports and methods to be implemented to support the person and accomplish outcomes related to acquiring, retaining, or improving skills and physical, mental, and emotional health and well-being. The documentation must include:

(1) the methods or actions that will be used to support the person and to accomplish the service outcomes, including information about:

(i) any changes or modifications to the physical and social environments necessary when the service supports are provided;

(ii) any equipment and materials required; and

(iii) techniques that are consistent with the person's communication mode and learning style;

(2) the measurable and observable criteria for identifying when the desired outcome has been achieved and how data will be collected;

(3) the projected starting date for implementing the supports and methods and the date by which progress towards accomplishing the outcomes will be reviewed and evaluated; and

(4) the names of the staff or position responsible for implementing the supports and methods.

(c) Within 20 working days of the initial planning meeting, the license holder must submit to and obtain dated signatures from the person or the person's legal representative and case manager to document completion and approval of the assessment and support plan addendum. If, within ten working days of the submission of the assessment or support plan addendum, the person or the person's legal representative or case manager has not signed and returned to the license holder the assessment and support plan addendum or has not proposed written modifications to the license holder's submission, the submission is deemed approved and the assessment and support plan addendum become effective and remain in effect until the legal representative or case manager submits a written request to revise the assessment or support plan addendum.

Subd. 5. **Service plan review and evaluation.** (a) The license holder must give the person or the person's legal representative, case manager, and other people as identified by the person or the person's legal representative, an opportunity to participate in the ongoing review and development of the service plan and the methods used to support the person and accomplish outcomes identified in subdivisions 3 and 4. At least once per year, or within 30 days of a written request by the person, the person's legal representative, or the case manager, the license holder, in coordination with the person's support team or expanded support team, must meet with the person, the person's legal representative, the case manager, and other people as identified by the person or the person's legal representative, and participate in service plan review meetings following stated timelines established in the person's support plan or support plan addendum. The purpose of the service plan review is to determine whether changes are needed to the service plan based on the assessment information, the license holder's evaluation of progress toward accomplishing outcomes, or other information provided by the support team or expanded support team.

(b) At least once per year, the license holder, in coordination with the person's support team or expanded support team, must meet with the person, the person's legal representative, the case manager, and other people as identified by the person or the person's legal representative to discuss how technology might be used to meet the person's desired outcomes. The support plan addendum must include a summary of this discussion. The summary must include a statement regarding any decision made related to the use of technology and a description of any further research that must be completed before a decision regarding the use of technology can be made. Nothing in this paragraph requires the support plan addendum to include the use of technology for the provision of services.

(c) At least once per year, the license holder, in coordination with the person's support team or expanded support team, must meet with a person receiving residential supports and services, the person's legal representative, the case manager, and other people as identified by the person or the person's legal representative to discuss options for transitioning out of a community setting controlled by a provider and into a setting not controlled by a provider.

(d) The support plan addendum must include a summary of the discussion required in paragraph (c). The summary must include a statement about any decision made regarding transitioning out of a provider-controlled setting and a description of any further research or education that must be completed before a decision regarding transitioning out of a provider-controlled setting can be made.

(e) At least once per year, the license holder, in coordination with the person's support team or expanded support team, must meet with a person receiving day services, the person's legal representative, the case manager, and other people as identified by the person or the person's legal representative to discuss options for transitioning to an employment service described in section 245D.03, subdivision 1, paragraph (c), clauses (5) to (7).

(f) The support plan addendum must include a summary of the discussion required in paragraph (e). The summary must include a statement about any decision made concerning transition to an employment service and a description of any further research or education that must be completed before a decision regarding transitioning to an employment service can be made.

(g) The license holder must summarize the person's status and progress toward achieving the identified outcomes and make recommendations and identify the rationale for changing, continuing, or discontinuing implementation of supports and methods identified in subdivision 4 in a report available at the time of the progress review meeting. The report must be sent at least five working days prior to the progress review meeting if requested by the team in the support plan or support plan addendum.

(h) The license holder must send the support plan addendum to the person, the person's legal representative, and the case manager by mail within ten working days of the progress review meeting. Within ten working days of the mailing of the support plan addendum, the license holder must obtain dated signatures from the person or the person's legal representative and the case manager to document approval of any changes to the support plan addendum.

(i) If, within ten working days of submitting changes to the support plan and support plan addendum, the person or the person's legal representative or case manager has not signed and returned to the license holder the support plan or support plan addendum or has not proposed written modifications to the license holder's submission, the submission is deemed approved and the support plan addendum becomes effective and remains in effect until the legal representative or case manager submits a written request to revise the support plan addendum.

History: *2013 c 108 art 8 s 30; 2014 c 291 art 8 s 1,2; 2014 c 312 art 27 s 37-39,77; 2015 c 71 art 7 s 17; 2017 c 90 s 12; 1Sp2019 c 9 art 5 s 12,13; 1Sp2020 c 2 art 2 s 4; art 4 s 1; 2022 c 98 art 17 s 26; 2024 c 108 art 1 s 3,4*

245D.08 MS 2012 [Repealed, 2013 c 108 art 8 s 61]

245D.081 PROGRAM COORDINATION, EVALUATION, AND OVERSIGHT.

Subdivision 1. **Program coordination and evaluation.** (a) The license holder is responsible for:

(1) coordination of service delivery and evaluation for each person served by the program as identified in subdivision 2; and

(2) program management and oversight that includes evaluation of the program quality and program improvement for services provided by the license holder as identified in subdivision 3.

(b) The same person may perform the functions in paragraph (a) if the work and education qualifications are met in subdivisions 2 and 3.

Subd. 2. **Coordination and evaluation of individual service delivery.** (a) Delivery and evaluation of services provided by the license holder must be coordinated by a designated staff person. Except as provided in clause (3), the designated coordinator must provide supervision, support, and evaluation of activities that include:

(1) oversight of the license holder's responsibilities assigned in the person's support plan and the support plan addendum;

(2) taking the action necessary to facilitate the accomplishment of the outcomes according to the requirements in section 245D.07;

(3) instruction and assistance to direct support staff implementing the support plan and the service outcomes, including direct observation of service delivery sufficient to assess staff competency. The designated coordinator may delegate the direct observation and competency assessment of the service delivery activities of direct support staff to an individual whom the designated coordinator has previously deemed competent in those activities; and

(4) evaluation of the effectiveness of service delivery, methodologies, and progress on the person's outcomes based on the measurable and observable criteria for identifying when the desired outcome has been achieved according to the requirements in section 245D.07.

(b) The license holder must ensure that the designated coordinator is competent to perform the required duties identified in paragraph (a) through education, training, and work experience relevant to the primary disability of persons served by the license holder and the individual persons for whom the designated coordinator is responsible. The designated coordinator must have the skills and ability necessary to develop effective plans and to design and use data systems to measure effectiveness of services and supports. The license holder must verify and document competence according to the requirements in section 245D.09, subdivision 3. The designated coordinator must minimally have:

(1) a baccalaureate degree in a field related to human services, education, or health and one year of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older, or equivalent work experience providing care or education to vulnerable adults or children;

(2) an associate degree in a field related to human services, education, or health and two years of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older, or equivalent work experience providing care or education to vulnerable adults or children;

(3) a diploma in a field related to human services, education, or health from an accredited postsecondary institution and three years of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older or equivalent work experience providing care or education to vulnerable adults or children; or

(4) a minimum of 50 hours of education and training related to human services and disabilities; and

(5) four years of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older under the supervision of a staff person who meets the qualifications identified in clauses (1) to (3).

Subd. 3. **Program management and oversight.** (a) The license holder must designate a managerial staff person or persons to provide program management and oversight of the services provided by the license holder. The designated manager is responsible for the following:

(1) maintaining a current understanding of the licensing requirements sufficient to ensure compliance throughout the program as identified in section 245A.04, subdivision 1, paragraph (e), and when applicable, as identified in section 256B.044, subdivision 8;

(2) ensuring the duties of the designated coordinator are fulfilled according to the requirements in subdivision 2;

(3) ensuring the program implements corrective action identified as necessary by the program following review of incident and emergency reports according to the requirements in section 245D.11, subdivision 2, clause (7). An internal review of incident reports of alleged or suspected maltreatment must be conducted according to the requirements in section 245A.65, subdivision 1, paragraph (b);

(4) evaluation of satisfaction of persons served by the program, the person's legal representative, if any, and the case manager, with the service delivery and progress toward accomplishing outcomes identified in sections 245D.07 and 245D.071, and ensuring and protecting each person's rights as identified in section 245D.04;

(5) ensuring staff competency requirements are met according to the requirements in section 245D.09, subdivision 3, and ensuring staff orientation and training is provided according to the requirements in section 245D.09, subdivisions 4, 4a, and 5;

(6) ensuring corrective action is taken when ordered by the commissioner and that the terms and conditions of the license and any variances are met; and

(7) evaluating the information identified in clauses (1) to (6) to develop, document, and implement ongoing program improvements.

(b) The designated manager must be competent to perform the duties as required and must minimally meet the education and training requirements identified in subdivision 2, paragraph (b), and have a minimum of three years of supervisory level experience in a program that provides care or education to vulnerable adults or children.

History: *2013 c 108 art 8 s 31; 2014 c 312 art 27 s 40; 1Sp2019 c 9 art 7 s 6; 1Sp2020 c 2 art 2 s 5; 2022 c 98 art 17 s 26; 2024 c 108 art 1 s 5,6; 2026 c 121 art 3 s 11*

245D.09 STAFFING STANDARDS.

Subdivision 1. **Staffing requirements.** The license holder must provide the level of direct service support staff supervision, assistance, and training necessary:

(1) to ensure the health, safety, and protection of rights of each person; and

(2) to be able to implement the responsibilities assigned to the license holder in each person's support plan or identified in the support plan addendum, according to the requirements of this chapter.

Subd. 2. **Supervision of staff having direct contact.** Except for a license holder who is the sole direct support staff, the license holder must provide adequate supervision of staff providing direct support to ensure the health, safety, and protection of rights of each person and implementation of the responsibilities assigned to the license holder in each person's support plan or support plan addendum.

Subd. 3. **Staff qualifications.** (a) The license holder must ensure that staff providing direct support, or staff who have responsibilities related to supervising or managing the provision of direct support service, are competent as demonstrated through skills and knowledge training, experience, and education relevant to the primary disability of the person and to meet the person's needs and additional requirements as written in the support plan or support plan addendum, or when otherwise required by the case manager or the federal waiver plan. The license holder must verify and maintain evidence of staff competency, including documentation of:

(1) education and experience qualifications relevant to the job responsibilities assigned to the staff and to the primary disability of persons served by the program, including a valid degree and transcript, or a current license, registration, or certification, when a degree or licensure, registration, or certification is required by this chapter or in the support plan or support plan addendum;

(2) demonstrated competency in the orientation and training areas required under this chapter, and when applicable, completion of continuing education required to maintain professional licensure, registration, or certification requirements. Competency in these areas is determined by the license holder through knowledge testing or observed skill assessment conducted by the trainer or instructor or by an individual who has been previously deemed competent by the trainer or instructor in the area being assessed; and

(3) except for a license holder who is the sole direct support staff, periodic performance evaluations completed by the license holder of the direct support staff person's ability to perform the job functions based on direct observation.

(b) Staff under 18 years of age may not perform overnight duties.

Subd. 4. **Orientation to program requirements.** Except for a license holder who does not supervise any direct support staff, within 60 calendar days of hire, unless stated otherwise, the license holder must provide and ensure completion of orientation sufficient to create staff competency for direct support staff that combines supervised on-the-job training with review of and instruction in the following areas:

(1) the job description and how to complete specific job functions, including:

(i) responding to and reporting incidents as required under section 245D.06, subdivision 1; and

(ii) following safety practices established by the license holder and as required in section 245D.06, subdivision 2;

(2) the license holder's current policies and procedures required under this chapter, including their location and access, and staff responsibilities related to implementation of those policies and procedures;

(3) data privacy requirements according to sections 13.01 to 13.10 and 13.46, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), and staff responsibilities related to complying with data privacy practices;

(4) the service recipient rights and staff responsibilities related to ensuring the exercise and protection of those rights according to the requirements in section 245D.04;

(5) sections 245A.65, 245A.66, and 626.557 and chapter 260E governing maltreatment reporting and service planning for children and vulnerable adults, and staff responsibilities related to protecting persons from maltreatment and reporting maltreatment. This orientation must be provided within 72 hours of first providing direct contact services and annually thereafter according to section 245A.65, subdivision 3;

(6) the principles of person-centered service planning and delivery as identified in section 245D.07, subdivision 1a, and how they apply to direct support service provided by the staff person;

(7) the safe and correct use of manual restraint on an emergency basis according to the requirements in section 245D.061 or successor provisions, and what constitutes the use of restraints, time out, and seclusion, including chemical restraint;

(8) staff responsibilities related to prohibited procedures under section 245D.06, subdivision 5, or successor provisions, why such procedures are not effective for reducing or eliminating symptoms or undesired behavior, and why such procedures are not safe;

(9) basic first aid;

(10) strategies to minimize the risk of sexual violence, including concepts of healthy relationships, consent, and bodily autonomy of people with disabilities; and

(11) other topics as determined necessary in the person's support plan by the case manager or other areas identified by the license holder.

Subd. 4a. **Orientation to individual service recipient needs.** (a) Before having unsupervised direct contact with a person served by the program, or for whom the staff person has not previously provided direct support, or any time the plans or procedures identified in paragraphs (b) to (f) are revised, the staff person must review and receive instruction on the requirements in paragraphs (b) to (f) as they relate to the staff person's job functions for that person.

(b) For community residential services, training and competency evaluations must include the following, if identified in the support plan:

(1) appropriate and safe techniques in personal hygiene and grooming, including hair care; bathing; care of teeth, gums, and oral prosthetic devices; and other activities of daily living (ADLs) as defined under section 256B.0659, subdivision 1;

(2) an understanding of what constitutes a healthy diet according to data from the Centers for Disease Control and Prevention and the skills necessary to prepare that diet; and

(3) skills necessary to provide appropriate support in instrumental activities of daily living (IADLs) as defined under section 256B.0659, subdivision 1.

(c) The staff person must review and receive instruction on the person's support plan or support plan addendum as it relates to the responsibilities assigned to the license holder, and when applicable, the person's individual abuse prevention plan, to achieve and demonstrate an understanding of the person as a unique individual, and how to implement those plans.

(d) The staff person must review and receive instruction on medication setup, assistance, or administration procedures established for the person when assigned to the license holder according to section 245D.05, subdivision 1, paragraph (b). Unlicensed staff may perform medication setup or medication administration only after successful completion of a medication setup or medication administration training, from a training curriculum developed by a registered nurse or appropriate licensed health professional. The training curriculum

must incorporate an observed skill assessment conducted by the trainer to ensure unlicensed staff demonstrate the ability to safely and correctly follow medication procedures.

Medication administration must be taught by a registered nurse, clinical nurse specialist, certified nurse practitioner, physician assistant, or physician if, at the time of service initiation or any time thereafter, the person has or develops a health care condition that affects the service options available to the person because the condition requires:

(1) specialized or intensive medical or nursing supervision; and

(2) nonmedical service providers to adapt their services to accommodate the health and safety needs of the person.

(e) The staff person must review and receive instruction on the safe and correct operation of medical equipment used by the person to sustain life or to monitor a medical condition that could become life-threatening without proper use of the medical equipment, including but not limited to ventilators, feeding tubes, or endotracheal tubes. The training must be provided by a licensed health care professional or a manufacturer's representative and incorporate an observed skill assessment to ensure staff demonstrate the ability to safely and correctly operate the equipment according to the treatment orders and the manufacturer's instructions.

(f) The staff person must review and receive instruction on mental health crisis response, de-escalation techniques, and suicide intervention when providing direct support to a person with a serious mental illness.

(g) In the event of an emergency service initiation, the license holder must ensure the training required in this subdivision occurs within 72 hours of the direct support staff person first having unsupervised contact with the person receiving services. The license holder must document the reason for the unplanned or emergency service initiation and maintain the documentation in the person's service recipient record.

(h) License holders who provide direct support services themselves must complete the orientation required in subdivision 4, clauses (3) to (11).

Subd. 5. **Annual training.** (a) A license holder must provide annual training to direct support staff on the topics identified in subdivision 4, clauses (3) to (11). A license holder may delay annual training up to 90 calendar days following the date by which the direct care staff would otherwise be required to receive the annual training.

(b) If the direct support staff has a first aid certification, annual training under subdivision 4, clause (9), is not required as long as the certification remains current.

Subd. 5a. **Alternative sources of training.** Orientation or training received by the staff person from sources other than the license holder in the same subjects as identified in subdivision 4 may count toward the orientation and annual training requirements if received in the 12-month period before the staff person's date of hire. The license holder must maintain documentation of the training received from other sources and of each staff person's competency in the required area according to the requirements in subdivision 3.

Subd. 6. **Subcontractors and temporary staff.** If the license holder uses a subcontractor or temporary staff to perform services licensed under this chapter on the license holder's behalf, the license holder must ensure that the subcontractor or temporary staff meets and maintains compliance with all requirements under this chapter that apply to the services to be provided, including training, orientation, and supervision necessary to fulfill their responsibilities. The license holder must ensure that a background study has been completed according to the requirements in sections 245C.03, subdivision 1, and 245C.04. Subcontractors and temporary

staff hired by the license holder must meet the Minnesota licensing requirements applicable to the disciplines in which they are providing services. The license holder must maintain documentation that the applicable requirements have been met.

Subd. 7. **Volunteers.** The license holder must ensure that volunteers who provide direct support services to persons served by the program receive the training, orientation, and supervision necessary to fulfill their responsibilities. The license holder must ensure that a background study has been completed according to the requirements in sections 245C.03, subdivision 1, and 245C.04. The license holder must maintain documentation that the applicable requirements have been met.

Subd. 8. **Staff orientation and training plan.** The license holder must develop a staff orientation and training plan documenting when and how compliance with subdivisions 4, 4a, and 5 will be met.

History: *2012 c 216 art 18 s 24; 2013 c 108 art 8 s 32; 2014 c 291 art 4 s 58; art 8 s 3-5; 2014 c 312 art 27 s 41,42; 2015 c 71 art 7 s 18,19; 2017 c 90 s 13,14; 1Sp2019 c 9 art 5 s 14,15; 1Sp2020 c 2 art 2 s 6-8; art 8 s 66; 2022 c 98 art 17 s 26; 2024 c 108 art 1 s 7; 2026 c 95 art 4 s 8*

245D.091 INTERVENTION SERVICES.

Subdivision 1. **Licensure requirements.** An individual meeting the staff qualification requirements of this section who is an employee of a program licensed according to this chapter and providing behavioral support services, specialist services, or crisis respite services is not required to hold a separate license under this chapter. An individual meeting the staff qualifications of this section who is not providing these services as an employee of a program licensed according to this chapter must obtain a license according to this chapter.

Subd. 2. **Positive support professional qualifications.** A positive support professional providing positive support services as identified in section 245D.03, subdivision 1, paragraph (c), clause (1), item (i), must have competencies in the following areas as required under the brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans or successor plans:

(1) ethical considerations;

(2) functional assessment;

(3) functional analysis;

(4) measurement of behavior and interpretation of data;

(5) selecting intervention outcomes and strategies;

(6) behavior reduction and elimination strategies that promote least restrictive approved alternatives;

(7) data collection;

(8) staff and caregiver training;

(9) support plan monitoring;

(10) co-occurring mental disorders or neurocognitive disorder;

(11) demonstrated expertise with populations being served; and

(12) must be a:

(i) psychologist licensed under sections 148.88 to 148.98, who has stated to the Board of Psychology competencies in the above identified areas;

(ii) clinical social worker licensed as an independent clinical social worker under chapter 148E, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the areas identified in clauses (1) to (11);

(iii) physician licensed under chapter 147 and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry with competencies in the areas identified in clauses (1) to (11);

(iv) licensed professional clinical counselor licensed under sections 148B.50 to 148B.75 with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services who has demonstrated competencies in the areas identified in clauses (1) to (11);

(v) person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services with demonstrated competencies in the areas identified in clauses (1) to (11);

(vi) person with a master's degree or PhD in one of the behavioral sciences or related fields with demonstrated expertise in positive support services, as determined by the person's needs as outlined in the person's assessment summary;

(vii) registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist or as a nurse practitioner in adult or family psychiatric and mental health nursing by a national nurse certification organization, or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services; or

(viii) person who has completed a competency-based training program as determined by the commissioner.

Subd. 3. **Positive support analyst qualifications.** (a) A positive support analyst providing positive support services as identified in section 245D.03, subdivision 1, paragraph (c), clause (1), item (i), must satisfy one of the following requirements as required under the brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans or successor plans:

(1) have obtained a baccalaureate degree, master's degree, or PhD in either a social services discipline or nursing;

(2) meet the qualifications of a mental health practitioner as defined in section 245.462, subdivision 17;

(3) be a licensed behavior analyst or a board-certified assistant behavior analyst certified by the Behavior Analyst Certification Board, Incorporated; or

(4) have completed a competency-based training program as determined by the commissioner.

(b) In addition, a positive support analyst must:

(1) either have two years of supervised experience conducting functional behavior assessments and designing, implementing, and evaluating effectiveness of positive practices behavior support strategies for people who exhibit challenging behaviors as well as co-occurring mental disorders and neurocognitive

disorder, or for those who have obtained a baccalaureate degree in one of the behavioral sciences or related fields, demonstrated expertise in positive support services;

(2) have received training prior to hire or within 90 calendar days of hire that includes:

(i) ten hours of instruction in functional assessment and functional analysis;

(ii) 20 hours of instruction in the understanding of the function of behavior;

(iii) ten hours of instruction on design of positive practices behavior support strategies;

(iv) 20 hours of instruction preparing written intervention strategies, designing data collection protocols, training other staff to implement positive practice strategies, summarizing and reporting program evaluation data, analyzing program evaluation data to identify design flaws in behavioral interventions or failures in implementation fidelity, and recommending enhancements based on evaluation data; and

(v) eight hours of instruction on principles of person-centered thinking;

(3) be determined by a positive support professional to have the training and prerequisite skills required to provide positive practice strategies as well as behavior reduction approved and permitted intervention to the person who receives positive support; and

(4) be under the direct supervision of a positive support professional.

(c) Meeting the qualifications for a positive support professional under subdivision 2 shall substitute for meeting the qualifications listed in paragraph (b).

Subd. 4. **Positive support specialist qualifications.** (a) A positive support specialist providing positive support services as identified in section 245D.03, subdivision 1, paragraph (c), clause (1), item (i), must have competencies in one of the following areas as required under the brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans or successor plans:

(1) have an associate's degree in either a social services discipline or nursing; or

(2) have two years of supervised experience working with individuals who exhibit challenging behaviors as well as co-occurring mental disorders or neurocognitive disorder.

(b) In addition, a behavior specialist must:

(1) have received training prior to hire or within 90 calendar days of hire that includes:

(i) a minimum of four hours of training in functional assessment;

(ii) 20 hours of instruction in the understanding of the function of behavior;

(iii) ten hours of instruction on design of positive practices behavioral support strategies; and

(iv) eight hours of instruction on principles of person-centered thinking;

(2) be determined by a positive support professional to have the training and prerequisite skills required to provide positive practices strategies as well as behavior reduction approved intervention to the person who receives positive support; and

(3) be under the direct supervision of a positive support professional.

(c) Meeting the qualifications for a positive support professional under subdivision 2 shall substitute for meeting the qualifications listed in paragraphs (a) and (b).

Subd. 5. **Specialist services qualifications.** An individual providing specialist services, as defined in the developmental disabilities waiver plan or successor plan, must have:

(1) the specific experience and skills required of the specialist to meet the needs of the person identified by the person's service planning team; and

(2) the qualifications of the specialist identified in the person's support plan.

History: *2013 c 108 art 8 s 33; 2014 c 312 art 27 s 43-45; 2015 c 78 art 6 s 31; 1Sp2019 c 9 art 5 s 16-18; 2022 c 98 art 17 s 26; 2024 c 108 art 1 s 8,9; 2025 c 20 s 202; 2025 c 38 art 1 s 5; 1Sp2025 c 9 art 2 s 6,7; 2026 c 95 art 4 s 9,10*

245D.095 RECORD REQUIREMENTS.

Subdivision 1. **Record-keeping systems.** The license holder must ensure that the content and format of service recipient, personnel, and program records are uniform and legible according to the requirements of this chapter.

Subd. 2. **Admission and discharge register.** The license holder must keep a written or electronic register, listing in chronological order the dates and names of all persons served by the program who have been admitted, discharged, or transferred, including service terminations initiated by the license holder and deaths.

Subd. 3. **Service recipient record.** (a) The license holder must maintain a record of current services provided to each person on the premises where the services are provided or coordinated. When the services are provided in a licensed facility, the records must be maintained at the facility, otherwise the records must be maintained at the license holder's program office. The license holder must protect service recipient records against loss, tampering, or unauthorized disclosure according to the requirements in sections 13.01 to 13.10 and 13.46.

(b) The license holder must maintain the following information for each person:

(1) an admission form signed by the person or the person's legal representative that includes:

(i) identifying information, including the person's name, date of birth, address, and telephone number; and

(ii) the name, address, and telephone number of the person's legal representative, if any, and a primary emergency contact, the case manager, and family members or others as identified by the person or case manager;

(2) service information, including service initiation information, verification of the person's eligibility for services, documentation verifying that services have been provided as identified in the support plan or support plan addendum according to paragraph (a), and date of admission or readmission;

(3) health information, including medical history, special dietary needs, and allergies, and when the license holder is assigned responsibility for meeting the person's health service needs according to section 245D.05:

(i) current orders for medication, treatments, or medical equipment and a signed authorization from the person or the person's legal representative to administer or assist in administering the medication or treatments, if applicable;

(ii) a signed statement authorizing the license holder to act in a medical emergency when the person's legal representative, if any, cannot be reached or is delayed in arriving;

(iii) medication administration procedures;

(iv) a medication administration record documenting the implementation of the medication administration procedures, and the medication administration record reviews, including any agreements for administration of injectable medications by the license holder according to the requirements in section 245D.05; and

(v) a medical appointment schedule when the license holder is assigned responsibility for assisting with medical appointments;

(4) the person's current support plan or that portion of the plan assigned to the license holder;

(5) copies of the individual abuse prevention plan and assessments as required under section 245D.071, subdivisions 2 and 3;

(6) a record of other service providers serving the person when the person's support plan or support plan addendum identifies the need for coordination between the service providers, that includes a contact person and telephone numbers, services being provided, and names of staff responsible for coordination;

(7) documentation of orientation to service recipient rights according to section 245D.04, subdivision 1, and maltreatment reporting policies and procedures according to section 245A.65, subdivision 1, paragraph (c);

(8) copies of authorizations to handle a person's funds, according to section 245D.06, subdivision 4, paragraph (a);

(9) documentation of complaints received and grievance resolution;

(10) incident reports involving the person, required under section 245D.06, subdivision 1;

(11) copies of written reports regarding the person's status when requested according to section 245D.07, subdivision 3, progress review reports as required under section 245D.071, subdivision 5, progress or daily log notes that are recorded by the program, and reports received from other agencies involved in providing services or care to the person; and

(12) discharge summary, including service termination notice and related documentation, when applicable.

Subd. 4. **Access to service recipient records.** The license holder must ensure that the following people have access to the information in subdivision 1 in accordance with applicable state and federal laws, regulations, or rules:

(1) the person, the person's legal representative, and anyone properly authorized by the person;

(2) the person's case manager;

(3) staff providing services to the person unless the information is not relevant to carrying out the support plan or support plan addendum; and

(4) the county child or adult foster care licensor, when services are also licensed as child or adult foster care.

Subd. 5. **Personnel records.** (a) The license holder must maintain a personnel record of each employee to document and verify staff qualifications, orientation, and training. The personnel record must include:

(1) the employee's date of hire, completed application, an acknowledgment signed by the employee that job duties were reviewed with the employee and the employee understands those duties, and documentation that the employee meets the position requirements as determined by the license holder;

(2) documentation of staff qualifications, orientation, training, and performance evaluations as required under section 245D.09, subdivisions 3 to 5, including the date the training was completed, the number of hours per subject area, and the name of the trainer or instructor; and

(3) a completed background study as required under chapter 245C.

(b) For employees hired after January 1, 2014, the license holder must maintain documentation in the personnel record or elsewhere, sufficient to determine the date of the employee's first supervised direct contact with a person served by the program, and the date of first unsupervised direct contact with a person served by the program.

History: *2013 c 108 art 8 s 34; 2022 c 98 art 17 s 26*

245D.097 HOUSING ACCOUNTS REQUIRED.

Subdivision 1. **Housing accounts required.** If payment passes between the license holder or any controlling individual of a licensed program and a service recipient or an entity acting on the service recipient's behalf for the purpose of obtaining or maintaining a living unit in a multifamily housing building where the license holder delivers home and community-based services licensed under this chapter and owns, leases, or has a direct or indirect financial relationship with the property owner, the license holder must for each service recipient:

(1) keep accurate accounts of all money the license holder receives from the service recipient or an entity acting on the service recipient's behalf;

(2) deposit all money received in a specific service recipient account or subaccount dedicated to receiving and paying each service recipient's housing costs directly to the property owner, even if the property owner is the license holder;

(3) provide monthly and upon demand to the service recipient, or the entity acting on the service recipient's behalf, and the service recipient's case manager a statement of the amount of all money received from the service recipient or entity acting on the service recipient's behalf, all money deposited in the service recipient's account, and all withdrawals made from the service recipient's account; and

(4) provide upon demand the same information described in clause (3) to the commissioner.

Subd. 2. **Use of money in the service recipient's account.** The money in the service recipient's account must be used exclusively for expenses associated with the service recipient obtaining or maintaining a living unit in a multifamily housing building.

Subd. 3. **Application.** This section continues to apply when a service recipient chooses to not receive services from the license holder but continues to make payments to the license holder for the purposes of obtaining or maintaining a living unit.

Subd. 4. **Other laws.** The license holder must comply with the requirements of section 245A.04, subdivision 13.

History: *2026 c 95 art 8 s 1*

245D.10 POLICIES AND PROCEDURES.

Subdivision 1. **Policy and procedure requirements.** A license holder providing either basic or intensive supports and services must establish, enforce, and maintain policies and procedures as required in this chapter, chapter 245A, and other applicable state and federal laws and regulations governing the provision of home and community-based services licensed according to this chapter. A license holder must use forms provided by the commissioner to report service suspensions and service terminations under subdivisions 3 and 3a.

Subd. 1a. **Prohibited condition of service provision.** A license holder is prohibited from requiring a person to have or obtain a guardian or conservator as a condition of receiving or continuing to receive services regulated under this chapter.

Subd. 2. **Grievances.** The license holder must establish policies and procedures that promote service recipient rights by providing a simple complaint process for persons served by the program and their authorized representatives to bring a grievance that:

(1) provides staff assistance with the complaint process when requested, and the addresses and telephone numbers of outside agencies to assist the person;

(2) allows the person to bring the complaint to the highest level of authority in the program if the grievance cannot be resolved by other staff members, and that provides the name, address, and telephone number of that person;

(3) requires the license holder to promptly respond to all complaints affecting a person's health and welfare. For all other complaints, the license holder must provide an initial response within 14 calendar days of receipt of the complaint. All complaints must be resolved within 30 calendar days of receipt or the license holder must document the reason for the delay and a plan for resolution;

(4) requires a complaint review that includes an evaluation of whether:

(i) related policies and procedures were followed and adequate;

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

(iii) the complaint is similar to past complaints with the persons, staff, or services involved; and

(iv) there is a need for corrective action by the license holder to protect the health and welfare of persons receiving services;

(5) based on the review in clause (4), requires the license holder to develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by staff or the license holder, if any;

(6) provides a written summary of the complaint and a notice of the complaint resolution to the person and case manager that:

(i) identifies the nature of the complaint and the date it was received;

(ii) includes the results of the complaint review;

(iii) identifies the complaint resolution, including any corrective action; and

(7) requires that the complaint summary and resolution notice be maintained in the service recipient record.

Subd. 3. **Service suspension.** (a) The license holder must establish policies and procedures for temporary service suspension that promote continuity of care and service coordination with the person and the case manager and with other licensed caregivers, if any, who also provide support to the person. The policy must include the requirements specified in paragraphs (b) to (f).

(b) The license holder must limit temporary service suspension to situations in which:

(1) the person's conduct poses an imminent risk of physical harm to self or others and either positive support strategies have been implemented to resolve the issues leading to the temporary service suspension but have not been effective and additional positive support strategies would not achieve and maintain safety, or less restrictive measures would not resolve the issues leading to the suspension;

(2) the person has emergent medical issues that exceed the license holder's ability to meet the person's needs; or

(3) the program has not been paid for services, except an interruption to the person's public benefits that has lasted less than 60 days does not constitute nonpayment.

(c) Prior to giving notice of temporary service suspension, the license holder must document actions taken to minimize or eliminate the need for service suspension. Action taken by the license holder must include, at a minimum:

(1) consultation with the person's support team or expanded support team to identify and resolve issues leading to issuance of the notice; and

(2) a request to the case manager for intervention services identified in section 245D.03, subdivision 1, paragraph (c), clause (1), or other professional consultation or intervention services to support the person in the program. This requirement does not apply to temporary suspensions issued under paragraph (b), clause (3).

If, based on the best interests of the person, the circumstances at the time of the notice were such that the license holder was unable to take the action specified in clauses (1) and (2), the license holder must document the specific circumstances and the reason for being unable to do so.

(d) The notice of temporary service suspension must meet the following requirements:

(1) the license holder must notify the person or the person's legal representative and case manager in writing of the intended temporary service suspension. If the temporary service suspension is from residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), or from integrated community supports as defined in section 245D.03, subdivision 1, paragraph (c), clause (8), the license holder must also notify the commissioner in writing;

(2) notice of temporary service suspension must be given on the first day of the service suspension; and

(3) the notice must include the reason for the action, a summary of actions taken to minimize or eliminate the need for temporary service suspension as required under paragraph (c), and why these measures failed to prevent the suspension.

(e) During the temporary suspension period, the license holder must:

(1) provide information requested by the person or case manager;

(2) work with the support team or expanded support team to develop reasonable alternatives to protect the person and others and to support continuity of care; and

(3) maintain information about the service suspension, including the written notice of temporary service suspension, in the service recipient record.

(f) If, based on a review by the person's support team or expanded support team, that team determines the person no longer poses an imminent risk of physical harm to self or others, the person has a right to return to receiving services. If, at the time of the service suspension or at any time during the suspension, the person is receiving treatment related to the conduct that resulted in the service suspension, the support team or expanded support team must consider the recommendation of the licensed health professional, mental health professional, or other licensed professional involved in the person's care or treatment when determining whether the person no longer poses an imminent risk of physical harm to self or others and can return to the program. If the support team or expanded support team makes a determination that is contrary to the recommendation of a licensed professional treating the person, the license holder must document the specific reasons why a contrary decision was made.

Subd. 3a. **Service termination.** (a) The license holder must establish policies and procedures for service termination that promote continuity of care and service coordination with the person and the case manager and with other licensed caregivers, if any, who also provide support to the person. The policy must include the requirements specified in paragraphs (b) to (f).

(b) The license holder must permit each person to remain in the program or to continue receiving services and must not terminate services unless:

(1) the termination is necessary for the person's welfare and the license holder cannot meet the person's needs;

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

(3) the health of the person, others in the program, or staff would otherwise be endangered;

(4) the license holder has not been paid for services, except an interruption to a person's public benefits that has lasted less than 60 days does not constitute nonpayment;

(5) the program or license holder ceases to operate;

(6) the person has been terminated by the lead agency from waiver eligibility; or

(7) for state-operated community-based services, the person no longer demonstrates complex behavioral needs that cannot be met by private community-based providers identified in section 246C.11, subdivision 4a, paragraph (a), clause (1).

(c) Prior to giving notice of service termination, the license holder must document actions taken to minimize or eliminate the need for termination. Action taken by the license holder must include, at a minimum:

(1) consultation with the person's support team or expanded support team to identify and resolve issues leading to issuance of the termination notice;

(2) a request to the case manager for intervention services identified in section 245D.03, subdivision 1, paragraph (c), clause (1), or other professional consultation or intervention services to support the person in the program. This requirement does not apply to notices of service termination issued under paragraph (b), clauses (4) and (7); and

(3) for state-operated community-based services terminating services under paragraph (b), clause (7), the state-operated community-based services must engage in consultation with the person's support team or expanded support team to:

(i) identify that the person no longer demonstrates complex behavioral needs that cannot be met by private community-based providers identified in section 246C.11, subdivision 4a, paragraph (a), clause (1);

(ii) provide notice of intent to issue a termination of services to the lead agency when a finding has been made that a person no longer demonstrates complex behavioral needs that cannot be met by private community-based providers identified in section 246C.11, subdivision 4a, paragraph (a), clause (1);

(iii) assist the lead agency and case manager in developing a person-centered transition plan to a private community-based provider to ensure continuity of care; and

(iv) coordinate with the lead agency to ensure the private community-based service provider is able to meet the person's needs and criteria established in a person's person-centered transition plan.

If, based on the best interests of the person, the circumstances at the time of the notice were such that the license holder was unable to take the action specified in clauses (1) and (2), the license holder must document the specific circumstances and the reason for being unable to do so.

(d) The notice of service termination must meet the following requirements:

(1) the license holder must notify the person or the person's legal representative and the case manager in writing of the intended service termination. If the service termination is from residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), or from integrated community supports as defined in section 245D.03, subdivision 1, paragraph (c), clause (8), the license holder must also notify the commissioner in writing; and

(2) the notice must include:

(i) the reason for the action;

(ii) except for a service termination under paragraph (b), clause (5), a summary of actions taken to minimize or eliminate the need for service termination or temporary service suspension as required under paragraph (c), and why these measures failed to prevent the termination or suspension;

(iii) the person's right to appeal the termination of services under section 256.045, subdivision 3, paragraph (a); and

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

(e) Notice of the proposed termination of service, including those situations that began with a temporary service suspension, must be given at least 90 days prior to termination of services under paragraph (b), clause (7), 60 days prior to termination when a license holder is providing intensive supports and services identified in section 245D.03, subdivision 1, paragraph (c), and 30 days prior to termination for all other services licensed under this chapter. This notice may be given in conjunction with a notice of temporary service suspension under subdivision 3.

(f) During the service termination notice period, the license holder must:

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

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

(3) maintain information about the service termination, including the written notice of intended service termination, in the service recipient record.

(g) For notices issued under paragraph (b), clause (7), the lead agency shall provide notice to the commissioner and the Direct Care and Treatment executive board at least 30 days before the conclusion of the 90-day termination period, if an appropriate alternative provider cannot be secured. Upon receipt of this notice, the commissioner and the executive board shall reassess whether a private community-based service can meet the person's needs. If the commissioner determines that a private provider can meet the person's needs, the executive board shall, if necessary, extend notice of service termination until placement can be made. If the commissioner determines that a private provider cannot meet the person's needs, the executive board shall rescind the notice of service termination and re-engage with the lead agency in service planning for the person.

(h) For state-operated community-based services, the license holder shall prioritize the capacity created within the existing service site by the termination of services under paragraph (b), clause (7), to serve persons described in section 246C.11, subdivision 4a, paragraph (a), clause (1).

Subd. 4. **Availability of current written policies and procedures.** (a) The license holder must review and update, as needed, the written policies and procedures required under this chapter.

(b)(1) The license holder must inform the person, the person's legal representative, and the person's case manager of the policies and procedures affecting a person's rights under section 245D.04, and provide copies of those policies and procedures, within five working days of service initiation.

(2) If a license holder only provides basic services and supports, this includes the:

(i) grievance policy and procedure required under subdivision 2;

(ii) service suspension and termination policy and procedure required under subdivision 3; and

(iii) emergency use of manual restraints policy and procedure required under section 245D.061, subdivision 9, or successor provisions.

(3) For all other license holders this includes the:

(i) policies and procedures in clause (2); and

(ii) data privacy requirements under section 245D.11, subdivision 3.

(c) The license holder must provide a written notice to all persons or their legal representatives and case managers at least 30 days before implementing any procedural revisions to policies affecting a person's service-related or protection-related rights under section 245D.04 and maltreatment reporting policies and procedures. The notice must explain the revision that was made and include a copy of the revised policy and procedure. The license holder must document the reasonable cause for not providing the notice at least 30 days before implementing the revisions.

(d) Before implementing revisions to required policies and procedures, the license holder must inform all employees of the revisions and provide training on implementation of the revised policies and procedures.

(e) The license holder must annually notify all persons, or their legal representatives, and case managers of any procedural revisions to policies required under this chapter, other than those in paragraph (c). Upon request, the license holder must provide the person, or the person's legal representative, and case manager with copies of the revised policies and procedures.

History: *2012 c 216 art 18 s 25; 2013 c 108 art 8 s 35; 2014 c 275 art 1 s 51,140; 2014 c 312 art 27 s 46,47,77; 2015 c 78 art 6 s 4,5; 1Sp2020 c 2 art 5 s 25; 2022 c 98 art 5 s 1; 2024 c 79 art 9 s 7; 2024 c 108 art 1 s 10; 2025 c 38 art 1 s 6; art 3 s 86; 2026 c 95 art 8 s 2,3; 2026 c 121 art 4 s 24*

245D.11 POLICIES AND PROCEDURES; INTENSIVE SUPPORT SERVICES.

Subdivision 1. **Policy and procedure requirements.** A license holder providing intensive support services as identified in section 245D.03, subdivision 1, paragraph (c), must establish, enforce, and maintain policies and procedures as required in this section.

Subd. 2. **Health and welfare.** The license holder must establish policies and procedures that promote health and welfare by ensuring:

(1) use of universal precautions and sanitary practices in compliance with section 245D.06, subdivision 2, clause (5);

(2) if the license holder operates a residential program, health service coordination and care according to the requirements in section 245D.05, subdivision 1;

(3) safe medication assistance and administration according to the requirements in sections 245D.05, subdivisions 1a, 2, and 5, and 245D.051, that are established in consultation with a registered nurse, advanced practice registered nurse, physician assistant, or medical doctor and require completion of medication administration training according to the requirements in section 245D.09, subdivision 4a, paragraph (d). Medication assistance and administration includes, but is not limited to:

(i) providing medication-related services for a person;

(ii) medication setup;

(iii) medication administration;

(iv) medication storage and security;

(v) medication documentation and charting;

(vi) verification and monitoring of effectiveness of systems to ensure safe medication handling and administration;

(vii) coordination of medication refills;

(viii) handling changes to prescriptions and implementation of those changes;

(ix) communicating with the pharmacy; and

(x) coordination and communication with prescriber;

(4) safe transportation, when the license holder is responsible for transportation of persons, with provisions for handling emergency situations according to the requirements in section 245D.06, subdivision 2, clauses (2) to (4);

(5) a plan for ensuring the safety of persons served by the program in emergencies as defined in section 245D.02, subdivision 8, and procedures for staff to report emergencies to the license holder. A license holder with a community residential setting or a day service facility license must ensure the policy and procedures comply with the requirements in section 245D.22, subdivision 4;

(6) a plan for responding to all incidents as defined in section 245D.02, subdivision 11; and reporting all incidents required to be reported according to section 245D.06, subdivision 1. The plan must:

(i) provide the contact information of a source of emergency medical care and transportation; and

(ii) require staff to first call 911 when the staff believes a medical emergency may be life threatening, or to call the mental health crisis intervention team or similar mental health response team or service when such a team is available and appropriate when the person is experiencing a mental health crisis; and

(7) a procedure for the review of incidents and emergencies to identify trends or patterns, and corrective action if needed. The license holder must establish and maintain a record-keeping system for the incident and emergency reports. Each incident and emergency report file must contain a written summary of the incident. The license holder must conduct a review of incident reports for identification of incident patterns, and implementation of corrective action as necessary to reduce occurrences. Each incident report must include:

(i) the name of the person or persons involved in the incident. It is not necessary to identify all persons affected by or involved in an emergency unless the emergency resulted in an incident;

(ii) the date, time, and location of the incident or emergency;

(iii) a description of the incident or emergency;

(iv) a description of the response to the incident or emergency and whether a person's support plan addendum or program policies and procedures were implemented as applicable;

(v) the name of the staff person or persons who responded to the incident or emergency; and

(vi) the determination of whether corrective action is necessary based on the results of the review.

Subd. 3. **Data privacy.** The license holder must establish policies and procedures that promote service recipient rights by ensuring data privacy according to the requirements in:

(1) the Minnesota Government Data Practices Act, section 13.46, and all other applicable Minnesota laws and rules in handling all data related to the services provided; and

(2) the Health Insurance Portability and Accountability Act of 1996 (HIPAA), to the extent that the license holder performs a function or activity involving the use of protected health information as defined under Code of Federal Regulations, title 45, section 164.501, including, but not limited to, providing health

care services; health care claims processing or administration; data analysis, processing, or administration; utilization review; quality assurance; billing; benefit management; practice management; repricing; or as otherwise provided by Code of Federal Regulations, title 45, section 160.103. The license holder must comply with the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, Code of Federal Regulations, title 45, parts 160 to 164, and all applicable requirements.

Subd. 4. **Admission criteria.** The license holder must establish policies and procedures that promote continuity of care by ensuring that admission or service initiation criteria:

(1) is consistent with the service-related rights identified in section 245D.04, subdivisions 2, clauses (4) to (7), and 3, clause (8);

(2) identifies the criteria to be applied in determining whether the license holder can develop services to meet the needs specified in the person's support plan;

(3) requires a license holder providing services in a health care facility to comply with the requirements in section 243.166, subdivision 4b, to provide notification to residents when a registered predatory offender is admitted into the program or to a potential admission when the facility was already serving a registered predatory offender. For purposes of this clause, "health care facility" means a facility licensed by the commissioner as a residential facility under chapter 245A to provide adult foster care or residential services to persons with disabilities;

(4) requires that when a person or the person's legal representative requests services from the license holder, a refusal to admit the person must be based on an evaluation of the person's assessed needs and the license holder's lack of capacity to meet the needs of the person. The license holder must not refuse to admit a person based solely on the type of residential services the person is receiving, or solely on the person's severity of disability, orthopedic or neurological handicaps, sight or hearing impairments, lack of communication skills, physical disabilities, toilet habits, behavioral disorders, or past failure to make progress. Documentation of the basis for refusal must be provided to the person or the person's legal representative and case manager upon request; and

(5) requires the person or the person's legal representative and license holder to sign and date the residency agreement when the license holder provides foster care or supported living services under section 245D.03, subdivision 1, paragraph (c), clause (3), item (i) or (ii), to a person living in community residential settings defined in section 245D.02, subdivision 4a; an adult foster home defined in Minnesota Rules, part 9555.5105, subpart 5; or a foster family home defined in Minnesota Rules, part 9560.0521, subpart 12. The residency agreement must include service termination requirements specified in section 245D.10, subdivision 3a, paragraphs (b) to (f). The residency agreement must be reviewed annually, dated, and signed by the person or the person's legal representative and license holder.

History: *2013 c 108 art 8 s 36; 2014 c 275 art 1 s 52; 2014 c 291 art 4 s 58; 2014 c 312 art 27 s 48,77; 2017 c 90 s 15; 2020 c 115 art 4 s 82; 2022 c 98 art 17 s 26*

245D.12 INTEGRATED COMMUNITY SUPPORTS.

Subdivision 1. **Setting capacity report.** (a) The license holder providing integrated community support, as defined in section 245D.03, subdivision 1, paragraph (c), clause (8), must submit a setting capacity report to the commissioner to ensure the identified location of service delivery meets the criteria of the home and community-based service requirements as specified in section 256B.492.

(b) The license holder shall provide the setting capacity report on the forms and in the manner prescribed by the commissioner. The report must include:

(1) the address of the multifamily housing building where the license holder delivers integrated community supports and owns, leases, or has a direct or indirect financial relationship with the property owner;

(2) the total number of living units in the multifamily housing building described in clause (1) where integrated community supports are delivered;

(3) the total number of living units in the multifamily housing building described in clause (1), including the living units identified in clause (2);

(4) the total number of people who could reside in the living units in the multifamily housing building described in clause (2) and receive integrated community supports; and

(5) the percentage of living units that are controlled by the license holder in the multifamily housing building by dividing clause (2) by clause (3).

(c) Only one license holder may deliver integrated community supports at the address of the multifamily housing building.

Subd. 2. **Licensure moratorium.** (a) Except as permitted in this subdivision, the commissioner must not issue an initial license under this chapter authorizing integrated community supports under section 245D.03, subdivision 1, paragraph (c), clause (8), and must not approve a license change adding integrated community supports to an existing license under this chapter.

(b) The commissioner may approve an exception to the moratorium only when the applicant or licensee meets all requirements under subdivision 1, the request is not superseded by temporary moratoriums under section 245A.03, subdivision 7a, and the applicant submits documentation demonstrating compliance with:

(1) federal and state home and community-based services requirements for provider-controlled settings;

(2) the prohibition on the use of Medicaid money for room and board under United States Code, title 42, section 1396n(c); and

(3) all licensing requirements applicable to integrated community supports under this chapter.

(c) In determining whether to approve an exception, the commissioner must consider statewide and regional capacity for integrated community supports based on needs determination processes under section 245A.03, subdivision 7, paragraph (e).

(d) A determination under this subdivision is final and not subject to appeal.

History: *1Sp2019 c 9 art 5 s 19; 2022 c 98 art 4 s 14; 2026 c 121 art 9 s 5*

245D.13 OUT-OF-HOME RESPITE CARE SERVICES FOR CHILDREN.

Subdivision 1. **Licensed setting required.** A license holder with a home and community-based services license providing out-of-home respite care services for children may do so only in a licensed setting, unless exempt under subdivision 2. For purposes of this section, "respite care services" has the meaning given in section 245A.02, subdivision 15.

Subd. 2. **Exemption from licensed setting requirement.** (a) The exemption under this subdivision does not apply to the provision of respite care services to a child in foster care under chapter 260C or 260D.

(b) A license holder with a home and community-based services license may provide out-of-home respite care services for children in an unlicensed residential setting if:

(1) all background studies are completed according to the requirements in chapter 245C;

(2) a child's case manager conducts and documents an assessment of the residential setting and the setting's environment before services are provided and at least once each calendar year thereafter if services continue to be provided at that residence. The assessment must ensure that the setting is suitable for the child receiving respite care services. The assessment must be conducted and documented in the manner prescribed by the commissioner;

(3) the child's legal representative visits the residence and signs and dates a statement authorizing services in the residence before services are provided and at least once each calendar year thereafter if services continue to be provided at that residence;

(4) the services are provided in a residential setting that is not licensed to provide any other licensed services;

(5) the services are provided to no more than four children at any one time. Each child must have an individual bedroom, except two siblings may share a bedroom;

(6) the services are not provided to children and adults over the age of 21 in the same residence at the same time;

(7) the services are not provided to a single family for more than 46 calendar days in a calendar year and no more than ten consecutive days;

(8) the license holder's license was not made conditional, suspended, or revoked during the previous 24 months; and

(9) each individual in the residence at the time services are provided, other than individuals receiving services, is an employee, as defined under section 245C.02, of the license holder and has had a background study completed under chapter 245C. No other household members or other individuals may be present in the residence while services are provided.

(c) A child may not receive out-of-home respite care services in more than two unlicensed residential settings in a calendar year.

(d) The license holder must ensure the requirements in this section are met.

Subd. 3. **Documentation requirements.** The license holder must maintain documentation of the following:

(1) background studies completed under chapter 245C;

(2) service recipient records indicating the calendar dates and times when services were provided;

(3) the case manager's initial residential setting assessment and each residential assessment completed thereafter; and

(4) the legal representative's approval of the residential setting before services are provided and each year thereafter.

History: *1Sp2025 c 9 art 2 s 8*

NOTE: This section, as added by Laws 2025, First Special Session chapter 9, article 2, section 8, is effective upon federal approval. The commissioner of human services shall notify the revisor of statutes

when federal approval is obtained. Laws 2025, First Special Session chapter 9, article 2, section 8, the effective date.

FACILITY STANDARDS

245D.21 FACILITY LICENSURE REQUIREMENTS AND APPLICATION PROCESS.

Subdivision 1. **Community residential settings and day service facilities.** For purposes of this section, "facility" means both a community residential setting and day service facility and the physical plant.

Subd. 2. **Inspections and code compliance.** (a) Physical plants must comply with applicable state and local fire, health, building, and zoning codes.

(b)(1) The facility must be inspected by a fire marshal or their delegate within 12 months before initial licensure to verify that it meets the applicable occupancy requirements as defined in the State Fire Code and that the facility complies with the fire safety standards for that occupancy code contained in the State Fire Code.

(2) The fire marshal inspection of a community residential setting must verify the residence is a dwelling unit within a residential occupancy as defined in section 9.117 of the State Fire Code. A home safety checklist, approved by the commissioner, must be completed for a community residential setting by the license holder and the commissioner before the satellite license is reissued.

(3) The facility shall be inspected according to the facility capacity specified on the initial application form.

(4) If the commissioner has reasonable cause to believe that a potentially hazardous condition may be present or the licensed capacity is increased, the commissioner shall request a subsequent inspection and written report by a fire marshal to verify the absence of hazard.

(5) Any condition cited by a fire marshal, building official, or health authority as hazardous or creating an immediate danger of fire or threat to health and safety must be corrected before a license is issued by the department, and for community residential settings, before a license is reissued.

(c) The facility must maintain in a permanent file the reports of health, fire, and other safety inspections.

(d) The facility's plumbing, ventilation, heating, cooling, lighting, and other fixtures and equipment, including elevators or food service, if provided, must conform to applicable health, sanitation, and safety codes and regulations.

History: *2013 c 108 art 8 s 37*

245D.22 FACILITY SANITATION AND HEALTH.

Subdivision 1. **General maintenance.** The license holder must maintain the interior and exterior of buildings, structures, or enclosures used by the facility, including walls, floors, ceilings, registers, fixtures, equipment, and furnishings in good repair and in a sanitary and safe condition. The facility must be clean and free from accumulations of dirt, grease, garbage, peeling paint, mold, vermin, and insects. The license holder must correct building and equipment deterioration, safety hazards, and unsanitary conditions.

Subd. 2. **Hazards and toxic substances.** (a) The license holder must ensure that service sites owned or leased by the license holder are free from hazards that would threaten the health or safety of a person receiving services by ensuring the requirements in paragraphs (b) to (h) are met.

(b) Chemicals, detergents, and other hazardous or toxic substances must not be stored with food products or in any way that poses a hazard to persons receiving services.

(c) The license holder must install handrails and nonslip surfaces on interior and exterior runways, stairways, and ramps according to the applicable building code.

(d) If there are elevators in the facility, the license holder must have elevators inspected each year. The date of the inspection, any repairs needed, and the date the necessary repairs were made must be documented.

(e) The license holder must keep stairways, ramps, and corridors free of obstructions.

(f) Outside property must be free from debris and safety hazards. Exterior stairs and walkways must be kept free of ice and snow.

(g) Heating, ventilation, air conditioning units, and other hot surfaces and moving parts of machinery must be shielded or enclosed.

(h) Use of dangerous items or equipment by persons served by the program must be allowed in accordance with the person's support plan addendum or the program abuse prevention plan, if not addressed in the support plan addendum.

Subd. 3. **Storage and disposal of medication.** Schedule II controlled substances in the facility that are named in section 152.02, subdivision 3, must be stored in a locked storage area permitting access only by persons and staff authorized to administer the medication. This must be incorporated into the license holder's medication administration policy and procedures required under section 245D.11, subdivision 2, clause (3). Medications must be disposed of according to the Environmental Protection Agency recommendations.

Subd. 4. **First aid must be available on site.** (a) A staff person trained in first aid must be available on site and, when required in a person's support plan or support plan addendum, be able to provide cardiopulmonary resuscitation, whenever persons are present and staff are required to be at the site to provide direct service. The CPR training must include instruction, hands-on practice, and an observed skills assessment under the direct supervision of a CPR instructor.

(b) A facility must have first aid kits readily available for use by, and that meet the needs of, persons receiving services and staff. At a minimum, the first aid kit must be equipped with accessible first aid supplies including bandages, sterile compresses, scissors, an ice bag or cold pack, an oral or surface thermometer, mild liquid soap, adhesive tape, and first aid manual.

Subd. 5. **Emergencies.** (a) The license holder must have a written plan for responding to emergencies as defined in section 245D.02, subdivision 8, to ensure the safety of persons served in the facility. The plan must include:

(1) procedures for emergency evacuation and emergency sheltering, including:

(i) how to report a fire or other emergency;

(ii) procedures to notify, relocate, and evacuate occupants, including use of adaptive procedures or equipment to assist with the safe evacuation of persons with physical or sensory disabilities; and

(iii) instructions on closing off the fire area, using fire extinguishers, and activating and responding to alarm systems;

(2) a floor plan that identifies:

(i) the location of fire extinguishers;

(ii) the location of audible or visual alarm systems, including but not limited to manual fire alarm boxes, smoke detectors, fire alarm enunciators and controls, and sprinkler systems;

(iii) the location of exits, primary and secondary evacuation routes, and accessible egress routes, if any; and

(iv) the location of emergency shelter within the facility;

(3) a site plan that identifies:

(i) designated assembly points outside the facility;

(ii) the locations of fire hydrants; and

(iii) the routes of fire department access;

(4) the responsibilities each staff person must assume in case of emergency;

(5) procedures for conducting quarterly drills each year and recording the date of each drill in the file of emergency plans;

(6) procedures for relocation or service suspension when services are interrupted for more than 24 hours;

(7) for a community residential setting with three or more dwelling units, a floor plan that identifies the location of enclosed exit stairs; and

(8) an emergency escape plan for each resident.

(b) The license holder must:

(1) maintain a log of quarterly fire drills on file in the facility;

(2) provide an emergency response plan that is readily available to staff and persons receiving services;

(3) inform each person of a designated area within the facility where the person should go for emergency shelter during severe weather and the designated assembly points outside the facility; and

(4) maintain emergency contact information for persons served at the facility that can be readily accessed in an emergency.

Subd. 6. **Emergency equipment.** The facility must have a flashlight and a portable radio or television set that do not require electricity and can be used if a power failure occurs.

Subd. 7. **Telephone and posted numbers.** A facility must have a non-coin-operated telephone that is readily accessible. A list of emergency numbers must be posted in a prominent location. When an area has a 911 number or a mental health crisis intervention team number, both numbers must be posted and the emergency number listed must be 911. In areas of the state without a 911 number, the numbers listed must be those of the local fire department, police department, emergency transportation, and poison control center. The names and telephone numbers of each person's representative; physician, advanced practice registered nurse, or physician assistant; and dentist must be readily available.

History: *2013 c 108 art 8 s 38; 2015 c 71 art 7 s 20; 2019 c 50 art 1 s 66; 2020 c 115 art 4 s 83; 2022 c 58 s 103; 2022 c 98 art 17 s 26*

COMMUNITY RESIDENTIAL SETTINGS

245D.23 COMMUNITY RESIDENTIAL SETTINGS; SATELLITE LICENSURE REQUIREMENTS AND APPLICATION PROCESS.

Subdivision 1. **Separate satellite license required for separate sites.** (a) A license holder providing residential support services must obtain a separate satellite license for each community residential setting located at separate addresses when the community residential settings are to be operated by the same license holder. For purposes of this chapter, a community residential setting is a satellite of the home and community-based services license.

(b) Community residential settings are permitted single-family use homes. After a license has been issued, the commissioner shall notify the local municipality where the residence is located of the approved license.

Subd. 2. **Notification to local agency.** The license holder must notify the local agency within 24 hours of the onset of changes in a residence resulting from construction, remodeling, or damages requiring repairs that require a building permit or may affect a licensing requirement in this chapter.

Subd. 3. **Alternate overnight supervision.** A license holder granted an alternate overnight supervision technology adult foster care license according to section 245A.11, subdivision 7a, that converts to a community residential setting satellite license according to this chapter, must retain that designation.

History: *2013 c 108 art 8 s 39*

245D.24 COMMUNITY RESIDENTIAL SETTINGS; PHYSICAL PLANT AND ENVIRONMENT.

Subdivision 1. **Occupancy.** The residence must meet the definition of a dwelling unit in a residential occupancy.

Subd. 2. **Common area requirements.** The living area must be provided with an adequate number of furnishings for the usual functions of daily living and social activities. The dining area must be furnished to accommodate meals shared by all persons living in the residence. These furnishings must be in good repair and functional to meet the daily needs of the persons living in the residence.

Subd. 3. **Bedrooms.** (a) Each person receiving services must have a choice of roommate and must mutually consent, in writing, to sharing a bedroom with one another. No more than two people receiving services may share one bedroom.

(b) A single occupancy bedroom must have at least 80 square feet of floor space with a 7-1/2 foot ceiling. A double occupancy room must have at least 120 square feet of floor space with a 7-1/2 foot ceiling. Bedrooms must be separated from halls, corridors, and other habitable rooms by floor-to-ceiling walls containing no openings except doorways and must not serve as a corridor to another room used in daily living.

(c) A person's personal possessions and items for the person's own use are the only items permitted to be stored in a person's bedroom.

(d) Unless otherwise documented through assessment as a safety concern for the person, each person must be provided with the following furnishings:

(1) a separate bed of proper size and height for the convenience and comfort of the person, with a clean mattress in good repair;

(2) clean bedding appropriate for the season for each person;

(3) an individual cabinet, or dresser, shelves, and a closet, for storage of personal possessions and clothing; and

(4) a mirror for grooming.

(e) When possible, a person must be allowed to have items of furniture that the person personally owns in the bedroom, unless doing so would interfere with safety precautions, violate a building or fire code, or interfere with another person's use of the bedroom. A person may choose not to have a cabinet, dresser, shelves, or a mirror in the bedroom, as otherwise required under paragraph (d), clause (3) or (4). A person may choose to use a mattress other than an innerspring mattress and may choose not to have the mattress on a mattress frame or support. If a person chooses not to have a piece of required furniture, the license holder must document this choice and is not required to provide the item. If a person chooses to use a mattress other than an innerspring mattress or chooses not to have a mattress frame or support, the license holder must document this choice and allow the alternative desired by the person.

(f) A person must be allowed to bring personal possessions into the bedroom and other designated storage space, if such space is available, in the residence. The person must be allowed to accumulate possessions to the extent the residence is able to accommodate them, unless doing so is contraindicated for the person's physical or mental health, would interfere with safety precautions or another person's use of the bedroom, or would violate a building or fire code. The license holder must allow for locked storage of personal items. Any restriction on the possession or locked storage of personal items, including requiring a person to use a lock provided by the license holder, must comply with section 245D.04, subdivision 3, paragraph (c), and allow the person to be present if and when the license holder opens the lock.

(g) A person must be allowed to lock the person's bedroom door. The license holder must document and assess the physical plant and the environment, and the population served, and identify the risk factors that require using locked doors, and the specific action taken to minimize the safety risk to a person receiving services at the site.

History: *2013 c 108 art 8 s 40; 2017 c 90 s 16*

245D.25 COMMUNITY RESIDENTIAL SETTINGS; FOOD AND WATER.

Subdivision 1. **Water.** Potable water from privately owned wells must be tested annually by a Department of Health-certified laboratory for coliform bacteria and nitrate nitrogens to verify safety. The health authority may require retesting and corrective measures if results exceed state water standards in Minnesota Rules, chapter 4720, or in the event of flooding or an incident which may put the well at risk of contamination. To prevent scalding, the water temperature of faucets must not exceed 120 degrees Fahrenheit.

Subd. 2. **Food.** Food served must meet any special dietary needs of a person as prescribed by the person's physician, advanced practice registered nurse, physician assistant, or dietitian. Three nutritionally balanced meals a day must be served or made available to persons, and nutritious snacks must be available between meals.

Subd. 3. **Food safety.** Food must be obtained, handled, and properly stored to prevent contamination, spoilage, or a threat to the health of a person.

History: *2013 c 108 art 8 s 41; 2020 c 115 art 4 s 84; 2022 c 58 s 104*

245D.26 COMMUNITY RESIDENTIAL SETTINGS; SANITATION AND HEALTH.

Subdivision 1. **Goods provided by license holder.** Individual clean bed linens appropriate for the season and the person's comfort, including towels and wash cloths, must be available for each person. Usual or customary goods for the operation of a residence which are communally used by all persons receiving services living in the residence must be provided by the license holder, including household items for meal preparation, cleaning supplies to maintain the cleanliness of the residence, window coverings on windows for privacy, toilet paper, and hand soap.

Subd. 2. **Personal items.** Personal health and hygiene items must be stored in a safe and sanitary manner.

Subd. 3. **Pets and service animals.** Pets and service animals housed within the residence must be immunized and maintained in good health as required by local ordinances and state law. The license holder must ensure that the person and the person's representative are notified before admission of the presence of pets in the residence.

Subd. 4. **Smoking in the residence.** License holders must comply with the requirements of the Minnesota Clean Indoor Air Act, sections 144.411 to 144.417, when smoking is permitted in the residence.

Subd. 5. **Weapons.** Weapons and ammunition must be stored separately in locked areas that are inaccessible to a person receiving services. For purposes of this subdivision, "weapons" means firearms and other instruments or devices designed for and capable of producing bodily harm.

History: *2013 c 108 art 8 s 42*

245D.261 COMMUNITY RESIDENTIAL SETTINGS; REMOTE OVERNIGHT SUPERVISION.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given, unless otherwise specified.

(b) "Resident" means an adult residing in a community residential setting.

(c) "Technology" means:

(1) enabling technology, which is a device capable of live two-way communication or engagement between a resident and direct support staff at a remote location; or

(2) monitoring technology, which is the use of equipment to oversee, monitor, and supervise an individual who receives medical assistance waiver or alternative care services under section 256B.0913, 256B.092, or 256B.49 or chapter 256S.

Subd. 2. **Documentation of permissible remote overnight supervision.** A license holder providing remote overnight supervision in a community residential setting in lieu of on-site direct support staff must comply with the requirements of this chapter, including the requirement under section 245D.02, subdivision 33b, paragraph (a), clause (3), that the absence of direct support staff from the community residential setting while services are being delivered must be documented in the resident's support plan or support plan addendum.

Subd. 3. **Provider requirements for remote overnight supervision; commissioner notification.** (a) A license holder providing remote overnight supervision in a community residential setting must:

(1) use technology;

(2) notify the commissioner of the community residential setting's intent to use technology in lieu of on-site staff. The notification must:

(i) indicate a start date for the use of technology; and

(ii) attest that all requirements under this section are met and policies required under subdivision 4 are available upon request;

(3) clearly state in each person's support plan addendum that the community residential setting is a program without the in-person presence of overnight direct support;

(4) include with each person's support plan addendum the license holder's protocols for responding to situations that present a serious risk to the health, safety, or rights of residents served by the program; and

(5) include in each person's support plan addendum the person's maximum permissible response time as determined by the person's support team.

(b) Upon being notified via technology that an incident has occurred that jeopardizes the health, safety, or rights of a resident, the license holder must document an evaluation of the need for the physical presence of a staff member and determine whether a physical presence is needed in a time that is less than the maximum permissible response time under paragraph (a), clause (5). If it is determined that a physical presence is needed that requires a response time less than the maximum response time under paragraph (a), clause (5), the plan under subdivision 4, paragraph (a), clause (6), must be deployed.

(c) A license holder must notify the commissioner if remote overnight supervision technology will no longer be used by the license holder.

(d) Upon receipt of notification of use of remote overnight supervision or discontinuation of use of remote overnight supervision by a license holder, the commissioner shall notify the county licensing agency and update the license.

Subd. 4. **Required policies and procedures for remote overnight supervision.** (a) A license holder providing remote overnight supervision must have policies and procedures that:

(1) protect the residents' health, safety, and rights;

(2) explain the discharge process if a person served by the program requires in-person supervision or other services that cannot be provided by the license holder due to the limited hours that direct support staff are on site, including information explaining that if a resident provides informed consent to the use of monitoring technology but later revokes their consent, the resident may be subject to a service termination in accordance with section 245D.10, subdivision 3a;

(3) ensure that services may not be terminated for any person or resident currently served by the program and receiving in-person services solely because the person declines to provide informed consent to the initial change to the use of monitoring technology as required under subdivision 5;

(4) explain the backup system for technology in times of electrical outages or other equipment malfunctions;

(5) explain how the license holder trains the direct support staff on the use of the technology; and

(6) establish a plan for dispatching emergency response personnel to the site in the event of an identified emergency.

(b) Nothing in this section requires the 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.

(c) When no physical presence response is completed for a three-month period, the license holder must conduct a physical presence response drill. The effectiveness of the response protocol must be reviewed and documented.

Subd. 5. **Consent to use of monitoring technology.** If a license holder uses monitoring technology in a community residential setting, the license holder must obtain a signed informed consent form from each resident served by the program or the resident's legal representative documenting the resident's or legal representative's agreement to use of the specific monitoring technology used in the setting. The informed consent form documenting this agreement must also explain:

(1) how the license holder uses monitoring technology to provide remote supervision;

(2) the risks and benefits of using monitoring technology;

(3) how the license holder protects each resident's privacy while monitoring technology is being used in the setting; and

(4) how the license holder protects each resident's privacy when the monitoring technology system electronically records personally identifying data.

History: *2023 c 61 art 1 s 6; 2023 c 70 art 15 s 7*

DAY SERVICES FACILITIES

245D.27 DAY SERVICES FACILITIES; SATELLITE LICENSURE REQUIREMENTS AND APPLICATION PROCESS.

Except for day service facilities on the same or adjoining lot, the license holder providing day services must apply for a separate license for each facility-based service site when the license holder is the owner, lessor, or tenant of the service site at which persons receive day services and the license holder's employees who provide day services are present for a cumulative total of more than 30 days within any 12-month period. For purposes of this chapter, a day services facility license is a satellite license of the day services program. A day services program may operate multiple licensed day service facilities in one or more counties in the state. For the purposes of this section, "adjoining lot" means day services facilities that are next door to or across the street from one another.

History: *2013 c 108 art 8 s 43*

245D.28 DAY SERVICES FACILITIES; PHYSICAL PLANT AND SPACE REQUIREMENTS.

Subdivision 1. **Facility capacity and useable space requirements.** (a) The facility capacity of each day service facility must be determined by the amount of primary space available, the scheduling of activities at other service sites, and the space requirements of all persons receiving services at the facility, not just the licensed services. The facility capacity must specify the maximum number of persons that may receive services on site at any one time.

(b) When a facility is located in a multifunctional organization, the facility may share common space with the multifunctional organization if the required available primary space for use by persons receiving

day services is maintained while the facility is operating. The license holder must comply at all times with all applicable fire and safety codes under section 245A.04, subdivision 2a, and adequate supervision requirements under section 245D.31 for all persons receiving day services.

(c) A day services facility must have a minimum of 40 square feet of primary space available for each person receiving services who is present at the site at any one time. Primary space does not include:

(1) common areas, such as hallways, stairways, closets, utility areas, bathrooms, and kitchens;

(2) floor areas beneath stationary equipment; or

(3) any space occupied by persons associated with the multifunctional organization while persons receiving day services are using common space.

Subd. 2. **Individual personal articles.** Each person must be provided space in a closet, cabinet, on a shelf, or a coat hook for storage of personal items for the person's own use while receiving services at the facility, unless doing so would interfere with safety precautions, another person's work space, or violate a building or fire code.

History: *2013 c 108 art 8 s 44*

245D.29 DAY SERVICES FACILITIES; HEALTH AND SAFETY REQUIREMENTS.

Subdivision 1. **Refrigeration.** If the license holder provides refrigeration at service sites owned or leased by the license holder for storing perishable foods and perishable portions of bag lunches, whether the foods are supplied by the license holder or the persons receiving services, the refrigeration must have a temperature of 40 degrees Fahrenheit or less.

Subd. 2. **Drinking water.** Drinking water must be available to all persons receiving services. If a person is unable to request or obtain drinking water, it must be provided according to that person's individual needs. Drinking water must be provided in single-service containers or from drinking fountains accessible to all persons.

Subd. 3. **Individuals who become ill during the day.** There must be an area in which a person receiving services can rest if:

(1) the person becomes ill during the day;

(2) the person does not live in a licensed residential site;

(3) the person requires supervision; and

(4) there is not a caretaker immediately available. Supervision must be provided until the caretaker arrives to bring the person home.

Subd. 4. **Safety procedures.** The license holder must establish general written safety procedures that include criteria for selecting, training, and supervising persons who work with hazardous machinery, tools, or substances. Safety procedures specific to each person's activities must be explained and be available in writing to all staff members and persons receiving services.

History: *2013 c 108 art 8 s 45*

245D.31 DAY SERVICES FACILITIES; STAFF RATIOS AND FACILITY COVERAGE.

Subdivision 1. **Scope.** This section applies only to facility-based day services.

Subd. 2. **Factors.** (a) The number of direct support service staff members that a license holder must have on duty at the facility at a given time to meet the minimum staffing requirements established in this section varies according to:

(1) the number of persons who are enrolled and receiving direct support services at that given time;

(2) the staff ratio requirement established under subdivision 3 for each person who is present; and

(3) whether the conditions described in subdivision 9 exist and warrant additional staffing beyond the number determined to be needed under subdivision 7.

(b) The commissioner must consider the factors in paragraph (a) in determining a license holder's compliance with the staffing requirements and must further consider whether the staff ratio requirement established under subdivision 3 for each person receiving services accurately reflects the person's need for staff time.

Subd. 3. **Staff ratio requirement for each person receiving services.** The case manager, in consultation with the interdisciplinary team, must determine at least once each year which of the ratios in subdivisions 4, 5, and 6 is appropriate for each person receiving services on the basis of the characteristics described in subdivisions 4, 5, and 6. The ratio assigned each person and the documentation of how the ratio was arrived at must be kept in each person's individual service plan. Documentation must include an assessment of the person with respect to the characteristics in subdivisions 4, 5, and 6.

Subd. 4. **Person requiring staff ratio of one to four.** A person must be assigned a staff ratio requirement of one to four if:

(1) on a daily basis the person requires total care and monitoring or constant hand-over-hand physical guidance to successfully complete at least three of the following activities: toileting, communicating basic needs, eating, or ambulating; or

(2) the person engages in conduct that poses an imminent risk of physical harm to self or others at a documented level of frequency, intensity, or duration requiring frequent daily ongoing intervention and monitoring as established in the person's support plan or support plan addendum.

Subd. 5. **Person requiring staff ratio of one to eight.** A person must be assigned a staff ratio requirement of one to eight if:

(1) the person does not meet the requirements in subdivision 4; and

(2) on a daily basis the person requires verbal prompts or spot checks and minimal or no physical assistance to successfully complete at least three of the following activities: toileting, communicating basic needs, eating, or ambulating.

Subd. 6. **Person requiring staff ratio of one to six.** A person who does not have any of the characteristics described in subdivision 4 or 5 must be assigned a staff ratio requirement of one to six.

Subd. 7. **Determining number of direct support service staff required.** The minimum number of direct support service staff members required at any one time to meet the combined staff ratio requirements of the persons present at that time can be determined by the following steps:

(1) assign to each person in attendance the three-digit decimal below that corresponds to the staff ratio requirement assigned to that person. A staff ratio requirement of one to four equals 0.250. A staff ratio

requirement of one to eight equals 0.125. A staff ratio requirement of one to six equals 0.166. A staff ratio requirement of one to ten equals 0.100;

(2) add all of the three-digit decimals (one three-digit decimal for every person in attendance) assigned in clause (1);

(3) when the sum in clause (2) falls between two whole numbers, round off the sum to the larger of the two whole numbers; and

(4) the larger of the two whole numbers in clause (3) equals the number of direct support service staff members needed to meet the staff ratio requirements of the persons in attendance.

Subd. 8. **Staff to be included in calculating minimum staffing requirement.** Only staff providing direct support must be counted as staff members in calculating the staff-to-participant ratio. A volunteer may be counted as a direct support staff in calculating the staff-to-participant ratio if the volunteer meets the same standards and requirements as paid staff. No person receiving services must be counted as or be substituted for a staff member in calculating the staff-to-participant ratio.

Subd. 9. **Conditions requiring additional direct support staff.** The license holder must increase the number of direct support staff members present at any one time beyond the number arrived at in subdivision 4 if necessary when any one or combination of the following circumstances can be documented by the commissioner as existing:

(1) the health and welfare needs of the persons receiving services cannot be met by the number of staff members available under the staffing pattern in effect even though the number has been accurately calculated under subdivision 7; or

(2) the person's conduct frequently presents an imminent risk of physical harm to self or others.

Subd. 10. **Supervision requirements.** (a) At no time must one direct support staff member be assigned responsibility for supervision and training of more than ten persons receiving supervision and training, except as otherwise stated in each person's support plan or support plan addendum.

(b) In the temporary absence of the director or a supervisor, a direct support staff member must be designated to supervise the center.

Subd. 11. **Multifunctional programs.** A multifunctional program may count other employees of the organization besides direct support staff of the day service facility in calculating the staff-to-participant ratio if the employee is assigned to the day services facility for a specified amount of time, during which the employee is not assigned to another organization or program.

History: *2013 c 108 art 8 s 46; 2014 c 275 art 1 s 53; 2014 c 312 art 27 s 77; 2015 c 71 art 7 s 21-23; 2022 c 98 art 17 s 26*

ALTERNATIVE LICENSING INSPECTIONS

245D.32 ALTERNATIVE LICENSING INSPECTIONS.

Subdivision 1. **Eligibility for an alternative licensing inspection.** (a) A license holder providing services licensed under this chapter, with a qualifying accreditation and meeting the eligibility criteria in paragraphs (b) and (c), may request approval for an alternative licensing inspection when all services provided under the license holder's license are accredited. A license holder with a qualifying accreditation and meeting the

eligibility criteria in paragraphs (b) and (c) may request approval for an alternative licensing inspection for individual community residential settings or day services facilities licensed under this chapter.

(b) In order to be eligible for an alternative licensing inspection, the program must have had at least one inspection by the commissioner following issuance of the initial license. For programs operating a day services facility, each facility must have had at least one on-site inspection by the commissioner following issuance of the initial license.

(c) In order to be eligible for an alternative licensing inspection, the program must have been in substantial and consistent compliance at the time of the last licensing inspection and during the current licensing period. For purposes of this section, "substantial and consistent compliance" means:

(1) the license holder's license was not made conditional, suspended, or revoked;

(2) there have been no substantiated allegations of maltreatment against the license holder;

(3) there were no program deficiencies identified that would jeopardize the health, safety, or rights of persons being served; and

(4) the license holder maintained substantial compliance with the other requirements of chapters 245A and 245C and other applicable laws and rules.

(d) For the purposes of this section, the license holder's license includes services licensed under this chapter that were previously licensed under chapter 245B until December 31, 2013.

Subd. 2. **Qualifying accreditation.** The commissioner must accept a three-year accreditation from the Commission on Accreditation of Rehabilitation Facilities (CARF) as a qualifying accreditation.

Subd. 3. **Request for approval of an alternative inspection status.** (a) A request for an alternative inspection must be made on the forms and in the manner prescribed by the commissioner. When submitting the request, the license holder must submit all documentation issued by the accrediting body verifying that the license holder has obtained and maintained the qualifying accreditation and has complied with recommendations or requirements from the accrediting body during the period of accreditation. Based on the request and the additional required materials, the commissioner may approve an alternative inspection status.

(b) The commissioner must notify the license holder in writing that the request for an alternative inspection status has been approved. Approval must be granted until the end of the qualifying accreditation period.

(c) The license holder must submit a written request for approval to be renewed one month before the end of the current approval period according to the requirements in paragraph (a). If the license holder does not submit a request to renew approval as required, the commissioner must conduct a licensing inspection.

Subd. 4. **Programs approved for alternative licensing inspection; deemed compliance licensing requirements.** (a) A license holder approved for alternative licensing inspection under this section is required to maintain compliance with all licensing standards according to this chapter.

(b) A license holder approved for alternative licensing inspection under this section must be deemed to be in compliance with all the requirements of this chapter, and the commissioner must not perform routine licensing inspections.

(c) Upon receipt of a complaint regarding the services of a license holder approved for alternative licensing inspection under this section, the commissioner must investigate the complaint and may take any action as provided under section 245A.06 or 245A.07.

Subd. 5. **Investigations of alleged or suspected maltreatment.** Nothing in this section changes the commissioner's responsibilities to investigate alleged or suspected maltreatment of a minor under chapter 260E or a vulnerable adult under section 626.557.

Subd. 6. **Termination or denial of subsequent approval.** Following approval of an alternative licensing inspection, the commissioner may terminate or deny subsequent approval of an alternative licensing inspection if the commissioner determines that:

(1) the license holder has not maintained the qualifying accreditation;

(2) the commissioner has substantiated maltreatment for which the license holder or facility is determined to be responsible during the qualifying accreditation period; or

(3) during the qualifying accreditation period, the license holder has been issued an order for conditional license, fine, suspension, or license revocation that has not been reversed upon appeal.

Subd. 7. **Appeals.** The commissioner's decision that the conditions for approval for an alternative licensing inspection have not been met is final and not subject to appeal under the provisions of chapter 14.

Subd. 8. **Commissioner's programs.** Home and community-based services licensed under this chapter for which the commissioner is the license holder with a qualifying accreditation are excluded from being approved for an alternative licensing inspection.

History: *2013 c 108 art 8 s 47; 1Sp2020 c 2 art 8 s 67*

MENTAL HEALTH CERTIFICATION

245D.33 ADULT MENTAL HEALTH CERTIFICATION STANDARDS.

(a) The commissioner of human services shall issue a mental health certification for services licensed under this chapter when a license holder is determined to have met the requirements under section 245A.03, subdivision 6a, 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) License holders seeking certification under this section must request this certification on forms and in the manner prescribed by the commissioner.

(c) If the commissioner finds that the license holder has failed to comply with the certification requirements under section 245A.03, subdivision 6a, paragraph (b), the commissioner may issue a correction order and an order of conditional license in accordance with section 245A.06 or may issue a sanction in accordance with section 245A.07, including and up to removal of the certification.

(d) A denial of the certification or the removal of the certification based on a determination that the requirements under section 245A.03, subdivision 6a, paragraph (b), have not been met is 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 section 245A.03, subdivision 6a, paragraph (b).

History: *2013 c 108 art 8 s 48; 2014 c 291 art 3 s 2*