

1.1 CONFERENCE COMMITTEE REPORT ON S.F. No. 1447

1.2 A bill for an act

1.3 relating to human services; making changes to licensing provisions, including
1.4 data practices, disqualifications, and background study requirements; providing
1.5 alternate supervision technology for adult foster care licensing; amending
1.6 Minnesota Statutes 2008, sections 13.46, subdivisions 3, 4; 245A.03, subdivision
1.7 2; 245A.04, subdivisions 5, 7; 245A.05; 245A.06, subdivision 8; 245A.07,
1.8 subdivisions 1, 3, 5; 245A.11, by adding a subdivision; 245A.1435; 245A.16,
1.9 subdivision 1; 245A.50, subdivision 5; 245C.03, subdivision 4; 245C.04,
1.10 subdivision 1; 245C.07; 245C.08; 245C.13, subdivision 2; 245C.14, subdivision
1.11 2; 245C.15, subdivisions 1, 2, 3, 4; 245C.22, subdivision 7; 245C.24,
1.12 subdivisions 2, 3; 245C.25; 245C.27, subdivision 1; 245C.301; 256.045,
1.13 subdivisions 3, 3b; 626.556, subdivisions 2, 10e, 10f; 626.557, subdivisions
1.14 9c, 12b; 626.5572, subdivision 13; repealing Minnesota Statutes 2008, section
1.15 245C.10, subdivision 1.

1.16 May 16, 2009

1.17 The Honorable James P. Metzen
1.18 President of the Senate

1.19 The Honorable Margaret Anderson Kelliher
1.20 Speaker of the House of Representatives

1.21 We, the undersigned conferees for S.F. No. 1447 report that we have agreed upon
1.22 the items in dispute and recommend as follows:

1.23 That the House recede from its amendments and that S.F. No. 1447 be further
1.24 amended as follows:

1.25 Delete everything after the enacting clause and insert:

1.26 "ARTICLE 1
1.27 DATA PRACTICES

1.28 Section 1. Minnesota Statutes 2008, section 13.43, is amended by adding a subdivision
1.29 to read:

1.30 Subd. 17. Continuity of operations. Personal home contact information may
1.31 be used to ensure that an employee can be reached in the event of an emergency or
1.32 other disruption affecting continuity of operation of a government entity. An employee's

2.1 personal home contact information may be shared with another government entity in the
2.2 event of an emergency or other disruption to ensure continuity of operation of either
2.3 government entity.

2.4 Sec. 2. Minnesota Statutes 2008, section 13.43, is amended by adding a subdivision to
2.5 read:

2.6 Subd. 18. **Private personnel data.** Private personnel data of state employees must
2.7 be disclosed to the Department of Administration for the purpose of administration of the
2.8 workers' compensation program as provided in chapter 176.

2.9 Sec. 3. Minnesota Statutes 2008, section 13.46, subdivision 3, is amended to read:

2.10 Subd. 3. **Investigative data.** (a) Data on persons, including data on vendors of
2.11 services ~~and data on~~ licensees, and applicants, that is collected, maintained, used, or
2.12 disseminated by the welfare system in an investigation, authorized by statute and relating
2.13 to the enforcement of rules or law, is confidential data on individuals pursuant to section
2.14 13.02, subdivision 3, or protected nonpublic data not on individuals pursuant to section
2.15 13.02, subdivision 13, and shall not be disclosed except:

2.16 (1) pursuant to section 13.05;

2.17 (2) pursuant to statute or valid court order;

2.18 (3) to a party named in a civil or criminal proceeding, administrative or judicial, for
2.19 preparation of defense; or

2.20 (4) to provide notices required or permitted by statute.

2.21 The data referred to in this subdivision shall be classified as public data upon
2.22 its submission to an administrative law judge or court in an administrative or judicial
2.23 proceeding. Inactive welfare investigative data shall be treated as provided in section
2.24 13.39, subdivision 3.

2.25 (b) Notwithstanding any other provision in law, the commissioner of human services
2.26 shall provide all active and inactive investigative data, including the name of the reporter
2.27 of alleged maltreatment under section 626.556 or 626.557, to the ombudsman for mental
2.28 health and developmental disabilities upon the request of the ombudsman.

2.29 Sec. 4. Minnesota Statutes 2008, section 13.46, subdivision 4, is amended to read:

2.30 Subd. 4. **Licensing data.** (a) As used in this subdivision:

2.31 (1) "licensing data" means all data collected, maintained, used, or disseminated by
2.32 the welfare system pertaining to persons licensed or registered or who apply for licensure

3.1 or registration or who formerly were licensed or registered under the authority of the
3.2 commissioner of human services;

3.3 (2) "client" means a person who is receiving services from a licensee or from an
3.4 applicant for licensure; and

3.5 (3) "personal and personal financial data" means Social Security numbers, identity
3.6 of and letters of reference, insurance information, reports from the Bureau of Criminal
3.7 Apprehension, health examination reports, and social/home studies.

3.8 (b)(1) Except as provided in paragraph (c), the following data on applicants, license
3.9 holders, and former licensees are public: name, address, telephone number of licensees,
3.10 date of receipt of a completed application, dates of licensure, licensed capacity, type of
3.11 client preferred, variances granted, record of training and education in child care and child
3.12 development, type of dwelling, name and relationship of other family members, previous
3.13 license history, class of license, the existence and status of complaints, and the number
3.14 of serious injuries to or deaths of individuals in the licensed program as reported to the
3.15 commissioner of human services, the local social services agency, or any other county
3.16 welfare agency. For purposes of this clause, a serious injury is one that is treated by
3.17 a physician. When a correction order ~~or~~, an order to forfeit a fine, an order of license
3.18 suspension, an order of temporary immediate suspension, an order of license revocation,
3.19 an order of license denial, or an order of conditional license has been issued, ~~a license is~~
3.20 ~~suspended, immediately suspended, revoked, denied, or made conditional,~~ or a complaint
3.21 is resolved, the following data on current and former licensees and applicants are public:
3.22 the substance and investigative findings of the licensing or maltreatment complaint,
3.23 licensing violation, or substantiated maltreatment; the record of informal resolution of a
3.24 licensing violation; orders of hearing; findings of fact; conclusions of law; specifications of
3.25 the final correction order, fine, suspension, temporary immediate suspension, revocation,
3.26 denial, or conditional license contained in the record of licensing action; whether a fine
3.27 has been paid; and the status of any appeal of these actions. If a licensing sanction under
3.28 section 245A.07, or a license denial under section 245A.05, is based on a determination
3.29 that the license holder or applicant is responsible for maltreatment or is disqualified under
3.30 chapter 245C, the identity of the license holder or applicant as the individual responsible
3.31 for maltreatment or as the disqualified individual is public data at the time of the issuance
3.32 of the licensing sanction or denial.

3.33 (2) Notwithstanding sections 626.556, subdivision 11, and 626.557, subdivision 12b,
3.34 when any person subject to disqualification under section 245C.14 in connection with a
3.35 license to provide family day care for children, child care center services, foster care
3.36 for children in the provider's home, or foster care or day care services for adults in the

4.1 provider's home is a substantiated perpetrator of maltreatment, and the substantiated
4.2 maltreatment is a reason for a licensing action, the identity of the substantiated perpetrator
4.3 of maltreatment is public data. For purposes of this clause, a person is a substantiated
4.4 perpetrator if the maltreatment determination has been upheld under section 256.045;
4.5 626.556, subdivision 10i; 626.557, subdivision 9d; or chapter 14, or if an individual or
4.6 facility has not timely exercised appeal rights under these sections, except as provided
4.7 under clause (1).

4.8 (3) For applicants who withdraw their application prior to licensure or denial of a
4.9 license, the following data are public: the name of the applicant, the city and county in
4.10 which the applicant was seeking licensure, the dates of the commissioner's receipt of the
4.11 initial application and completed application, the type of license sought, and the date
4.12 of withdrawal of the application.

4.13 (4) For applicants who are denied a license, the following data are public: the name
4.14 and address of the applicant, the city and county in which the applicant was seeking
4.15 licensure, the dates of the commissioner's receipt of the initial application and completed
4.16 application, the type of license sought, the date of denial of the application, the nature of
4.17 the basis for the denial, the record of informal resolution of a denial, orders of hearings,
4.18 findings of fact, conclusions of law, specifications of the final order of denial, and the
4.19 status of any appeal of the denial.

4.20 (5) The following data on persons subject to disqualification under section 245C.14
4.21 in connection with a license to provide family day care for children, child care center
4.22 services, foster care for children in the provider's home, or foster care or day care services
4.23 for adults in the provider's home, are public: the nature of any disqualification set
4.24 aside under section 245C.22, subdivisions 2 and 4, and the reasons for setting aside the
4.25 disqualification; the nature of any disqualification for which a variance was granted under
4.26 sections 245A.04, subdivision 9; and 245C.30, and the reasons for granting any variance
4.27 under section 245A.04, subdivision 9; and, if applicable, the disclosure that any person
4.28 subject to a background study under section 245C.03, subdivision 1, has successfully
4.29 passed a background study. If a licensing sanction under section 245A.07, or a license
4.30 denial under section 245A.05, is based on a determination that an individual subject to
4.31 disqualification under chapter 245C is disqualified, the disqualification as a basis for the
4.32 licensing sanction or denial is public data. As specified in clause (1), if the disqualified
4.33 individual is the license holder or applicant, the identity of the license holder or applicant
4.34 is public data. If the disqualified individual is an individual other than the license holder
4.35 or applicant, the identity of the disqualified individual shall remain private data.

5.1 (6) When maltreatment is substantiated under section 626.556 or 626.557 and the
5.2 victim and the substantiated perpetrator are affiliated with a program licensed under
5.3 chapter 245A, the commissioner of human services, local social services agency, or
5.4 county welfare agency may inform the license holder where the maltreatment occurred of
5.5 the identity of the substantiated perpetrator and the victim.

5.6 (7) Notwithstanding clause (1), for child foster care, only the name of the license
5.7 holder and the status of the license are public if the county attorney has requested that data
5.8 otherwise classified as public data under clause (1) be considered private data based on the
5.9 best interests of a child in placement in a licensed program.

5.10 (c) The following are private data on individuals under section 13.02, subdivision
5.11 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial
5.12 data on family day care program and family foster care program applicants and licensees
5.13 and their family members who provide services under the license.

5.14 (d) The following are private data on individuals: the identity of persons who have
5.15 made reports concerning licensees or applicants that appear in inactive investigative data,
5.16 and the records of clients or employees of the licensee or applicant for licensure whose
5.17 records are received by the licensing agency for purposes of review or in anticipation of a
5.18 contested matter. The names of reporters of complaints or alleged violations of licensing
5.19 standards under chapters 245A, 245B, 245C, and applicable rules and alleged maltreatment
5.20 under sections 626.556 and 626.557, are confidential data and may be disclosed only as
5.21 provided in section 626.556, subdivision 11, or 626.557, subdivision 12b.

5.22 (e) Data classified as private, confidential, nonpublic, or protected nonpublic under
5.23 this subdivision become public data if submitted to a court or administrative law judge as
5.24 part of a disciplinary proceeding in which there is a public hearing concerning a license
5.25 which has been suspended, immediately suspended, revoked, or denied.

5.26 (f) Data generated in the course of licensing investigations that relate to an alleged
5.27 violation of law are investigative data under subdivision 3.

5.28 (g) Data that are not public data collected, maintained, used, or disseminated under
5.29 this subdivision that relate to or are derived from a report as defined in section 626.556,
5.30 subdivision 2, or 626.5572, subdivision 18, are subject to the destruction provisions of
5.31 sections 626.556, subdivision 11c, and 626.557, subdivision 12b.

5.32 (h) Upon request, not public data collected, maintained, used, or disseminated under
5.33 this subdivision that relate to or are derived from a report of substantiated maltreatment as
5.34 defined in section 626.556 or 626.557 may be exchanged with the Department of Health
5.35 for purposes of completing background studies pursuant to section 144.057 and with

6.1 the Department of Corrections for purposes of completing background studies pursuant
6.2 to section 241.021.

6.3 (i) Data on individuals collected according to licensing activities under chapters
6.4 245A and 245C, and data on individuals collected by the commissioner of human services
6.5 according to maltreatment investigations under sections 626.556 and 626.557, may be
6.6 shared with the Department of Human Rights, the Department of Health, the Department
6.7 of Corrections, the ombudsman for mental health and developmental disabilities, and
6.8 the individual's professional regulatory board when there is reason to believe that laws
6.9 or standards under the jurisdiction of those agencies may have been violated. Unless
6.10 otherwise specified in this chapter, the identity of a reporter of alleged maltreatment or
6.11 licensing violations may not be disclosed.

6.12 (j) In addition to the notice of determinations required under section 626.556,
6.13 subdivision 10f, if the commissioner or the local social services agency has determined
6.14 that an individual is a substantiated perpetrator of maltreatment of a child based on sexual
6.15 abuse, as defined in section 626.556, subdivision 2, and the commissioner or local social
6.16 services agency knows that the individual is a person responsible for a child's care in
6.17 another facility, the commissioner or local social services agency shall notify the head
6.18 of that facility of this determination. The notification must include an explanation of the
6.19 individual's available appeal rights and the status of any appeal. If a notice is given under
6.20 this paragraph, the government entity making the notification shall provide a copy of the
6.21 notice to the individual who is the subject of the notice.

6.22 (k) All not public data collected, maintained, used, or disseminated under this
6.23 subdivision and subdivision 3 may be exchanged between the Department of Human
6.24 Services, Licensing Division, and the Department of Corrections for purposes of
6.25 regulating services for which the Department of Human Services and the Department
6.26 of Corrections have regulatory authority.

6.27 **ARTICLE 2**
6.28 **LICENSING**

6.29 Section 1. Minnesota Statutes 2008, section 147C.01, is amended to read:

6.30 **147C.01 DEFINITIONS.**

6.31 Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

6.32 Subd. 2. **Advisory council.** "Advisory council" means the Respiratory Care
6.33 ~~Practitioner~~ Advisory Council established under section 147C.35.

7.1 Subd. 3. **Approved education program.** "Approved education program" means a
7.2 university, college, or other postsecondary education program leading to eligibility for
7.3 registry or certification in respiratory care, that, at the time the student completes the
7.4 program, is accredited by a national accrediting organization approved by the board.

7.5 Subd. 4. **Board.** "Board" means the Board of Medical Practice or its designee.

7.6 Subd. 5. **Contact hour.** "Contact hour" means an instructional session of 50
7.7 consecutive minutes, excluding coffee breaks, registration, meals without a speaker, and
7.8 social activities.

7.9 Subd. 6. **Credential.** "Credential" means a license, ~~permit, certification, registration,~~
7.10 or other evidence of qualification or authorization to engage in respiratory care practice in
7.11 this state or any other state.

7.12 Subd. 7. **Credentialing examination.** "Credentialing examination" means an
7.13 examination administered by the National Board for Respiratory Care ~~or other national~~
7.14 ~~testing organization approved by the board,~~ its successor organization, or the Canadian
7.15 Society for Respiratory Care for credentialing as a ~~certified respiratory therapy technician,~~
7.16 ~~registered~~ respiratory therapist; or other title indicating an entry or advanced level
7.17 respiratory care practitioner.

7.18 Subd. 7a. **Equipment maintenance.** "Equipment maintenance" includes, but is not
7.19 limited to, downloading and subsequent reporting of stored compliance and physiological
7.20 data, adjustments to respiratory equipment based on compliance downloads, protocols,
7.21 and provider orders specific to noninvasive continuous positive airway pressure, bi-level
7.22 devices.

7.23 Subd. 8. **Health care facility.** "Health care facility" means a hospital as defined in
7.24 section 144.50, subdivision 2, a medical facility as defined in section 144.561, subdivision
7.25 1, paragraph (b), or a nursing home as defined in section 144A.01, subdivision 5, a
7.26 long-term acute care facility, a subacute care facility, an outpatient clinic, a physician's
7.27 office, a rehabilitation facility, or a hospice.

7.28 Subd. 9. **Qualified medical direction.** "Qualified medical direction" means
7.29 direction from a licensed physician who is on the staff or is a consultant of a health care
7.30 facility or home care agency or home medical equipment provider and who has a special
7.31 interest in and knowledge of the diagnosis and treatment of deficiencies, abnormalities,
7.32 and diseases of the cardiopulmonary system.

8.1 Subd. 9a. **Patient instruction.** "Patient instruction" includes, but is not limited to,
8.2 patient education on the care, use, maintenance of respiratory equipment, patient interface
8.3 fittings, and adjustments.

8.4 **Subd. 10. Respiratory care.** "Respiratory care" means the provision of services
8.5 described under section 147C.05 for the assessment, treatment, education, management,
8.6 evaluation, and care of patients with deficiencies, abnormalities, and diseases of the
8.7 cardiopulmonary system, ~~under the guidance of qualified medical direction~~ supervision of
8.8 a physician and pursuant to a referral, verbal, written, or telecommunicated order from
8.9 a physician who has medical responsibility for the patient, nurse practitioner, or physician
8.10 assistant. ~~It~~ Respiratory care includes, but is not limited to, education pertaining to health
8.11 promotion, and disease prevention and management, patient care, and treatment.

8.12 Sec. 2. Minnesota Statutes 2008, section 147C.05, is amended to read:

8.13 **147C.05 SCOPE OF PRACTICE.**

8.14 (a) The practice of respiratory care by a ~~registered licensed~~ respiratory care
8.15 practitioner therapist includes, but is not limited to, the following services:

8.16 (1) providing and monitoring therapeutic administration of medical gases, aerosols,
8.17 humidification, and pharmacological agents related to respiratory care procedures, but not
8.18 including administration of general anesthesia;

8.19 (2) carrying out therapeutic application and monitoring of mechanical ventilatory
8.20 support;

8.21 (3) providing cardiopulmonary resuscitation and maintenance of natural airways and
8.22 insertion and maintenance of artificial airways;

8.23 (4) assessing and monitoring signs, symptoms, and general behavior relating to, and
8.24 general physical response to, respiratory care treatment or evaluation for treatment and
8.25 diagnostic testing, including determination of whether the signs, symptoms, reactions,
8.26 behavior, or general response exhibit abnormal characteristics;

8.27 (5) obtaining physiological specimens and interpreting physiological data including:

8.28 (i) analyzing arterial and venous blood gases;

8.29 (ii) assessing respiratory secretions;

8.30 (iii) measuring ventilatory volumes, pressures, and flows;

8.31 (iv) testing pulmonary function;

8.32 (v) testing and studying the cardiopulmonary system; and

8.33 (vi) diagnostic and therapeutic testing of breathing patterns related to sleep disorders;

8.34 (6) assisting hemodynamic monitoring and support of the cardiopulmonary system;

9.1 (7) assessing and making suggestions for modifications in the treatment regimen
9.2 based on abnormalities, protocols, or changes in patient response to respiratory care
9.3 treatment;

9.4 (8) providing cardiopulmonary rehabilitation including respiratory-care related
9.5 educational components, postural drainage, chest physiotherapy, breathing exercises,
9.6 aerosolized administration of medications, and equipment use and maintenance;

9.7 (9) instructing patients and their families in techniques for the prevention, alleviation,
9.8 and rehabilitation of deficiencies, abnormalities, and diseases of the cardiopulmonary
9.9 system; and

9.10 (10) transcribing and implementing verbal, written, or telecommunicated orders from
9.11 a physician, nurse practitioner, or physician assistant ~~orders~~ for respiratory care services.

9.12 ~~(b) Patient service by a practitioner must be limited to:~~

9.13 ~~(1) services within the training and experience of the practitioner; and~~

9.14 ~~(2) services within the parameters of the laws, rules, and standards of the facilities in~~
9.15 ~~which the respiratory care practitioner practices.~~

9.16 ~~(c) Respiratory care services provided by a registered respiratory care practitioner,~~
9.17 ~~whether delivered in a health care facility or the patient's residence, must not be provided~~
9.18 ~~except upon referral from a physician.~~

9.19 (b) This section does not prohibit a respiratory therapist from performing advances
9.20 in the art and techniques of respiratory care learned through formal or specialized training
9.21 as approved by the Respiratory Care Advisory Council.

9.22 ~~(d)~~ (c) This section does not prohibit an individual licensed or ~~registered~~ credentialed
9.23 as a respiratory therapist in another state or country from providing respiratory care in an
9.24 emergency in this state, providing respiratory care as a member of an organ harvesting
9.25 team, or from providing respiratory care on board an ambulance as part of an ambulance
9.26 treatment team.

9.27 Sec. 3. Minnesota Statutes 2008, section 147C.10, is amended to read:

9.28 **147C.10 UNLICENSED PRACTICE PROHIBITED; PROTECTED TITLES**
9.29 **AND RESTRICTIONS ON USE.**

9.30 Subdivision 1. **Protected titles.** ~~No individual may~~ A person who does not hold
9.31 a license or temporary permit under this chapter as a respiratory therapist or whose
9.32 license or permit has lapsed, been suspended, or revoked may not use the title "Minnesota
9.33 ~~registered licensed respiratory care practitioner therapist," "registered licensed respiratory~~
9.34 ~~care practitioner therapist," "respiratory care practitioner," "respiratory therapist,"~~
9.35 ~~"respiratory therapy (or care) technician," "inhalation therapist," or "inhalation therapy~~

10.1 technician," or use, in connection with the individual's name, the letters "~~RCP,~~" "RT" or
10.2 "LRT" or any other titles, words, letters, abbreviations, or insignia indicating or implying
10.3 that the individual is eligible for ~~registration~~ licensure by the state as a respiratory ~~care~~
10.4 ~~practitioner~~ therapist unless the individual has been ~~registered~~ licensed as a respiratory
10.5 ~~care practitioner~~ therapist according to this chapter.

10.6 Subd. 1a. **Unlicensed practice prohibited.** No person shall practice respiratory
10.7 care unless the person is licensed as a respiratory therapist under this chapter except
10.8 as otherwise provided under this chapter.

10.9 Subd. 2. **Other health care practitioners.** (a) ~~Nonphysician individuals practicing~~
10.10 ~~in a health care occupation or profession are not restricted in the provision of services~~
10.11 ~~included in section 147C.05, as long as they do not hold themselves out as respiratory care~~
10.12 ~~practitioners by or through the use of the titles provided in subdivision 1 in association~~
10.13 ~~with provision of these services.~~ Nothing in this chapter shall prohibit the practice of any
10.14 profession or occupation licensed or registered by the state by any person duly licensed or
10.15 registered to practice the profession or occupation or to perform any act that falls within
10.16 the scope of practice of the profession or occupation.

10.17 (b) ~~Physician practitioners are exempt from this chapter.~~

10.18 (~~e~~) Nothing in this chapter shall be construed to require ~~registration of a respiratory~~
10.19 ~~care license for:~~

10.20 (1) a ~~respiratory care practitioner~~ student enrolled in a respiratory therapy or
10.21 ~~polysomnography technology~~ education program accredited by the Commission on
10.22 Accreditation of Allied Health Education Programs, its successor organization, or another
10.23 nationally recognized accrediting organization ~~approved by the board;~~ and

10.24 (2) a respiratory ~~care practitioner~~ employed in the service of the federal government
10.25 ~~therapist as a member of the United States armed forces~~ while performing duties incident
10.26 to that ~~employment~~ duty;

10.27 (3) an individual employed by a durable medical equipment provider or a home
10.28 medical equipment provider who delivers, sets up, or maintains respiratory care
10.29 equipment, but does not perform assessment, education, or evaluation of the patient;

10.30 (4) self-care by a patient or gratuitous care by a friend or relative who does not
10.31 purport to be a licensed respiratory therapist; or

10.32 (5) an individual employed in a sleep lab or center as a polysomnographic
10.33 technologist under the supervision of a licensed physician.

10.34 Subd. 3. **Penalty.** A person who violates ~~subdivision 1~~ this section is guilty of a
10.35 gross misdemeanor.

11.1 Subd. 4. **Identification of ~~registered~~ licensed practitioners.** Respiratory ~~care~~
11.2 ~~practitioners-registered~~ therapists licensed in Minnesota shall wear name tags that identify
11.3 them as respiratory ~~care practitioners~~ therapists while in a professional setting. If not
11.4 written in full, this must be designated as ~~RCP~~ "RT" or "LRT". A student attending ~~a~~ an
11.5 accredited respiratory therapy ~~training~~ education program ~~or a tutorial intern program~~
11.6 must be identified as a student respiratory ~~care practitioner~~ therapist. This abbreviated
11.7 designation is Student ~~RCP~~ RT. Unregulated individuals who work in an assisting
11.8 respiratory role under the supervision of respiratory ~~care practitioners~~ therapists must be
11.9 identified as respiratory ~~care~~ therapy assistants or aides.

11.10 Sec. 4. Minnesota Statutes 2008, section 147C.15, is amended to read:

11.11 **147C.15 ~~REGISTRATION~~ LICENSURE REQUIREMENTS.**

11.12 Subdivision 1. **General requirements for ~~registration~~ licensure.** To be eligible
11.13 for ~~registration~~ a license, an applicant, with the exception of those seeking ~~registration~~
11.14 licensure by reciprocity under subdivision 2, must:

11.15 (1) submit a completed application on forms provided by the board along with all
11.16 fees required under section 147C.40 that includes:

11.17 (i) the applicant's name, Social Security number, home address, e-mail address, and
11.18 telephone number, and business address and telephone number;

11.19 (ii) the name and location of the respiratory ~~care~~ therapy education program the
11.20 applicant completed;

11.21 (iii) a list of degrees received from educational institutions;

11.22 (iv) a description of the applicant's professional training beyond the first degree
11.23 received;

11.24 (v) the applicant's work history for the five years preceding the application, including
11.25 the average number of hours worked per week;

11.26 (vi) a list of registrations, certifications, and licenses held in other jurisdictions;

11.27 (vii) a description of any other jurisdiction's refusal to credential the applicant;

11.28 (viii) a description of all professional disciplinary actions initiated against the
11.29 applicant in any jurisdiction; and

11.30 (ix) any history of drug or alcohol abuse, and any misdemeanor or felony conviction;

11.31 (2) submit a certificate of completion from an approved education program;

11.32 (3) achieve a qualifying score on a credentialing examination within five years
11.33 prior to application for registration;

11.34 (4) submit a verified copy of a valid and current credential, issued by the National
11.35 Board for Respiratory Care or other board-approved national organization, as a certified

12.1 respiratory ~~therapy technician~~ therapist, registered respiratory therapist, or other entry or
12.2 advanced level respiratory ~~care practitioner~~ therapist designation;

12.3 (5) submit additional information as requested by the board, including providing
12.4 any additional information necessary to ensure that the applicant is able to practice with
12.5 reasonable skill and safety to the public;

12.6 (6) sign a statement that the information in the application is true and correct to the
12.7 best of the applicant's knowledge and belief; and

12.8 (7) sign a waiver authorizing the board to obtain access to the applicant's records
12.9 in this or any other state in which the applicant has completed an approved education
12.10 program or engaged in the practice of respiratory ~~care~~ therapy.

12.11 Subd. 2. **Registration Licensure by reciprocity.** To be eligible for ~~registration~~
12.12 licensure by reciprocity, the applicant must be credentialed by the National Board for
12.13 Respiratory Care or other board-approved organization and have worked at least eight
12.14 weeks of the previous five years as a respiratory ~~care practitioner~~ therapist and must:

12.15 (1) submit the application materials and fees as required by subdivision 1, clauses
12.16 (1), (4), (5), (6), and (7);

12.17 (2) provide a verified copy from the appropriate government body of a current and
12.18 unrestricted credential or license for the practice of respiratory ~~care~~ therapy in another
12.19 jurisdiction that has initial credentialing requirements equivalent to or higher than the
12.20 requirements in subdivision 1; and

12.21 (3) provide letters of verification from the appropriate government body in each
12.22 jurisdiction in which the applicant holds a credential or license. Each letter must state the
12.23 applicant's name, date of birth, credential number, date of issuance, a statement regarding
12.24 disciplinary actions, if any, taken against the applicant, and the terms under which the
12.25 credential was issued.

12.26 Subd. 3. **Temporary permit.** The board may issue a temporary permit to practice
12.27 as a respiratory ~~care practitioner~~ therapist to an applicant eligible for ~~registration~~
12.28 licensure under this section if the application for ~~registration~~ licensure is complete, all
12.29 applicable requirements in this section have been met, and a nonrefundable fee set by
12.30 the board has been paid. The permit remains valid only until the meeting of the board
12.31 at which a decision is made on the respiratory ~~care practitioner's~~ therapist's application
12.32 for ~~registration~~ licensure.

12.33 ~~Subd. 4. **Temporary registration.** The board may issue temporary registration as a~~
12.34 ~~respiratory care practitioner for a period of one year to an applicant for registration under~~
12.35 ~~this section if the application for registration is complete, all applicable requirements~~

13.1 ~~have been met with exception of completion of a credentialing examination, and a~~
13.2 ~~nonrefundable fee set by the board has been paid. A respiratory care practitioner with~~
13.3 ~~temporary registration may qualify for full registration status upon submission of verified~~
13.4 ~~documentation that the respiratory care practitioner has achieved a qualifying score on a~~
13.5 ~~credentialing examination within one year after receiving temporary registration status.~~
13.6 ~~Temporary registration may not be renewed.~~

13.7 **Subd. 5. Practice limitations with temporary registration.** A respiratory care
13.8 ~~practitioner with temporary registration is limited to working under the direct supervision~~
13.9 ~~of a registered respiratory care practitioner or physician able to provide qualified medical~~
13.10 ~~direction. The respiratory care practitioner or physician must be present in the health care~~
13.11 ~~facility or readily available by telecommunication at the time the respiratory care services~~
13.12 ~~are being provided. A registered respiratory care practitioner may supervise no more than~~
13.13 ~~two respiratory care practitioners with temporary registration status.~~

13.14 **Subd. 6. Registration License expiration.** ~~Registrations~~ Licenses issued under this
13.15 chapter expire annually.

13.16 **Subd. 7. Renewal.** (a) To be eligible for registration license renewal a registrant
13.17 licensee must:

13.18 (1) annually, or as determined by the board, complete a renewal application on a
13.19 form provided by the board;

13.20 (2) submit the renewal fee;

13.21 (3) provide evidence every two years of a total of 24 hours of continuing education
13.22 approved by the board as described in section 147C.25; and

13.23 (4) submit any additional information requested by the board to clarify information
13.24 presented in the renewal application. The information must be submitted within 30 days
13.25 after the board's request, or the renewal request is nullified.

13.26 (b) Applicants for renewal who have not practiced the equivalent of eight full weeks
13.27 during the past five years must achieve a passing score on retaking the credentialing
13.28 examination, ~~or complete no less than eight weeks of advisory council-approved~~
13.29 ~~supervised clinical experience having a broad base of treatment modalities and patient care.~~

13.30 **Subd. 8. Change of address.** A registrant licensee who changes addresses must
13.31 inform the board within 30 days, in writing, of the change of address. All notices or
13.32 other correspondence mailed to or served on a registrant licensee by the board at the
13.33 registrant's licensee's address on file with the board shall be considered as having been
13.34 received by the registrant licensee.

14.1 Subd. 9. **Registration License renewal notice.** At least 30 days before the
14.2 ~~registration~~ license renewal date, the board shall send out a renewal notice to the last
14.3 known address of the ~~registrant~~ licensee on file. The notice must include a renewal
14.4 application and a notice of fees required for renewal. It must also inform the ~~registrant~~
14.5 licensee that ~~registration~~ the license will expire without further action by the board if an
14.6 application for ~~registration~~ license renewal is not received before the deadline for renewal.
14.7 The ~~registrant's~~ licensee's failure to receive this notice shall not relieve the ~~registrant~~
14.8 licensee of the obligation to meet the deadline and other requirements for ~~registration~~
14.9 license renewal. Failure to receive this notice is not grounds for challenging expiration of
14.10 ~~registered~~ licensure status.

14.11 Subd. 10. **Renewal deadline.** The renewal application and fee must be postmarked
14.12 on or before July 1 of the year of renewal or as determined by the board. If the postmark is
14.13 illegible, the application shall be considered timely if received by the third working day
14.14 after the deadline.

14.15 ~~Subd. 11. **Inactive status and return to active status.** (a) A registration may be~~
14.16 ~~placed in inactive status upon application to the board by the registrant and upon payment~~
14.17 ~~of an inactive status fee.~~

14.18 ~~(b) Registrants seeking restoration to active from inactive status must pay the current~~
14.19 ~~renewal fees and all unpaid back inactive fees. They must meet the criteria for renewal~~
14.20 ~~specified in subdivision 7, including continuing education hours equivalent to one hour for~~
14.21 ~~each month of inactive status, prior to submitting an application to regain registered status.~~
14.22 ~~If the inactive status extends beyond five years, a qualifying score on a credentialing~~
14.23 ~~examination, or completion of an advisory council-approved eight-week supervised~~
14.24 ~~clinical training experience is required. If the registrant intends to regain active registration~~
14.25 ~~by means of eight weeks of advisory council-approved clinical training experience, the~~
14.26 ~~registrant shall be granted temporary registration for a period of no longer than six months.~~

14.27 Subd. 12. **Registration Licensure following lapse of registration licensed status**
14.28 **for two years or less.** For any individual whose ~~registration status~~ license has lapsed for
14.29 two years or less, to regain ~~registration status~~ a license, the individual must:

14.30 (1) apply for ~~registration~~ license renewal according to subdivision 7;

14.31 (2) document compliance with the continuing education requirements of section
14.32 147C.25 since the ~~registrant's~~ licensee's initial ~~registration~~ licensure or last renewal; and

14.33 (3) submit the fees required under section 147C.40 for the period not ~~registered~~
14.34 licensed, including the fee for late renewal.

15.1 Subd. 13. **Cancellation due to nonrenewal.** The board shall not renew, reissue,
15.2 reinstate, or restore a registration license that has lapsed and has not been renewed within
15.3 two annual registration renewal cycles starting July 1997. A registrant licensee whose
15.4 registration license is canceled for nonrenewal must obtain a new registration license by
15.5 applying for registration licensure and fulfilling all requirements then in existence for
15.6 initial registration licensure as a respiratory care practitioner therapist.

15.7 Subd. 14. **Cancellation of registration license in good standing.** (a) A registrant
15.8 licensee holding an active registration license as a respiratory care practitioner therapist in
15.9 the state may, upon approval of the board, be granted registration license cancellation if
15.10 the board is not investigating the person as a result of a complaint or information received
15.11 or if the board has not begun disciplinary proceedings against the registrant licensee.
15.12 Such action by the board shall be reported as a cancellation of registration a license in
15.13 good standing.

15.14 (b) A registrant licensee who receives board approval for registration license
15.15 cancellation is not entitled to a refund of any registration licensure fees paid for the
15.16 registration license year in which cancellation of the registration license occurred.

15.17 (c) To obtain registration a license after cancellation, a registrant licensee must
15.18 obtain a new registration license by applying for registration licensure and fulfilling the
15.19 requirements then in existence for obtaining initial registration licensure as a respiratory
15.20 care practitioner therapist.

15.21 Sec. 5. Minnesota Statutes 2008, section 147C.20, is amended to read:

15.22 **147C.20 BOARD ACTION ON APPLICATIONS FOR REGISTRATION**
15.23 **LICENSURE.**

15.24 (a) The board shall act on each application for registration licensure according
15.25 to paragraphs (b) to (d).

15.26 (b) The board shall determine if the applicant meets the requirements for registration
15.27 licensure under section 147C.15. The board or advisory council may investigate
15.28 information provided by an applicant to determine whether the information is accurate
15.29 and complete.

15.30 (c) The board shall notify each applicant in writing of action taken on the application,
15.31 the grounds for denying registration licensure if registration licensure is denied, and the
15.32 applicant's right to review under paragraph (d).

15.33 (d) Applicants denied registration licensure may make a written request to the
15.34 board, within 30 days of the board's notice, to appear before the advisory council or its
15.35 designee and for the advisory council to review the board's decision to deny the applicant's

16.1 ~~registration~~ licensure. After reviewing the denial, the advisory council shall make a
16.2 recommendation to the board as to whether the denial shall be affirmed. Each applicant is
16.3 allowed only one request for review per yearly ~~registration~~ licensure period.

16.4 Sec. 6. Minnesota Statutes 2008, section 147C.25, is amended to read:

16.5 **147C.25 CONTINUING EDUCATION REQUIREMENTS.**

16.6 Subdivision 1. **Number of required contact hours.** Two years after the date
16.7 of initial ~~registration~~ licensure, and every two years thereafter, a ~~registrant~~ licensee
16.8 applying for ~~registration~~ license renewal must complete a minimum of 24 contact hours
16.9 of board-approved continuing education in the two years preceding ~~registration~~ license
16.10 renewal and attest to completion of continuing education requirements by reporting to
16.11 the board.

16.12 Subd. 2. **Approved programs.** The board shall approve continuing education
16.13 programs that have been approved for continuing education credit by the American
16.14 Association of Respiratory Care or the Minnesota Society for Respiratory Care or their
16.15 successor organizations. The board shall also approve programs substantially related to
16.16 respiratory ~~care~~ therapy that are sponsored by an accredited university or college, medical
16.17 school, state or national medical association, national medical specialty society, or that are
16.18 approved for continuing education credit by the Minnesota Board of Nursing.

16.19 Subd. 3. **Approval of continuing education programs.** The board shall also
16.20 approve continuing education programs that do not meet the requirements of subdivision 2
16.21 but that meet the following criteria:

- 16.22 (1) the program content directly relates to the practice of respiratory ~~care~~ therapy;
- 16.23 (2) each member of the program faculty is knowledgeable in the subject matter as
16.24 demonstrated by a degree from an accredited education program, verifiable experience in
16.25 the field of respiratory ~~care~~ therapy, special training in the subject matter, or experience
16.26 teaching in the subject area;
- 16.27 (3) the program lasts at least one contact hour;
- 16.28 (4) there are specific, measurable, written objectives, consistent with the program,
16.29 describing the expected outcomes for the participants; and
- 16.30 (5) the program sponsor has a mechanism to verify participation and maintains
16.31 attendance records for three years.

16.32 Subd. 4. **Hospital, health care facility, or medical company in-services.** Hospital,
16.33 health care facility, or medical company in-service programs may qualify for continuing
16.34 education credits provided they meet the requirements of this section.

17.1 Subd. 5. **Accumulation of contact hours.** A ~~registrant~~ licensee may not apply
17.2 contact hours acquired in one two-year reporting period to a future continuing education
17.3 reporting period.

17.4 Subd. 6. **Verification of continuing education credits.** The board shall periodically
17.5 select a random sample of ~~registrants~~ licensees and require those ~~registrants~~ licensees to
17.6 supply the board with evidence of having completed the continuing education to which
17.7 they attested. Documentation may come directly from the ~~registrant~~ licensee or from state
17.8 or national organizations that maintain continuing education records.

17.9 Subd. 7. **Restriction on continuing education topics.** A ~~registrant~~ licensee may
17.10 apply no more than a combined total of eight hours of continuing education in the areas
17.11 of management, risk management, personal growth, and educational techniques to a
17.12 two-year reporting period.

17.13 Subd. 8. **Credit for credentialing examination.** A ~~registrant~~ licensee may fulfill
17.14 the continuing education requirements for a two-year reporting period by achieving a
17.15 qualifying score on one of the credentialing examinations or a specialty credentialing
17.16 examination of the National Board for Respiratory Care or another board-approved testing
17.17 organization. A ~~registrant~~ licensee may achieve 12 hours of continuing education credit
17.18 by completing a National Board for Respiratory Care or other board-approved testing
17.19 organization's specialty examination.

17.20 Sec. 7. Minnesota Statutes 2008, section 147C.30, is amended to read:

17.21 **147C.30 DISCIPLINE; REPORTING.**

17.22 For purposes of this chapter, ~~registered licensed~~ respiratory ~~care practitioners~~
17.23 therapists and applicants are subject to the provisions of sections 147.091 to 147.162.

17.24 Sec. 8. Minnesota Statutes 2008, section 147C.35, is amended to read:

17.25 **147C.35 RESPIRATORY CARE ~~PRACTITIONER~~ ADVISORY COUNCIL.**

17.26 Subdivision 1. **Membership.** The board shall appoint a seven-member Respiratory
17.27 Care ~~Practitioner~~ Advisory Council consisting of two public members as defined in section
17.28 214.02, three ~~registered licensed~~ respiratory ~~care practitioners~~ therapists, and two licensed
17.29 physicians with expertise in respiratory care.

17.30 Subd. 2. **Organization.** The advisory council shall be organized and administered
17.31 under section 15.059.

17.32 Subd. 3. **Duties.** The advisory council shall:

17.33 (1) advise the board regarding standards for respiratory ~~care practitioners~~ therapists;

- 18.1 (2) provide for distribution of information regarding respiratory ~~care practitioner~~
18.2 therapy standards;
- 18.3 (3) advise the board on enforcement of sections 147.091 to 147.162;
- 18.4 (4) review applications and recommend granting or denying ~~registration licensure~~
18.5 or ~~registration~~ license renewal;
- 18.6 (5) advise the board on issues related to receiving and investigating complaints,
18.7 conducting hearings, and imposing disciplinary action in relation to complaints against
18.8 respiratory ~~care practitioners~~ therapists;
- 18.9 (6) advise the board regarding approval of continuing education programs using the
18.10 criteria in section 147C.25, subdivision 3; and
- 18.11 (7) perform other duties authorized for advisory councils by chapter 214, as directed
18.12 by the board.

18.13 Sec. 9. Minnesota Statutes 2008, section 147C.40, is amended to read:

18.14 **147C.40 FEES.**

18.15 Subdivision 1. **Fees.** The board shall adopt rules setting:

- 18.16 (1) ~~registration licensure~~ fees;
- 18.17 (2) renewal fees;
- 18.18 (3) late fees;
- 18.19 (4) inactive status fees; and
- 18.20 (5) fees for temporary permits; ~~and~~
- 18.21 ~~(6) fees for temporary registration.~~

18.22 Subd. 2. **Proration of fees.** The board may prorate the initial annual ~~registration~~
18.23 license fee. All ~~registrants~~ licensees are required to pay the full fee upon ~~registration~~
18.24 license renewal.

18.25 Subd. 3. **Penalty fee for late renewals.** An application for ~~registration~~ license
18.26 renewal submitted after the deadline must be accompanied by a late fee in addition to the
18.27 required fees.

18.28 Subd. 4. **Nonrefundable fees.** All of the fees in subdivision 1 are nonrefundable.

18.29 Sec. 10. Minnesota Statutes 2008, section 157.22, is amended to read:

18.30 **157.22 EXEMPTIONS.**

18.31 This chapter shall not be construed to apply to:

- 18.32 (1) interstate carriers under the supervision of the United States Department of
18.33 Health and Human Services;

- 19.1 (2) any building constructed and primarily used for religious worship;
- 19.2 (3) any building owned, operated, and used by a college or university in accordance
19.3 with health regulations promulgated by the college or university under chapter 14;
- 19.4 (4) any person, firm, or corporation whose principal mode of business is licensed
19.5 under sections 28A.04 and 28A.05, is exempt at that premises from licensure as a food
19.6 or beverage establishment; provided that the holding of any license pursuant to sections
19.7 28A.04 and 28A.05 shall not exempt any person, firm, or corporation from the applicable
19.8 provisions of this chapter or the rules of the state commissioner of health relating to
19.9 food and beverage service establishments;
- 19.10 (5) family day care homes and group family day care homes governed by sections
19.11 245A.01 to 245A.16;
- 19.12 (6) nonprofit senior citizen centers for the sale of home-baked goods;
- 19.13 (7) fraternal or patriotic organizations that are tax exempt under section 501(c)(3),
19.14 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(10), or 501(c)(19) of the Internal Revenue Code of
19.15 1986, or organizations related to or affiliated with such fraternal or patriotic organizations.
19.16 Such organizations may organize events at which home-prepared food is donated by
19.17 organization members for sale at the events, provided:
- 19.18 (i) the event is not a circus, carnival, or fair;
- 19.19 (ii) the organization controls the admission of persons to the event, the event agenda,
19.20 or both; and
- 19.21 (iii) the organization's licensed kitchen is not used in any manner for the event;
- 19.22 (8) food not prepared at an establishment and brought in by individuals attending a
19.23 potluck event for consumption at the potluck event. An organization sponsoring a potluck
19.24 event under this clause may advertise the potluck event to the public through any means.
19.25 Individuals who are not members of an organization sponsoring a potluck event under this
19.26 clause may attend the potluck event and consume the food at the event. Licensed food
19.27 establishments other than schools cannot be sponsors of potluck events. A school may
19.28 sponsor and hold potluck events in areas of the school other than the school's kitchen,
19.29 provided that the school's kitchen is not used in any manner for the potluck event. For
19.30 purposes of this clause, "school" means a public school as defined in section 120A.05,
19.31 subdivisions 9, 11, 13, and 17, or a nonpublic school, church, or religious organization
19.32 at which a child is provided with instruction in compliance with sections 120A.22 and
19.33 120A.24. Potluck event food shall not be brought into a licensed food establishment
19.34 kitchen; ~~and~~
- 19.35 (9) a home school in which a child is provided instruction at home; and

20.1 (10) group residential facilities of ten or fewer beds licensed by the commissioner of
20.2 human services under Minnesota Rules, chapter 2960, provided the facility employs or
20.3 contracts with a certified food manager under Minnesota Rules, part 4626.2015.

20.4 Sec. 11. Minnesota Statutes 2008, section 245.4871, subdivision 10, is amended to
20.5 read:

20.6 Subd. 10. **Day treatment services.** "Day treatment," "day treatment services," or
20.7 "day treatment program" means a structured program of treatment and care provided to a
20.8 child in:

20.9 (1) an outpatient hospital accredited by the Joint Commission on Accreditation of
20.10 Health Organizations and licensed under sections 144.50 to 144.55;

20.11 (2) a community mental health center under section 245.62;

20.12 (3) an entity that is under contract with the county board to operate a program that
20.13 meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts
20.14 9505.0170 to 9505.0475; or

20.15 (4) an entity that operates a program that meets the requirements of section
20.16 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475, that is
20.17 under contract with an entity that is under contract with a county board.

20.18 Day treatment consists of group psychotherapy and other intensive therapeutic
20.19 services that are provided for a minimum ~~three-hour~~ two-hour time block by a
20.20 multidisciplinary staff under the clinical supervision of a mental health professional.
20.21 Day treatment may include education and consultation provided to families and
20.22 other individuals as an extension of the treatment process. The services are aimed at
20.23 stabilizing the child's mental health status, and developing and improving the child's daily
20.24 independent living and socialization skills. Day treatment services are distinguished from
20.25 day care by their structured therapeutic program of psychotherapy services. Day treatment
20.26 services are not a part of inpatient hospital or residential treatment services. ~~Day treatment~~
20.27 ~~services for a child are an integrated set of education, therapy, and family interventions.~~

20.28 A day treatment service must be available to a child ~~at least five days~~ up to 15 hours
20.29 a week throughout the year and must be coordinated with, integrated with, or part of an
20.30 education program offered by the child's school.

20.31 Sec. 12. Minnesota Statutes 2008, section 245A.03, subdivision 2, is amended to read:

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

20.33 (1) residential or nonresidential programs that are provided to a person by an
20.34 individual who is related unless the residential program is a child foster care placement

21.1 made by a local social services agency or a licensed child-placing agency, except as
21.2 provided in subdivision 2a;

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

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

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

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

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

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

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

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

21.22 (10) programs licensed by the commissioner of corrections;

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

21.26 (12) programs operated by a school as defined in section 120A.22, subdivision
21.27 4; YMCA as defined in section 315.44; YWCA as defined in section 315.44; or JCC as
21.28 defined in section 315.51, whose primary purpose is to provide child care to school-age
21.29 children;

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

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

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

- 22.1 (16) residential programs for persons with mental illness, that are located in hospitals;
- 22.2 (17) the religious instruction of school-age children; Sabbath or Sunday schools; or
- 22.3 the congregate care of children by a church, congregation, or religious society during the
- 22.4 period used by the church, congregation, or religious society for its regular worship;
- 22.5 (18) camps licensed by the commissioner of health under Minnesota Rules, chapter
- 22.6 4630;
- 22.7 (19) mental health outpatient services for adults with mental illness or children
- 22.8 with emotional disturbance;
- 22.9 (20) residential programs serving school-age children whose sole purpose is cultural
- 22.10 or educational exchange, until the commissioner adopts appropriate rules;
- 22.11 (21) unrelated individuals who provide out-of-home respite care services to persons
- 22.12 with developmental disabilities from a single related family for no more than 90 days in a
- 22.13 12-month period and the respite care services are for the temporary relief of the person's
- 22.14 family or legal representative;
- 22.15 (22) respite care services provided as a home and community-based service to a
- 22.16 person with a developmental disability, in the person's primary residence;
- 22.17 (23) community support services programs as defined in section 245.462, subdivision
- 22.18 6, and family community support services as defined in section 245.4871, subdivision 17;
- 22.19 (24) the placement of a child by a birth parent or legal guardian in a preadoptive
- 22.20 home for purposes of adoption as authorized by section 259.47;
- 22.21 (25) settings registered under chapter 144D which provide home care services
- 22.22 licensed by the commissioner of health to fewer than seven adults; ~~or~~
- 22.23 (26) chemical dependency or substance abuse treatment activities of licensed
- 22.24 professionals in private practice as defined in Minnesota Rules, part 9530.6405, subpart
- 22.25 15, when the treatment activities are not paid for by the consolidated chemical dependency
- 22.26 treatment fund;
- 22.27 (27) consumer-directed community support service funded under the Medicaid
- 22.28 waiver for persons with developmental disabilities when the individual who provided
- 22.29 the service is:
- 22.30 (i) the same individual who is the direct payee of these specific waiver funds or paid
- 22.31 by a fiscal agent, fiscal intermediary, or employer of record; and
- 22.32 (ii) not otherwise under the control of a residential or nonresidential program that is
- 22.33 required to be licensed under this chapter when providing the service; or
- 22.34 (28) a program serving only children who are age 33 months or older, that is
- 22.35 operated by a nonpublic school, for no more than four hours per day per child, with no
- 22.36 more than 20 children at any one time, and that is accredited by:

23.1 (i) an accrediting agency that is formally recognized by the commissioner of
23.2 education as a nonpublic school accrediting organization; or

23.3 (ii) an accrediting agency that requires background studies and that receives and
23.4 investigates complaints about the services provided.

23.5 A program that asserts its exemption from licensure under item (ii) shall, upon
23.6 request from the commissioner, provide the commissioner with documentation from the
23.7 accrediting agency that verifies: that the accreditation is current; that the accrediting
23.8 agency investigates complaints about services; and that the accrediting agency's standards
23.9 require background studies on all people providing direct contact services.

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

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

23.17 Sec. 13. Minnesota Statutes 2008, section 245A.03, is amended by adding a
23.18 subdivision to read:

23.19 Subd. 7. **Excluded providers seeking licensure.** Nothing in this section shall
23.20 prohibit a program that is excluded from licensure under subdivision 2, paragraph (a),
23.21 clause (28), from seeking licensure. The commissioner shall ensure that any application
23.22 received from such an excluded provider is processed in the same manner as all other
23.23 applications for child care center licensure.

23.24 Sec. 14. Minnesota Statutes 2008, section 245A.04, subdivision 5, is amended to read:

23.25 **Subd. 5. Commissioner's right of access.** When the commissioner is exercising the
23.26 powers conferred by this chapter and ~~section~~ sections 245.69, 626.556, and 626.557, the
23.27 commissioner must be given access to the physical plant and grounds where the program
23.28 is provided, documents and records, including records maintained in electronic format,
23.29 persons served by the program, and staff whenever the program is in operation and the
23.30 information is relevant to inspections or investigations conducted by the commissioner.
23.31 The commissioner must be given access without prior notice and as often as the
23.32 commissioner considers necessary if the commissioner is conducting an investigation of
23.33 allegations of maltreatment or other violation of applicable laws or rules. In conducting
23.34 inspections, the commissioner may request and shall receive assistance from other state,

24.1 county, and municipal governmental agencies and departments. The applicant or license
24.2 holder shall allow the commissioner to photocopy, photograph, and make audio and video
24.3 tape recordings during the inspection of the program at the commissioner's expense. The
24.4 commissioner shall obtain a court order or the consent of the subject of the records or the
24.5 parents or legal guardian of the subject before photocopying hospital medical records.

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

24.10 Sec. 15. Minnesota Statutes 2008, section 245A.04, subdivision 7, is amended to read:

24.11 Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines
24.12 that the program complies with all applicable rules and laws, the commissioner shall issue
24.13 a license. At minimum, the license shall state:

24.14 (1) the name of the license holder;

24.15 (2) the address of the program;

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

24.17 (4) the type of license;

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

24.20 (6) any special conditions of licensure.

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

24.23 (1) the commissioner is unable to conduct the evaluation or observation required
24.24 by subdivision 4, paragraph (a), clauses (3) and (4), because the program is not yet
24.25 operational;

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

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

24.29 (c) A decision by the commissioner to issue a license does not guarantee that any
24.30 person or persons will be placed or cared for in the licensed program. A license shall not
24.31 be transferable to another individual, corporation, partnership, voluntary association, other
24.32 organization, or controlling individual or to another location.

24.33 (d) A license holder must notify the commissioner and obtain the commissioner's
24.34 approval before making any changes that would alter the license information listed under
24.35 paragraph (a).

25.1 (e) The commissioner shall not issue or reissue a license if the applicant, license
25.2 holder, or controlling individual has:

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

25.5 (2) has been denied a license within the past two years; ~~or~~

25.6 (3) had a license revoked within the past five years; or

25.7 (4) has an outstanding debt related to a license fee, licensing fine, or settlement
25.8 agreement for which payment is delinquent.

25.9 When a license is revoked under clause (1) or (3), the license holder and controlling
25.10 individual may not hold any license under chapter 245A or 245B for five years following
25.11 the revocation, and other licenses held by the applicant, license holder, or controlling
25.12 individual shall also be revoked.

25.13 (f) The commissioner shall not issue a license if an individual living in the household
25.14 where the licensed services will be provided as specified under section 245C.03,
25.15 subdivision 1, has been disqualified and the disqualification has not been set aside and no
25.16 variance has been granted.

25.17 (g) For purposes of reimbursement for meals only, under the Child and Adult Care
25.18 Food Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A,
25.19 part 226, relocation within the same county by a licensed family day care provider, shall
25.20 be considered an extension of the license for a period of no more than 30 calendar days or
25.21 until the new license is issued, whichever occurs first, provided the county agency has
25.22 determined the family day care provider meets licensure requirements at the new location.

25.23 (h) Unless otherwise specified by statute, all licenses expire at 12:01 a.m. on the
25.24 day after the expiration date stated on the license. A license holder must apply for and
25.25 be granted a new license to operate the program or the program must not be operated
25.26 after the expiration date.

25.27 Sec. 16. Minnesota Statutes 2008, section 245A.05, is amended to read:

25.28 **245A.05 DENIAL OF APPLICATION.**

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

25.30 (1) fails to comply with applicable laws or rules; ~~or~~

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

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

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

26.4 (5) is associated with an individual who received a background study under section
26.5 245C.03, subdivision 1, paragraph (a), clause (6), who may have unsupervised access to
26.6 children or vulnerable adults, and who has a disqualification that has not been set aside
26.7 under section 245C.22, and no variance has been granted.

26.8 (b) An applicant whose application has been denied by the commissioner must
26.9 be given notice of the denial. Notice must be given by certified mail or personal
26.10 service. The notice must state the reasons the application was denied and must inform
26.11 the applicant of the right to a contested case hearing under chapter 14 and Minnesota
26.12 Rules, parts 1400.8505 to 1400.8612. The applicant may appeal the denial by notifying
26.13 the commissioner in writing by certified mail or personal service ~~within 20 calendar~~
26.14 ~~days after receiving notice that the application was denied.~~ If mailed, the appeal must be
26.15 postmarked and sent to the commissioner within 20 calendar days after the applicant
26.16 received the notice of denial. If an appeal request is made by personal service, it must
26.17 be received by the commissioner within 20 calendar days after the applicant received the
26.18 notice of denial. Section 245A.08 applies to hearings held to appeal the commissioner's
26.19 denial of an application.

26.20 Sec. 17. Minnesota Statutes 2008, section 245A.07, subdivision 1, is amended to read:

26.21 Subdivision 1. **Sanctions; appeals; license.** (a) In addition to making a license
26.22 conditional under section 245A.06, the commissioner may ~~propose to~~ suspend or revoke
26.23 the license, impose a fine, or secure an injunction against the continuing operation of the
26.24 program of a license holder who does not comply with applicable law or rule. When
26.25 applying sanctions authorized under this section, the commissioner shall consider the
26.26 nature, chronicity, or severity of the violation of law or rule and the effect of the violation
26.27 on the health, safety, or rights of persons served by the program.

26.28 (b) If a license holder appeals the suspension or revocation of a license and the
26.29 license holder continues to operate the program pending a final order on the appeal, and
26.30 the license expires during this time period, the commissioner shall issue the license holder
26.31 a temporary provisional license. The temporary provisional license is effective on the date
26.32 issued and expires on the date that a final order is issued. Unless otherwise specified by
26.33 the commissioner, variances in effect on the date of the license sanction under appeal
26.34 continue under the temporary provisional license. If a license holder fails to comply
26.35 with applicable law or rule while operating under a temporary provisional license, the

27.1 commissioner may impose sanctions under this section and section 245A.06, and may
27.2 terminate any prior variance. If the license holder prevails on the appeal and the effective
27.3 period of the previous license has expired, a new license shall be issued to the license
27.4 holder upon payment of any fee required under section 245A.10. The effective date of the
27.5 new license shall be retroactive to the date the license would have shown had no sanction
27.6 been initiated. The expiration date shall be the expiration date of that license had no
27.7 license sanction been initiated.

27.8 (c) If a license holder is under investigation and the license is due to expire
27.9 before completion of the investigation, the program shall be issued a new license upon
27.10 completion of the reapplication requirements. Upon completion of the investigation, a
27.11 licensing sanction may be imposed against the new license under this section, section
27.12 245A.06, or 245A.08.

27.13 (d) Failure to reapply or closure of a license by the license holder prior to the
27.14 completion of any investigation shall not preclude the commissioner from issuing a
27.15 licensing sanction under this section, section 245A.06, or 245A.08 at the conclusion
27.16 of the investigation.

27.17 Sec. 18. Minnesota Statutes 2008, section 245A.07, subdivision 3, is amended to read:

27.18 Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may
27.19 suspend or revoke a license, or impose a fine if a license holder fails to comply fully with
27.20 applicable laws or rules, if a license holder, a controlling individual, or an individual
27.21 living in the household where the licensed services are provided or is otherwise subject
27.22 to a background study has a disqualification which has not been set aside under section
27.23 245C.22, or if a license holder knowingly withholds relevant information from or gives
27.24 false or misleading information to the commissioner in connection with an application
27.25 for a license, in connection with the background study status of an individual, during an
27.26 investigation, or regarding compliance with applicable laws or rules. A license holder
27.27 who has had a license suspended, revoked, or has been ordered to pay a fine must be
27.28 given notice of the action by certified mail or personal service. If mailed, the notice
27.29 must be mailed to the address shown on the application or the last known address of the
27.30 license holder. The notice must state the reasons the license was suspended, revoked, or
27.31 a fine was ordered.

27.32 (b) If the license was suspended or revoked, the notice must inform the license
27.33 holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts
27.34 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking
27.35 a license. The appeal of an order suspending or revoking a license must be made in writing

28.1 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
28.2 the commissioner within ten calendar days after the license holder receives notice that the
28.3 license has been suspended or revoked. If a request is made by personal service, it must be
28.4 received by the commissioner within ten calendar days after the license holder received
28.5 the order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits
28.6 a timely appeal of an order suspending or revoking a license shall stay the suspension or
28.7 revocation, the license holder may continue to operate until the commissioner issues a
28.8 final order on the suspension or revocation.

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

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

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

28.31 (4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for
28.32 each determination of maltreatment of a child under section 626.556 or the maltreatment
28.33 of a vulnerable adult under section 626.557 for which the license holder is determined
28.34 responsible for the maltreatment under section 626.556, subdivision 10e, paragraph (i),
28.35 or 626.557, subdivision 9c, paragraph (c); the license holder shall forfeit \$200 for each
28.36 occurrence of a violation of law or rule governing matters of health, safety, or supervision,

29.1 including but not limited to the provision of adequate staff-to-child or adult ratios, and
29.2 failure to ~~submit a~~ comply with background study requirements under chapter 245C; and
29.3 the license holder shall forfeit \$100 for each occurrence of a violation of law or rule
29.4 other than those subject to a \$1,000 or \$200 fine above. For purposes of this section,
29.5 "occurrence" means each violation identified in the commissioner's fine order. Fines
29.6 assessed against a license holder that holds a license to provide the residential-based
29.7 habilitation services, as defined under section 245B.02, subdivision 20, and a license to
29.8 provide foster care, may be assessed against both licenses for the same occurrence, but
29.9 the combined amount of the fines shall not exceed the amount specified in this clause
29.10 for that occurrence.

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

29.15 Sec. 19. Minnesota Statutes 2008, section 245A.1435, is amended to read:

29.16 **245A.1435 REDUCTION OF RISK OF SUDDEN INFANT DEATH**
29.17 **SYNDROME IN LICENSED PROGRAMS.**

29.18 (a) When a license holder is placing an infant to sleep, the license holder must place
29.19 the infant on the infant's back, unless the license holder has documentation from the
29.20 infant's parent directing an alternative sleeping position for the infant, ~~and~~ The parent
29.21 directive must be on a form approved by the commissioner and must include a statement
29.22 that the parent or legal guardian has read the information provided by the Minnesota
29.23 Sudden Infant Death Center, related to the risk of SIDS and the importance of placing an
29.24 infant or child on the back to sleep to reduce the risk of SIDS.

29.25 (b) The license holder must place the infant in a crib with directly on a firm mattress
29.26 with a fitted crib sheet that fits tightly on the mattress and overlaps the mattress so it cannot
29.27 be dislodged by pulling on the corner of the sheet. The license holder must not place
29.28 pillows, quilts, comforters, sheepskin, pillow-like stuffed toys, or other soft products in
29.29 the crib with the infant. The requirements of this section apply to license holders serving
29.30 infants up to and including 12 months of age. Licensed child care providers must meet the
29.31 crib requirements under section 245A.146.

29.32 Sec. 20. Minnesota Statutes 2008, section 245A.16, subdivision 1, is amended to read:

29.33 Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and
29.34 private agencies that have been designated or licensed by the commissioner to perform

30.1 licensing functions and activities under section 245A.04 background studies for adult
30.2 foster care, family adult day services, and family child care, under chapter 245C; to
30.3 recommend denial of applicants under section 245A.05; to issue correction orders, to issue
30.4 variances, and recommend a conditional license under section 245A.06, or to recommend
30.5 suspending or revoking a license or issuing a fine under section 245A.07, shall comply
30.6 with rules and directives of the commissioner governing those functions and with this
30.7 section. The following variances are excluded from the delegation of variance authority
30.8 and may be issued only by the commissioner:

30.9 (1) dual licensure of family child care and child foster care, dual licensure of child
30.10 and adult foster care, and adult foster care and family child care;

30.11 (2) adult foster care maximum capacity;

30.12 (3) adult foster care minimum age requirement;

30.13 (4) child foster care maximum age requirement;

30.14 (5) variances regarding disqualified individuals except that county agencies may
30.15 issue variances under section 245C.30 regarding disqualified individuals when the county
30.16 is responsible for conducting a consolidated reconsideration according to sections 245C.25
30.17 and 245C.27, subdivision 2, clauses (a) and (b), of a county maltreatment determination
30.18 and a disqualification based on serious or recurring maltreatment; and

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

30.21 Except as provided in section 245A.14, subdivision 4, paragraph (e), a county agency
30.22 must not grant a license holder a variance to exceed the maximum allowable family child
30.23 care license capacity of 14 children.

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

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

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

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

30.33 Sec. 21. Minnesota Statutes 2008, section 245A.50, subdivision 5, is amended to read:

30.34 Subd. 5. **Sudden infant death syndrome and shaken baby syndrome training.**

30.35 (a) License holders must document that before staff persons, caregivers, and helpers

31.1 assist in the care of infants, they are instructed on the standards in section 245A.1435 and
31.2 receive training on reducing the risk of sudden infant death syndrome ~~and~~. In addition,
31.3 license holders must document that before staff persons, caregivers, and helpers assist in
31.4 the care of infants and children under school age, they receive training on reducing the
31.5 risk of shaken baby syndrome. The training in this subdivision may be provided as initial
31.6 training under subdivision 1 or ongoing training under subdivision 7.

31.7 (b) Sudden infant death syndrome reduction training required under this subdivision
31.8 must be at least ~~one~~ one-half hour in length and must be completed at least once every
31.9 five years. At a minimum, the training must address the risk factors related to sudden
31.10 infant death syndrome ~~and shaken baby syndrome~~, means of reducing the risk of sudden
31.11 infant death syndrome ~~and shaken baby syndrome~~ in child care, and license holder
31.12 communication with parents regarding reducing the risk of sudden infant death syndrome
31.13 ~~and shaken baby syndrome~~.

31.14 (c) Shaken baby syndrome training required under this subdivision must be at
31.15 least one-half hour in length and must be completed at least once every five years. At a
31.16 minimum, the training must address the risk factors related to shaken baby syndrome,
31.17 means of reducing the risk of shaken baby syndrome in child care, and license holder
31.18 communication with parents regarding reducing the risk of shaken baby syndrome.

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

31.21 ~~(d)~~ (e) The commissioner shall make available for viewing by all licensed child care
31.22 providers a video presentation on the dangers associated with shaking infants and young
31.23 children. The video presentation shall be part of the initial and ongoing annual training
31.24 of licensed child care providers caring for children under school age. The commissioner
31.25 shall provide to child care providers and interested individuals, at cost, copies of a video
31.26 approved by the commissioner of health under section 144.574 on the dangers associated
31.27 with shaking infants and young children.

31.28 Sec. 22. **[245B.031] ACCREDITATION, ALTERNATIVE INSPECTION, AND**
31.29 **DEEMED COMPLIANCE.**

31.30 Subdivision 1. **Day training and habilitation or supported employment services**
31.31 **programs; alternative inspection status.** (a) A license holder providing day training and
31.32 habilitation services or supported employment services according to this chapter, with a
31.33 three-year accreditation from the Commission on Rehabilitation Facilities, that has had at
31.34 least one on-site inspection by the commissioner following issuance of the initial license
31.35 may request alternative inspection status under this section.

32.1 (b) The request for alternative inspection status must be made in the manner
32.2 prescribed by the commissioner, and must include:

32.3 (1) a copy of the license holder's application to the Commission on Rehabilitation
32.4 Facilities for accreditation;

32.5 (2) the most recent Commission on Rehabilitation Facilities accreditation survey
32.6 report; and

32.7 (3) the most recent letter confirming the three-year accreditation and approval of the
32.8 license holder's quality improvement plan.

32.9 Based on the request and the accompanying materials, the commissioner may
32.10 approve alternative inspection status.

32.11 (c) Following approval of alternative inspection status, the commissioner may
32.12 terminate the alternative inspection status or deny a subsequent alternative inspection
32.13 status if the commissioner determines that any of the following conditions have occurred
32.14 after approval of the alternative inspection process:

32.15 (1) the license holder has not maintained full three-year accreditation;

32.16 (2) the commissioner has substantiated maltreatment for which the license holder or
32.17 facility is determined to be responsible during the three-year accreditation period; and

32.18 (3) during the three-year accreditation period, the license holder has been issued
32.19 an order for conditional license, a fine, suspension, or license revocation that has not
32.20 been reversed upon appeal.

32.21 (d) The commissioner's decision that the conditions for approval for the alternative
32.22 licensing inspection status have not been met is final and not subject to appeal under the
32.23 provisions of chapter 14.

32.24 **Subd. 2. Programs with three-year accreditation, exempt from certain statutes.**

32.25 (a) A license holder approved for alternative inspection status under this section is exempt
32.26 from the requirements under:

32.27 (1) section 245B.04;

32.28 (2) section 245B.05, subdivisions 5 and 6;

32.29 (3) section 245B.06, subdivisions 1, 3, 4, 5, and 6; and

32.30 (4) section 245B.07, subdivisions 1, 4, and 6.

32.31 (b) Upon receipt of a complaint regarding a requirement under paragraph (a), the
32.32 commissioner shall refer the complaint to the Commission on Rehabilitation Facilities for
32.33 possible follow-up.

32.34 **Subd. 3. Programs with three-year accreditation, deemed to be in compliance**
32.35 **with nonexempt licensing requirements. (a) License holders approved for alternative**

33.1 inspection status under this section are required to maintain compliance with all licensing
33.2 standards from which they are not exempt under subdivision 2, paragraph (a).

33.3 (b) License holders approved for alternative inspection status under this section shall
33.4 be deemed to be in compliance with all nonexempt statutes, and the commissioner shall
33.5 not perform routine licensing inspections.

33.6 (c) Upon receipt of a complaint regarding the services of a license holder approved
33.7 for alternative inspection under this section that is not related to a licensing requirement
33.8 from which the license holder is exempt under subdivision 2, the commissioner shall
33.9 investigate the complaint and may take any action as provided under section 245A.06 or
33.10 245A.07.

33.11 Subd. 4. **Investigations of alleged maltreatment of minors or vulnerable adults.**
33.12 Nothing in this section changes the commissioner's responsibilities to investigate alleged
33.13 or suspected maltreatment of a minor under section 626.556 or vulnerable adult under
33.14 section 626.557.

33.15 Subd. 5. **Commissioner request to the Commission on Rehabilitation Facilities**
33.16 **to expand accreditation survey.** The commissioner shall submit a request to the
33.17 Commission on Rehabilitation Facilities to routinely inspect for compliance with standards
33.18 that are similar to the following nonexempt licensing requirements:

33.19 (1) section 245A.65;

33.20 (2) section 245A.66;

33.21 (3) section 245B.05, subdivisions 1, 2, and 7;

33.22 (4) section 245B.055;

33.23 (5) section 245B.06, subdivisions 2, 7, 9, and 10;

33.24 (6) section 245B.07, subdivisions 2, 5, and 8, paragraph (a), clause (7);

33.25 (7) section 245C.04, subdivision 1, paragraph (f);

33.26 (8) section 245C.07;

33.27 (9) section 245C.13, subdivision 2;

33.28 (10) section 245C.20; and

33.29 (11) Minnesota Rules, parts 9525.2700 to 9525.2810.

33.30 Sec. 23. Minnesota Statutes 2008, section 245C.04, subdivision 1, is amended to read:

33.31 Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a
33.32 background study of an individual required to be studied under section 245C.03,
33.33 subdivision 1, at least upon application for initial license for all license types.

34.1 (b) The commissioner shall conduct a background study of an individual required to
34.2 be studied under section 245C.03, subdivision 1, at reapplication for a license for adult
34.3 foster care, family adult day services, and family child care.

34.4 (c) The commissioner is not required to conduct a study of an individual at the time
34.5 of reapplication for a license if the individual's background study was completed by the
34.6 commissioner of human services for an adult foster care license holder that is also:

34.7 (1) registered under chapter 144D; or

34.8 (2) licensed to provide home and community-based services to people with
34.9 disabilities at the foster care location and the license holder does not reside in the foster
34.10 care residence; and

34.11 (3) the following conditions are met:

34.12 (i) a study of the individual was conducted either at the time of initial licensure or
34.13 when the individual became affiliated with the license holder;

34.14 (ii) the individual has been continuously affiliated with the license holder since
34.15 the last study was conducted; and

34.16 (iii) the last study of the individual was conducted on or after October 1, 1995.

34.17 (d) From July 1, 2007, to June 30, 2009, the commissioner of human services shall
34.18 conduct a study of an individual required to be studied under section 245C.03, at the
34.19 time of reapplication for a child foster care license. The county or private agency shall
34.20 collect and forward to the commissioner the information required under section 245C.05,
34.21 subdivisions 1, paragraphs (a) and (b), and 5, paragraphs (a) and (b). The background
34.22 study conducted by the commissioner of human services under this paragraph must
34.23 include a review of the information required under section 245C.08, subdivisions 1,
34.24 paragraph (a), clauses (1) to (5), 3, and 4.

34.25 (e) The commissioner of human services shall conduct a background study of an
34.26 individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2)
34.27 to (6), who is newly affiliated with a child foster care license holder. The county or
34.28 private agency shall collect and forward to the commissioner the information required
34.29 under section 245C.05, subdivisions 1 and 5. The background study conducted by the
34.30 commissioner of human services under this paragraph must include a review of the
34.31 information required under section 245C.08, subdivisions 1, 3, and 4.

34.32 (f) Applicants for licensure, license holders, and other entities as provided in this
34.33 chapter must submit completed background study forms to the commissioner before
34.34 individuals specified in section 245C.03, subdivision 1, begin positions allowing direct
34.35 contact in any licensed program.

35.1 (g) For purposes of this section, a physician licensed under chapter 147 is considered
35.2 to be continuously affiliated upon the license holder's receipt from the commissioner of
35.3 health or human services of the physician's background study results.

35.4 (h) A license holder must provide the commissioner notice through the
35.5 commissioner's online background study system or through a letter mailed to the
35.6 commissioner when:

35.7 (1) an individual returns to a position requiring a background study following an
35.8 absence of 45 or more consecutive days; or

35.9 (2) a program that discontinued providing licensed direct contact services for 45 or
35.10 more consecutive days begins to provide direct contact licensed services again.

35.11 The license holder shall maintain a copy of the notification provided to the
35.12 commissioner under this paragraph in the program's files.

35.13 Sec. 24. Minnesota Statutes 2008, section 245C.07, is amended to read:

35.14 **245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.**

35.15 (a) Except for child foster care and adoption agencies, when a license holder,
35.16 applicant, or other entity owns multiple programs or services that are licensed by the
35.17 Department of Human Services, Department of Health, or Department of Corrections,
35.18 only one background study is required for an individual who provides direct contact
35.19 services in one or more of the licensed programs or services if:

35.20 (1) the license holder designates one individual with one address and telephone
35.21 number as the person to receive sensitive background study information for the multiple
35.22 licensed programs or services that depend on the same background study; and

35.23 (2) the individual designated to receive the sensitive background study information
35.24 is capable of determining, upon request of the department, whether a background study
35.25 subject is providing direct contact services in one or more of the license holder's programs
35.26 or services and, if so, at which location or locations.

35.27 (b) When a license holder maintains background study compliance for multiple
35.28 licensed programs according to paragraph (a), and one or more of the licensed programs
35.29 closes, the license holder shall immediately notify the commissioner which staff must be
35.30 transferred to an active license so that the background studies can be electronically paired
35.31 with the license holder's active program.

35.32 ~~(b)~~ (c) When a background study is being initiated by a licensed program or service
35.33 or a foster care provider that is also registered under chapter 144D, a study subject
35.34 affiliated with multiple licensed programs or services may attach to the background study

36.1 form a cover letter indicating the additional names of the programs or services, addresses,
36.2 and background study identification numbers.

36.3 When the commissioner receives a notice, the commissioner shall notify each
36.4 program or service identified by the background study subject of the study results.

36.5 The background study notice the commissioner sends to the subsequent agencies
36.6 shall satisfy those programs' or services' responsibilities for initiating a background study
36.7 on that individual.

36.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

36.9 Sec. 25. Minnesota Statutes 2008, section 245C.08, is amended to read:

36.10 **245C.08 BACKGROUND STUDY; COMMISSIONER REVIEWS.**

36.11 Subdivision 1. **Background studies conducted by ~~commissioner~~ Department of**
36.12 **Human Services.** (a) For a background study conducted by the ~~commissioner~~ Department
36.13 of Human Services, the commissioner shall review:

36.14 (1) information related to names of substantiated perpetrators of maltreatment of
36.15 vulnerable adults that has been received by the commissioner as required under section
36.16 626.557, subdivision 9c, paragraph (i);

36.17 (2) the commissioner's records relating to the maltreatment of minors in licensed
36.18 programs, and from findings of maltreatment of minors as indicated through the social
36.19 service information system;

36.20 (3) information from juvenile courts as required in subdivision 4 for individuals listed
36.21 in section 245C.03, subdivision 1, ~~clauses (2), (5), and (6)~~ when there is reasonable cause;

36.22 (4) information from the Bureau of Criminal Apprehension;

36.23 (5) except as provided in clause (6), information from the national crime information
36.24 system when the commissioner has reasonable cause as defined under section 245C.05,
36.25 subdivision 5; and

36.26 (6) for a background study related to a child foster care application for licensure or
36.27 adoptions, the commissioner shall also review:

36.28 (i) information from the child abuse and neglect registry for any state in which the
36.29 background study subject has resided for the past five years; and

36.30 (ii) information from national crime information databases, when the background
36.31 study ~~object~~ subject is 18 years of age or older.

36.32 (b) Notwithstanding expungement by a court, the commissioner may consider
36.33 information obtained under paragraph (a), clauses (3) and (4), unless the commissioner
36.34 received notice of the petition for expungement and the court order for expungement is
36.35 directed specifically to the commissioner.

37.1 Subd. 2. **Background studies conducted by a county agency.** (a) For a background
37.2 study conducted by a county agency for adult foster care, family adult day services, and
37.3 family child care services, the commissioner shall review:

37.4 (1) information from the county agency's record of substantiated maltreatment
37.5 of adults and the maltreatment of minors;

37.6 (2) information from juvenile courts as required in subdivision 4 for ~~individuals~~
37.7 ~~listed in section 245C.03, subdivision 1, clauses (2), (5), and (6);~~

37.8 (i) individuals listed in section 245C.03, subdivision 1, who are ages 13 through 23
37.9 living in the household where the licensed services will be provided; and

37.10 (ii) any other individual listed under section 245C.03, subdivision 1, when there
37.11 is reasonable cause; and

37.12 (3) information from the Bureau of Criminal Apprehension.

37.13 (b) If the individual has resided in the county for less than five years, the study shall
37.14 include the records specified under paragraph (a) for the previous county or counties of
37.15 residence for the past five years.

37.16 (c) Notwithstanding expungement by a court, the county agency may consider
37.17 information obtained under paragraph (a), clause (3), unless the commissioner received
37.18 notice of the petition for expungement and the court order for expungement is directed
37.19 specifically to the commissioner.

37.20 Subd. 3. **Arrest and investigative information.** (a) For any background study
37.21 completed under this section, if the commissioner has reasonable cause to believe the
37.22 information is pertinent to the disqualification of an individual, the commissioner also
37.23 may review arrest and investigative information from:

37.24 (1) the Bureau of Criminal Apprehension;

37.25 (2) the commissioner of health;

37.26 (3) a county attorney;

37.27 (4) a county sheriff;

37.28 (5) a county agency;

37.29 (6) a local chief of police;

37.30 (7) other states;

37.31 (8) the courts;

37.32 (9) the Federal Bureau of Investigation;

37.33 (10) the National Criminal Records Repository; and

37.34 (11) criminal records from other states.

37.35 (b) The commissioner is not required to conduct more than one review of a subject's
37.36 records from the Federal Bureau of Investigation if a review of the subject's criminal

38.1 history with the Federal Bureau of Investigation has already been completed by the
38.2 commissioner and there has been no break in the subject's affiliation with the license
38.3 holder who initiated the background study.

38.4 Subd. 4. **Juvenile court records.** (a) For a background study conducted by the
38.5 Department of Human Services, the commissioner shall review records from the juvenile
38.6 courts for an individual studied under section 245C.03, subdivision 1, ~~clauses (2) and (5)~~
38.7 when the commissioner has reasonable cause.

38.8 (b) ~~For individuals studied under section 245C.03, subdivision 1, clauses (1), (3),~~
38.9 ~~(4), and (6), and subdivision 2, who are ages 13 to 17, the commissioner shall review~~
38.10 ~~records from the juvenile courts~~ a background study conducted by a county agency, the
38.11 commissioner shall review records from the juvenile courts for individuals listed in section
38.12 245C.03, subdivision 1, who are ages 13 through 23 living in the household where the
38.13 licensed services will be provided. The commissioner shall also review records from
38.14 juvenile courts for any other individual listed under section 245C.03, subdivision 1, when
38.15 the commissioner has reasonable cause.

38.16 (c) The juvenile courts shall help with the study by giving the commissioner existing
38.17 juvenile court records relating to delinquency proceedings held on individuals described
38.18 in section 245C.03, subdivision 1, ~~clauses (2), (5), and (6), relating to delinquency~~
38.19 ~~proceedings held within either the five years immediately preceding the background study~~
38.20 ~~or the five years immediately preceding the individual's 18th birthday, whichever time~~
38.21 ~~period is longer~~ when requested pursuant to this subdivision.

38.22 (d) For purposes of this chapter, a finding that a delinquency petition is proven in
38.23 juvenile court shall be considered a conviction in state district court.

38.24 (e) Juvenile courts shall provide orders of involuntary and voluntary termination of
38.25 parental rights under section 260C.301 to the commissioner upon request for purposes of
38.26 conducting a background study under this chapter.

38.27 Sec. 26. Minnesota Statutes 2008, section 245C.13, subdivision 2, is amended to read:

38.28 Subd. 2. **Direct contact pending completion of background study.** The subject
38.29 of a background study may not perform any activity requiring a background study under
38.30 paragraph (b) until the commissioner has issued one of the notices under paragraph (a).

38.31 (a) Notices from the commissioner required prior to activity under paragraph (b)
38.32 include:

38.33 (1) a notice of the study results under section 245C.17 stating that:

38.34 (i) the individual is not disqualified; or

39.1 (ii) more time is needed to complete the study but the individual is not required to be
39.2 removed from direct contact or access to people receiving services prior to completion
39.3 of the study as provided under section 245C.17, subdivision 1, paragraph (b) or (c). The
39.4 notice that more time is needed to complete the study must also indicate whether the
39.5 individual is required to be under continuous direct supervision prior to completion of the
39.6 background study;

39.7 (2) a notice that a disqualification has been set aside under section 245C.23; or

39.8 (3) a notice that a variance has been granted related to the individual under section
39.9 245C.30.

39.10 (b) Activities prohibited prior to receipt of notice under paragraph (a) include:

39.11 (1) being issued a license;

39.12 (2) living in the household where the licensed program will be provided;

39.13 (3) providing direct contact services to persons served by a program unless the
39.14 subject is under continuous direct supervision; or

39.15 (4) having access to persons receiving services if the background study was
39.16 completed under section 144.057, subdivision 1, or 245C.03, subdivision 1, paragraph (a),
39.17 clause (2), (5), or (6), unless the subject is under continuous direct supervision.

39.18 Sec. 27. Minnesota Statutes 2008, section 245C.15, subdivision 1, is amended to read:

39.19 Subdivision 1. **Permanent disqualification.** (a) An individual is disqualified under
39.20 section 245C.14 if: (1) regardless of how much time has passed since the discharge of the
39.21 sentence imposed, if any, for the offense; and (2) unless otherwise specified, regardless
39.22 of the level of the offense, the individual has committed any of the following offenses:
39.23 sections 243.166 (violation of predatory offender registration law); 609.185 (murder in the
39.24 first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree);
39.25 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); a
39.26 felony offense under 609.221 or 609.222 (assault in the first or second degree); a felony
39.27 offense under sections 609.2242 and 609.2243 (domestic assault), spousal abuse, child
39.28 abuse or neglect, or a crime against children; 609.2247 (domestic assault by strangulation);
39.29 609.228 (great bodily harm caused by distribution of drugs); 609.245 (aggravated
39.30 robbery); 609.25 (kidnapping); 609.2661 (murder of an unborn child in the first degree);
39.31 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an
39.32 unborn child in the third degree); 609.322 (solicitation, inducement, and promotion of
39.33 prostitution); 609.324, subdivision 1 (other prohibited acts); 609.342 (criminal sexual
39.34 conduct in the first degree); 609.343 (criminal sexual conduct in the second degree);
39.35 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct

40.1 in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree); 609.3453
40.2 (criminal sexual predatory conduct); 609.352 (solicitation of children to engage in sexual
40.3 conduct); 609.365 (incest); a felony offense under 609.377 (malicious punishment of a
40.4 child); a felony offense under 609.378 (neglect or endangerment of a child); 609.561
40.5 (arson in the first degree); 609.66, subdivision 1e (drive-by shooting); 609.749, subdivision
40.6 3, 4, or 5 (felony-level harassment; stalking); 609.855, subdivision 5 (shooting at or in a
40.7 public transit vehicle or facility); 617.23, subdivision 2, clause (1), or subdivision 3, clause
40.8 (1) (indecent exposure involving a minor); 617.246 (use of minors in sexual performance
40.9 prohibited); or 617.247 (possession of pictorial representations of minors). ~~An individual
40.10 also is disqualified under section 245C.14 regardless of how much time has passed since
40.11 the involuntary termination of the individual's parental rights under section 260C.301.~~

40.12 (b) An individual's aiding and abetting, attempt, or conspiracy to commit any of the
40.13 offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes,
40.14 permanently disqualifies the individual under section 245C.14.

40.15 (c) An individual's offense in any other state or country, where the elements of the
40.16 offense are substantially similar to any of the offenses listed in paragraph (a), permanently
40.17 disqualifies the individual under section 245C.14.

40.18 (d) When a disqualification is based on a judicial determination other than a
40.19 conviction, the disqualification period begins from the date of the court order. When a
40.20 disqualification is based on an admission, the disqualification period begins from the
40.21 date of an admission in court. When a disqualification is based on an Alford Plea, the
40.22 disqualification period begins from the date the Alford Plea is entered in court. When
40.23 a disqualification is based on a preponderance of evidence of a disqualifying act, the
40.24 disqualification date begins from the date of the dismissal, the date of discharge of the
40.25 sentence imposed for a conviction for a disqualifying crime of similar elements, or the
40.26 date of the incident, whichever occurs last.

40.27 (e) If the individual studied commits one of the offenses listed in paragraph (a) that
40.28 is specified as a felony-level only offense, but the sentence or level of offense is a gross
40.29 misdemeanor or misdemeanor, the individual is disqualified, but the disqualification
40.30 look-back period for the offense is the period applicable to gross misdemeanor or
40.31 misdemeanor offenses.

40.32 **EFFECTIVE DATE.** This section is effective the day following final enactment.

40.33 Sec. 28. Minnesota Statutes 2008, section 245C.15, subdivision 2, is amended to read:

40.34 Subd. 2. **15-year disqualification.** (a) An individual is disqualified under section
40.35 245C.14 if: (1) less than 15 years have passed since the discharge of the sentence imposed,

41.1 if any, for the offense; and (2) the individual has committed a felony-level violation
 41.2 of any of the following offenses: sections 256.98 (wrongfully obtaining assistance);
 41.3 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph
 41.4 (c) (federal Food Stamp Program fraud); 609.165 (felon ineligible to possess firearm);
 41.5 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.223 or 609.2231
 41.6 (assault in the third or fourth degree); repeat offenses under 609.224 (assault in the fifth
 41.7 degree); 609.229 (crimes committed for benefit of a gang); 609.2325 (criminal abuse of a
 41.8 vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.235 (use of
 41.9 drugs to injure or facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment);
 41.10 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter
 41.11 of an unborn child in the second degree); 609.267 (assault of an unborn child in the first
 41.12 degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury
 41.13 or death of an unborn child in the commission of a crime); 609.27 (coercion); 609.275
 41.14 (attempt to coerce); 609.466 (medical assistance fraud); 609.495 (aiding an offender);
 41.15 609.498, subdivision 1 or 1b (aggravated first-degree or first-degree tampering with a
 41.16 witness); 609.52 (theft); 609.521 (possession of shoplifting gear); 609.525 (bringing
 41.17 stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property);
 41.18 609.535 (issuance of dishonored checks); 609.562 (arson in the second degree);
 41.19 609.563 (arson in the third degree); 609.582 (burglary); 609.59 (possession of burglary
 41.20 tools); 609.611 (insurance fraud); 609.625 (aggravated forgery); 609.63 (forgery);
 41.21 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by
 41.22 false pretense); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled
 41.23 shotguns); 609.687 (adulteration); 609.71 (riot); 609.713 (terroristic threats); 609.82
 41.24 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent
 41.25 exposure), not involving a minor; repeat offenses under 617.241 (obscene materials and
 41.26 performances; distribution and exhibition prohibited; penalty); 624.713 (certain persons
 41.27 not to possess firearms); chapter 152 (drugs; controlled substance); or a felony-level
 41.28 conviction involving alcohol or drug use.

41.29 (b) An individual is disqualified under section 245C.14 if less than 15 years has
 41.30 passed since the individual's aiding and abetting, attempt, or conspiracy to commit any
 41.31 of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota
 41.32 Statutes.

41.33 (c) ~~For foster care and family child care~~ An individual is disqualified under section
 41.34 245C.14 if less than 15 years has passed since the individual's ~~voluntary~~ termination of
 41.35 the individual's parental rights under section 260C.301, ~~subdivision 1, paragraph (b), or~~
 41.36 ~~260C.301, subdivision 3.~~

42.1 (d) An individual is disqualified under section 245C.14 if less than 15 years has
42.2 passed since the discharge of the sentence imposed for an offense in any other state or
42.3 country, the elements of which are substantially similar to the elements of the offenses
42.4 listed in paragraph (a).

42.5 (e) If the individual studied commits one of the offenses listed in paragraph (a), but
42.6 the sentence or level of offense is a gross misdemeanor or misdemeanor, the individual
42.7 is disqualified but the disqualification look-back period for the offense is the period
42.8 applicable to the gross misdemeanor or misdemeanor disposition.

42.9 (f) When a disqualification is based on a judicial determination other than a
42.10 conviction, the disqualification period begins from the date of the court order. When a
42.11 disqualification is based on an admission, the disqualification period begins from the
42.12 date of an admission in court. When a disqualification is based on an Alford Plea, the
42.13 disqualification period begins from the date the Alford Plea is entered in court. When
42.14 a disqualification is based on a preponderance of evidence of a disqualifying act, the
42.15 disqualification date begins from the date of the dismissal, the date of discharge of the
42.16 sentence imposed for a conviction for a disqualifying crime of similar elements, or the
42.17 date of the incident, whichever occurs last.

42.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.

42.19 Sec. 29. Minnesota Statutes 2008, section 245C.15, subdivision 3, is amended to read:

42.20 Subd. 3. **Ten-year disqualification.** (a) An individual is disqualified under section
42.21 245C.14 if: (1) less than ten years have passed since the discharge of the sentence imposed,
42.22 if any, for the offense; and (2) the individual has committed a gross misdemeanor-level
42.23 violation of any of the following offenses: sections 256.98 (wrongfully obtaining
42.24 assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10,
42.25 paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide
42.26 and injury); 609.221 or 609.222 (assault in the first or second degree); 609.223 or
42.27 609.2231 (assault in the third or fourth degree); 609.224 (assault in the fifth degree);
42.28 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a
42.29 vulnerable adult); 609.2242 and 609.2243 (domestic assault); 609.23 (mistreatment of
42.30 persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal
42.31 abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335
42.32 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a
42.33 vulnerable adult); 609.265 (abduction); 609.275 (attempt to coerce); 609.324, subdivision
42.34 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house);
42.35 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child);

43.1 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into
43.2 Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance
43.3 of dishonored checks); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611
43.4 (insurance fraud); 609.631 (check forgery; offering a forged check); 609.66 (dangerous
43.5 weapons); 609.71 (riot); 609.72, subdivision 3 (disorderly conduct against a vulnerable
43.6 adult); repeat offenses under 609.746 (interference with privacy); 609.749, subdivision 2
43.7 (harassment; stalking); 609.82 (fraud in obtaining credit); 609.821 (financial transaction
43.8 card fraud); 617.23 (indecent exposure), not involving a minor; 617.241 (obscene
43.9 materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful
43.10 materials; dissemination and display to minors prohibited); or violation of an order for
43.11 protection under section 518B.01, subdivision 14.

43.12 (b) An individual is disqualified under section 245C.14 if less than ten years has
43.13 passed since the individual's aiding and abetting, attempt, or conspiracy to commit any
43.14 of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota
43.15 Statutes.

43.16 (c) An individual is disqualified under section 245C.14 if less than ten years has
43.17 passed since the discharge of the sentence imposed for an offense in any other state or
43.18 country, the elements of which are substantially similar to the elements of any of the
43.19 offenses listed in paragraph (a).

43.20 (d) If the individual studied commits one of the offenses listed in paragraph (a), but
43.21 the sentence or level of offense is a misdemeanor disposition, the individual is disqualified
43.22 but the disqualification lookback period for the offense is the period applicable to
43.23 misdemeanors.

43.24 (e) When a disqualification is based on a judicial determination other than a
43.25 conviction, the disqualification period begins from the date of the court order. When a
43.26 disqualification is based on an admission, the disqualification period begins from the
43.27 date of an admission in court. When a disqualification is based on an Alford Plea, the
43.28 disqualification period begins from the date the Alford Plea is entered in court. When
43.29 a disqualification is based on a preponderance of evidence of a disqualifying act, the
43.30 disqualification date begins from the date of the dismissal, the date of discharge of the
43.31 sentence imposed for a conviction for a disqualifying crime of similar elements, or the
43.32 date of the incident, whichever occurs last.

43.33 Sec. 30. Minnesota Statutes 2008, section 245C.15, subdivision 4, is amended to read:

43.34 Subd. 4. **Seven-year disqualification.** (a) An individual is disqualified under
43.35 section 245C.14 if: (1) less than seven years has passed since the discharge of the sentence

44.1 imposed, if any, for the offense; and (2) the individual has committed a misdemeanor-level
 44.2 violation of any of the following offenses: sections 256.98 (wrongfully obtaining
 44.3 assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10,
 44.4 paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide
 44.5 and injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree);
 44.6 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224
 44.7 (assault in the fifth degree); 609.2242 (domestic assault); 609.2335 (financial exploitation
 44.8 of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult);
 44.9 609.2672 (assault of an unborn child in the third degree); 609.27 (coercion); violation
 44.10 of an order for protection under 609.3232 (protective order authorized; procedures;
 44.11 penalties); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen
 44.12 goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property);
 44.13 609.535 (issuance of dishonored checks); 609.611 (insurance fraud); 609.66 (dangerous
 44.14 weapons); 609.665 (spring guns); 609.746 (interference with privacy); 609.79 (obscene or
 44.15 harassing telephone calls); 609.795 (letter, telegram, or package; opening; harassment);
 44.16 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23
 44.17 (indecent exposure), not involving a minor; 617.293 (harmful materials; dissemination
 44.18 and display to minors prohibited); or violation of an order for protection under section
 44.19 518B.01 (Domestic Abuse Act).

44.20 (b) An individual is disqualified under section 245C.14 if less than seven years has
 44.21 passed since a determination or disposition of the individual's:

44.22 (1) failure to make required reports under section 626.556, subdivision 3, or
 44.23 626.557, subdivision 3, for incidents in which: (i) the final disposition under section
 44.24 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was
 44.25 recurring or serious; or

44.26 (2) substantiated serious or recurring maltreatment of a minor under section 626.556,
 44.27 a vulnerable adult under section 626.557, or serious or recurring maltreatment in any other
 44.28 state, the elements of which are substantially similar to the elements of maltreatment under
 44.29 section 626.556 or 626.557 for which: (i) there is a preponderance of evidence that the
 44.30 maltreatment occurred, and (ii) the subject was responsible for the maltreatment.

44.31 (c) An individual is disqualified under section 245C.14 if less than seven years has
 44.32 passed since the individual's aiding and abetting, attempt, or conspiracy to commit any
 44.33 of the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in
 44.34 Minnesota Statutes.

44.35 (d) An individual is disqualified under section 245C.14 if less than seven years has
 44.36 passed since the discharge of the sentence imposed for an offense in any other state or

45.1 country, the elements of which are substantially similar to the elements of any of the
45.2 offenses listed in paragraphs (a) and (b).

45.3 (e) When a disqualification is based on a judicial determination other than a
45.4 conviction, the disqualification period begins from the date of the court order. When a
45.5 disqualification is based on an admission, the disqualification period begins from the
45.6 date of an admission in court. When a disqualification is based on an Alford Plea, the
45.7 disqualification period begins from the date the Alford Plea is entered in court. When
45.8 a disqualification is based on a preponderance of evidence of a disqualifying act, the
45.9 disqualification date begins from the date of the dismissal, the date of discharge of the
45.10 sentence imposed for a conviction for a disqualifying crime of similar elements, or the
45.11 date of the incident, whichever occurs last.

45.12 (f) An individual is disqualified under section 245C.14 if less than seven years has
45.13 passed since the individual was disqualified under section 256.98, subdivision 8.

45.14 Sec. 31. Minnesota Statutes 2008, section 245C.22, subdivision 7, is amended to read:

45.15 Subd. 7. **Classification of certain data.** (a) Notwithstanding section 13.46, upon
45.16 setting aside a disqualification under this section, the identity of the disqualified individual
45.17 who received the set-aside and the individual's disqualifying characteristics are public
45.18 data if the set-aside was:

45.19 (1) for any disqualifying characteristic under section 245C.15, when the set-aside
45.20 relates to a child care center or a family child care provider licensed under chapter 245A; or

45.21 (2) for a disqualifying characteristic under section 245C.15, subdivision 2.

45.22 (b) Notwithstanding section 13.46, upon granting a variance to a license holder
45.23 under section 245C.30, the identity of the disqualified individual who is the subject of
45.24 the variance, the individual's disqualifying characteristics under section 245C.15, and the
45.25 terms of the variance are public data, when the variance:

45.26 (1) is issued to a child care center or a family child care provider licensed under
45.27 chapter 245A; or

45.28 (2) relates to an individual with a disqualifying characteristic under section 245C.15,
45.29 subdivision 2.

45.30 (c) The identity of a disqualified individual and the reason for disqualification
45.31 remain private data when:

45.32 (1) a disqualification is not set aside and no variance is granted, except as provided
45.33 under section 13.46, subdivision 4;

45.34 (2) the data are not public under paragraph (a) or (b);

46.1 (3) the disqualification is rescinded because the information relied upon to disqualify
46.2 the individual is incorrect; or

46.3 (4) the disqualification relates to a license to provide relative child foster care.
46.4 As used in this clause, "relative" has the meaning given it under section 260C.007,
46.5 subdivision 27.

46.6 (d) Licensed family child care providers and child care centers must provide notices
46.7 as required under section 245C.301.

46.8 (e) Notwithstanding paragraphs (a) and (b), the identity of household members who
46.9 are the subject of a disqualification related set-aside or variance is not public data if:

46.10 (1) the household member resides in the residence where the family child care is
46.11 provided;

46.12 (2) the subject of the set-aside or variance is under the age of 18 years; and

46.13 (3) the set-aside or variance only relates to a disqualification under section 245C.15,
46.14 subdivision 4, for a misdemeanor-level theft crime as defined in section 609.52.

46.15 Sec. 32. Minnesota Statutes 2008, section 245C.24, subdivision 2, is amended to read:

46.16 Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as provided in
46.17 paragraph (b), the commissioner may not set aside the disqualification of any individual
46.18 disqualified pursuant to this chapter, regardless of how much time has passed, if the
46.19 individual was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

46.20 (b) For an individual in the chemical dependency or corrections field who was
46.21 disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and whose
46.22 disqualification was set aside prior to July 1, 2005, the commissioner must consider
46.23 granting a variance pursuant to section 245C.30 for the license holder for a program
46.24 dealing primarily with adults. A request for reconsideration evaluated under this paragraph
46.25 must include a letter of recommendation from the license holder that was subject to the
46.26 prior set-aside decision addressing the individual's quality of care to children or vulnerable
46.27 adults and the circumstances of the individual's departure from that service.

46.28 (c) When a licensed foster care provider adopts an individual who had received
46.29 foster care services from the provider for over six months, and the adopted individual is
46.30 required to receive a background study under section 245C.03, subdivision 1, paragraph
46.31 (a), clause (2) or (6), the commissioner may grant a variance to the license holder under
46.32 section 245C.30 to permit the adopted individual with a permanent disqualification
46.33 to remain affiliated with the license holder under the conditions of the variance when
46.34 the variance is recommended by the county of responsibility for each of the remaining
46.35 individuals in placement in the home and the licensing agency for the home.

47.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

47.2 Sec. 33. Minnesota Statutes 2008, section 245C.24, subdivision 3, is amended to read:

47.3 Subd. 3. **Ten-year bar to set aside disqualification.** (a) The commissioner may
 47.4 not set aside the disqualification of an individual in connection with a license to provide
 47.5 family child care for children, foster care for children in the provider's home, or foster
 47.6 care or day care services for adults in the provider's home if: (1) less than ten years
 47.7 has passed since the discharge of the sentence imposed, if any, for the offense; or (2)
 47.8 when disqualified based on a preponderance of evidence determination under section
 47.9 245C.14, subdivision 1, paragraph (a), clause (2), or an admission under section 245C.14,
 47.10 subdivision 1, paragraph (a), clause (1), and less than ten years has passed since the
 47.11 individual committed the act or admitted to committing the act, whichever is later; and
 47.12 (3) the individual has committed a violation of any of the following offenses: sections
 47.13 609.165 (felon ineligible to possess firearm); criminal vehicular homicide or criminal
 47.14 vehicular operation causing death under 609.21 (criminal vehicular homicide and injury);
 47.15 609.215 (aiding suicide or aiding attempted suicide); felony violations under 609.223 or
 47.16 609.2231 (assault in the third or fourth degree); 609.229 (crimes committed for benefit
 47.17 of a gang); 609.713 (terroristic threats); 609.235 (use of drugs to injure or to facilitate
 47.18 crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.562 (arson in the
 47.19 second degree); 609.71 (riot); 609.498, subdivision 1 or 1b (aggravated first-degree or
 47.20 first-degree tampering with a witness); burglary in the first or second degree under 609.582
 47.21 (burglary); 609.66 (dangerous weapon); 609.665 (spring guns); 609.67 (machine guns
 47.22 and short-barreled shotguns); 609.749, subdivision 2 (gross misdemeanor harassment;
 47.23 stalking); 152.021 or 152.022 (controlled substance crime in the first or second degree);
 47.24 152.023, subdivision 1, clause (3) or (4) or subdivision 2, clause (4) (controlled substance
 47.25 crime in the third degree); 152.024, subdivision 1, clause (2), (3), or (4) (controlled
 47.26 substance crime in the fourth degree); 609.224, subdivision 2, paragraph (c) (fifth-degree
 47.27 assault by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons
 47.28 confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a
 47.29 vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial
 47.30 exploitation of a vulnerable adult); 609.234 (failure to report); 609.265 (abduction);
 47.31 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree);
 47.32 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree);
 47.33 609.268 (injury or death of an unborn child in the commission of a crime); repeat offenses
 47.34 under 617.23 (indecent exposure); 617.293 (disseminating or displaying harmful material
 47.35 to minors); a felony-level conviction involving alcohol or drug use, a gross misdemeanor

48.1 offense under 609.324, subdivision 1 (other prohibited acts); a gross misdemeanor offense
48.2 under 609.378 (neglect or endangerment of a child); a gross misdemeanor offense under
48.3 609.377 (malicious punishment of a child); 609.72, subdivision 3 (disorderly conduct
48.4 against a vulnerable adult); or 624.713 (certain persons not to possess firearms).

48.5 (b) The commissioner may not set aside the disqualification of an individual if
48.6 less than ten years have passed since the individual's aiding and abetting, attempt, or
48.7 conspiracy to commit any of the offenses listed in paragraph (a) as each of these offenses
48.8 is defined in Minnesota Statutes.

48.9 (c) The commissioner may not set aside the disqualification of an individual if less
48.10 than ten years have passed since the discharge of the sentence imposed for an offense in
48.11 any other state or country, the elements of which are substantially similar to the elements
48.12 of any of the offenses listed in paragraph (a).

48.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.

48.14 Sec. 34. Minnesota Statutes 2008, section 245C.25, is amended to read:

48.15 **245C.25 CONSOLIDATED RECONSIDERATION OF MALTREATMENT**
48.16 **DETERMINATION AND DISQUALIFICATION.**

48.17 (a) If an individual is disqualified on the basis of a determination of maltreatment
48.18 under section 626.556 or 626.557, which was serious or recurring, and the individual
48.19 requests reconsideration of the maltreatment determination under section 626.556,
48.20 subdivision 10i, or 626.557, subdivision 9d, and also requests reconsideration of
48.21 the disqualification under section 245C.21, the commissioner shall consolidate the
48.22 reconsideration of the maltreatment determination and the disqualification into a single
48.23 reconsideration.

48.24 (b) For maltreatment and disqualification determinations made by county agencies,
48.25 the county agency shall conduct the consolidated reconsideration. If the county agency
48.26 has disqualified an individual on multiple bases, one of which is a county maltreatment
48.27 determination for which the individual has a right to request reconsideration, the county
48.28 shall conduct the reconsideration of all disqualifications.

48.29 (c) If the county has previously conducted a consolidated reconsideration under
48.30 paragraph (b) of a maltreatment determination and a disqualification based on serious or
48.31 recurring maltreatment, and the county subsequently disqualifies the individual based
48.32 on that determination, the county shall conduct the reconsideration of the subsequent
48.33 disqualification. The scope of the subsequent disqualification shall be limited to whether
48.34 the individual poses a risk of harm in accordance with section 245C.22, subdivision 4. If
48.35 the commissioner subsequently disqualifies the individual in connection with a child foster

49.1 care license based on the county's previous maltreatment determination, the commissioner
49.2 shall conduct the reconsideration of the subsequent disqualification.

49.3 Sec. 35. Minnesota Statutes 2008, section 245C.27, subdivision 1, is amended to read:

49.4 Subdivision 1. **Fair hearing when disqualification is not set aside.** (a) If the
49.5 commissioner does not set aside a disqualification of an individual under section
49.6 245C.22 who is disqualified on the basis of a preponderance of evidence that the
49.7 individual committed an act or acts that meet the definition of any of the crimes listed in
49.8 section 245C.15; for a determination under section 626.556 or 626.557 of substantiated
49.9 maltreatment that was serious or recurring under section 245C.15; or for failure to make
49.10 required reports under section 626.556, subdivision 3; or 626.557, subdivision 3, pursuant
49.11 to section 245C.15, subdivision 4, paragraph (b), clause (1), the individual may request
49.12 a fair hearing under section 256.045, unless the disqualification is deemed conclusive
49.13 under section 245C.29.

49.14 (b) The fair hearing is the only administrative appeal of the final agency
49.15 determination for purposes of appeal by the disqualified individual. The disqualified
49.16 individual does not have the right to challenge the accuracy and completeness of data
49.17 under section 13.04.

49.18 (c) Except as provided under paragraph (e), if the individual was disqualified
49.19 based on a conviction ~~or of~~, admission to, or Alford Plea to any crimes listed in section
49.20 245C.15, subdivisions 1 to 4, or for a disqualification under section 256.98, subdivision
49.21 8, the reconsideration decision under section 245C.22 is the final agency determination
49.22 for purposes of appeal by the disqualified individual and is not subject to a hearing under
49.23 section 256.045. If the individual was disqualified based on a judicial determination, that
49.24 determination is treated the same as a conviction for purposes of appeal.

49.25 (d) This subdivision does not apply to a public employee's appeal of a disqualification
49.26 under section 245C.28, subdivision 3.

49.27 (e) Notwithstanding paragraph (c), if the commissioner does not set aside a
49.28 disqualification of an individual who was disqualified based on both a preponderance
49.29 of evidence and a conviction or admission, the individual may request a fair hearing
49.30 under section 256.045, unless the disqualifications are deemed conclusive under section
49.31 245C.29. The scope of the hearing conducted under section 256.045 with regard to the
49.32 disqualification based on a conviction or admission shall be limited solely to whether the
49.33 individual poses a risk of harm, according to section 256.045, subdivision 3b. In this case,
49.34 the reconsideration decision under section 245C.22 is not the final agency decision for
49.35 purposes of appeal by the disqualified individual.

50.1 Sec. 36. Minnesota Statutes 2008, section 256.045, subdivision 3, is amended to read:

50.2 Subd. 3. **State agency hearings.** (a) State agency hearings are available for the
50.3 following:

50.4 (1) any person applying for, receiving or having received public assistance, medical
50.5 care, or a program of social services granted by the state agency or a county agency or
50.6 the federal Food Stamp Act whose application for assistance is denied, not acted upon
50.7 with reasonable promptness, or whose assistance is suspended, reduced, terminated, or
50.8 claimed to have been incorrectly paid;

50.9 (2) any patient or relative aggrieved by an order of the commissioner under section
50.10 252.27;

50.11 (3) a party aggrieved by a ruling of a prepaid health plan;

50.12 (4) except as provided under chapter 245C, any individual or facility determined by
50.13 a lead agency to have maltreated a vulnerable adult under section 626.557 after they have
50.14 exercised their right to administrative reconsideration under section 626.557;

50.15 (5) any person whose claim for foster care payment according to a placement of the
50.16 child resulting from a child protection assessment under section 626.556 is denied or not
50.17 acted upon with reasonable promptness, regardless of funding source;

50.18 (6) any person to whom a right of appeal according to this section is given by other
50.19 provision of law;

50.20 (7) an applicant aggrieved by an adverse decision to an application for a hardship
50.21 waiver under section 256B.15;

50.22 (8) an applicant aggrieved by an adverse decision to an application or redetermination
50.23 for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

50.24 (9) except as provided under chapter 245A, an individual or facility determined
50.25 to have maltreated a minor under section 626.556, after the individual or facility has
50.26 exercised the right to administrative reconsideration under section 626.556; or

50.27 (10) except as provided under chapter 245C, an individual disqualified under
50.28 sections 245C.14 and 245C.15, which has not been set aside under sections 245C.22
50.29 and 245C.23, on the basis of serious or recurring maltreatment; a preponderance of the
50.30 evidence that the individual has committed an act or acts that meet the definition of any of
50.31 the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports
50.32 required under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings
50.33 regarding a maltreatment determination under clause (4) or (9) and a disqualification under
50.34 this clause in which the basis for a disqualification is serious or recurring maltreatment,
50.35 which has not been set aside under sections 245C.22 and 245C.23, shall be consolidated
50.36 into a single fair hearing. In such cases, the scope of review by the human services referee

51.1 shall include both the maltreatment determination and the disqualification. The failure to
51.2 exercise the right to an administrative reconsideration shall not be a bar to a hearing under
51.3 this section if federal law provides an individual the right to a hearing to dispute a finding
51.4 of maltreatment. Individuals and organizations specified in this section may contest the
51.5 specified action, decision, or final disposition before the state agency by submitting a
51.6 written request for a hearing to the state agency within 30 days after receiving written
51.7 notice of the action, decision, or final disposition, or within 90 days of such written notice
51.8 if the applicant, recipient, patient, or relative shows good cause why the request was
51.9 not submitted within the 30-day time limit.

51.10 (b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or
51.11 (10), is the only administrative appeal to the final agency determination specifically,
51.12 including a challenge to the accuracy and completeness of data under section 13.04.
51.13 Hearings requested under paragraph (a), clause (4), apply only to incidents of maltreatment
51.14 that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing
51.15 homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a
51.16 contested case proceeding under the provisions of chapter 14. Hearings requested under
51.17 paragraph (a), clause (9), apply only to incidents of maltreatment that occur on or after
51.18 July 1, 1997. A hearing for an individual or facility under paragraph (a), clause (9), is
51.19 only available when there is no juvenile court or adult criminal action pending. If such
51.20 action is filed in either court while an administrative review is pending, the administrative
51.21 review must be suspended until the judicial actions are completed. If the juvenile court
51.22 action or criminal charge is dismissed or the criminal action overturned, the matter may be
51.23 considered in an administrative hearing.

51.24 (c) For purposes of this section, bargaining unit grievance procedures are not an
51.25 administrative appeal.

51.26 (d) The scope of hearings involving claims to foster care payments under paragraph
51.27 (a), clause (5), shall be limited to the issue of whether the county is legally responsible
51.28 for a child's placement under court order or voluntary placement agreement and, if so,
51.29 the correct amount of foster care payment to be made on the child's behalf and shall not
51.30 include review of the propriety of the county's child protection determination or child
51.31 placement decision.

51.32 (e) A vendor of medical care as defined in section 256B.02, subdivision 7, or a
51.33 vendor under contract with a county agency to provide social services is not a party and
51.34 may not request a hearing under this section, except if assisting a recipient as provided in
51.35 subdivision 4.

52.1 (f) An applicant or recipient is not entitled to receive social services beyond the
52.2 services prescribed under chapter 256M or other social services the person is eligible
52.3 for under state law.

52.4 (g) The commissioner may summarily affirm the county or state agency's proposed
52.5 action without a hearing when the sole issue is an automatic change due to a change in
52.6 state or federal law.

52.7 Sec. 37. Minnesota Statutes 2008, section 256.045, subdivision 3b, is amended to read:

52.8 Subd. 3b. **Standard of evidence for maltreatment and disqualification hearings.**

52.9 (a) The state human services referee shall determine that maltreatment has occurred if a
52.10 preponderance of evidence exists to support the final disposition under sections 626.556
52.11 and 626.557. For purposes of hearings regarding disqualification, the state human services
52.12 referee shall affirm the proposed disqualification in an appeal under subdivision 3,
52.13 paragraph (a), clause (9), if a preponderance of the evidence shows the individual has:

52.14 (1) committed maltreatment under section 626.556 or 626.557, which is serious or
52.15 recurring;

52.16 (2) committed an act or acts meeting the definition of any of the crimes listed in
52.17 section 245C.15, subdivisions 1 to 4; or

52.18 (3) failed to make required reports under section 626.556 or 626.557, for incidents
52.19 in which the final disposition under section 626.556 or 626.557 was substantiated
52.20 maltreatment that was serious or recurring.

52.21 (b) If the disqualification is affirmed, the state human services referee shall
52.22 determine whether the individual poses a risk of harm in accordance with the requirements
52.23 of section ~~245C.16~~ 245C.22, and whether the disqualification should be set aside or not set
52.24 aside. In determining whether the disqualification should be set aside, the human services
52.25 referee shall consider all of the characteristics that cause the individual to be disqualified,
52.26 including those characteristics that were not subject to review under paragraph (a), in
52.27 order to determine whether the individual poses a risk of harm. A decision to set aside
52.28 a disqualification that is the subject of the hearing constitutes a determination that the
52.29 individual does not pose a risk of harm and that the individual may provide direct contact
52.30 services in the individual program specified in the set aside. If a determination that the
52.31 information relied upon to disqualify an individual was correct and is conclusive under
52.32 section 245C.29, and the individual is subsequently disqualified under section 245C.14,
52.33 the individual has a right to again request reconsideration on the risk of harm under section
52.34 245C.21. Subsequent determinations regarding risk of harm are not subject to another
52.35 hearing under this section.

53.1 (c) The state human services referee shall recommend an order to the commissioner
53.2 of health, education, or human services, as applicable, who shall issue a final order. The
53.3 commissioner shall affirm, reverse, or modify the final disposition. Any order of the
53.4 commissioner issued in accordance with this subdivision is conclusive upon the parties
53.5 unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal
53.6 under chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to 144A.46,
53.7 the commissioner's determination as to maltreatment is conclusive, as provided under
53.8 section 245C.29.

53.9 Sec. 38. Minnesota Statutes 2008, section 256B.0943, subdivision 4, is amended to
53.10 read:

53.11 Subd. 4. **Provider entity certification.** (a) Effective July 1, 2003, the commissioner
53.12 shall establish an initial provider entity application and certification process and
53.13 recertification process to determine whether a provider entity has an administrative
53.14 and clinical infrastructure that meets the requirements in subdivisions 5 and 6. The
53.15 commissioner shall recertify a provider entity at least every three years. The commissioner
53.16 shall establish a process for decertification of a provider entity that no longer meets the
53.17 requirements in this section. The county, tribe, and the commissioner shall be mutually
53.18 responsible and accountable for the county's, tribe's, and state's part of the certification,
53.19 recertification, and decertification processes.

53.20 (b) For purposes of this section, a provider entity must be:

53.21 (1) an Indian health services facility or a facility owned and operated by a tribe or
53.22 tribal organization operating as a 638 facility under Public Law 93-638 certified by the
53.23 state;

53.24 (2) a county-operated entity certified by the state; or

53.25 (3) a noncounty entity ~~recommended for certification by the provider's host county~~
53.26 ~~and~~ certified by the state.

53.27 Sec. 39. Minnesota Statutes 2008, section 256B.0943, subdivision 6, is amended to
53.28 read:

53.29 Subd. 6. **Provider entity clinical infrastructure requirements.** (a) To be
53.30 an eligible provider entity under this section, a provider entity must have a clinical
53.31 infrastructure that utilizes diagnostic assessment, an individualized treatment plan,
53.32 service delivery, and individual treatment plan review that are culturally competent,
53.33 child-centered, and family-driven to achieve maximum benefit for the client. The provider
53.34 entity must review₂ and update as necessary, the clinical policies and procedures every

54.1 three years and must distribute the policies and procedures to staff initially and upon
54.2 each subsequent update.

54.3 (b) The clinical infrastructure written policies and procedures must include policies
54.4 and procedures for:

54.5 (1) providing or obtaining a client's diagnostic assessment that identifies acute and
54.6 chronic clinical disorders, co-occurring medical conditions, sources of psychological
54.7 and environmental problems, ~~and~~ including a functional assessment. The functional
54.8 assessment component must clearly summarize the client's individual strengths and needs;

54.9 (2) developing an individual treatment plan that is:

54.10 (i) based on the information in the client's diagnostic assessment;

54.11 (ii) developed no later than the end of the first psychotherapy session after the
54.12 completion of the client's diagnostic assessment by the mental health professional who
54.13 provides the client's psychotherapy;

54.14 (iii) developed through a child-centered, family-driven planning process that
54.15 identifies service needs and individualized, planned, and culturally appropriate
54.16 interventions that contain specific treatment goals and objectives for the client and the
54.17 client's family or foster family;

54.18 (iv) reviewed at least once every 90 days and revised, if necessary; and

54.19 (v) signed by the client or, if appropriate, by the client's parent or other person
54.20 authorized by statute to consent to mental health services for the client;

54.21 (3) developing an individual behavior plan that documents services to be provided
54.22 by the mental health behavioral aide. The individual behavior plan must include:

54.23 (i) detailed instructions on the service to be provided;

54.24 (ii) time allocated to each service;

54.25 (iii) methods of documenting the child's behavior;

54.26 (iv) methods of monitoring the child's progress in reaching objectives; and

54.27 (v) goals to increase or decrease targeted behavior as identified in the individual
54.28 treatment plan;

54.29 (4) clinical supervision of the mental health practitioner and mental health behavioral
54.30 aide. A mental health professional must document the clinical supervision the professional
54.31 provides by cosigning individual treatment plans and making entries in the client's record
54.32 on supervisory activities. Clinical supervision does not include the authority to make or
54.33 terminate court-ordered placements of the child. A clinical supervisor must be available
54.34 for urgent consultation as required by the individual client's needs or the situation. Clinical
54.35 supervision may occur individually or in a small group to discuss treatment and review
54.36 progress toward goals. The focus of clinical supervision must be the client's treatment

55.1 needs and progress and the mental health practitioner's or behavioral aide's ability to
55.2 provide services;

55.3 (4a) CTSS certified provider entities providing day treatment programs must meet
55.4 the conditions in items (i) to (iii):

55.5 (i) the supervisor must be present and available on the premises more than 50
55.6 percent of the time in a five-working-day period during which the supervisee is providing
55.7 a mental health service;

55.8 (ii) the diagnosis and the client's individual treatment plan or a change in the
55.9 diagnosis or individual treatment plan must be made by or reviewed, approved, and signed
55.10 by the supervisor; and

55.11 (iii) every 30 days, the supervisor must review and sign the record ~~of~~ indicating the
55.12 supervisor has reviewed the client's care for all activities in the preceding 30-day period;

55.13 (4b) for all other services provided under CTSS, clinical supervision standards
55.14 provided in items (i) to (iii) must be used:

55.15 (i) medical assistance shall reimburse a mental health practitioner who maintains a
55.16 consulting relationship with a mental health professional who accepts full professional
55.17 responsibility ~~and is present on site for at least one observation during the first 12 hours~~
55.18 ~~in which the mental health practitioner provides the individual, family, or group skills~~
55.19 ~~training to the child or the child's family;~~

55.20 (ii) ~~thereafter~~, the mental health professional is required to be present on site for
55.21 observation as clinically appropriate when the mental health practitioner is providing
55.22 individual, family, or group skills training to the child or the child's family; and

55.23 (iii) when conducted, the observation must be a minimum of one clinical unit. The
55.24 on-site presence of the mental health professional must be documented in the child's record
55.25 and signed by the mental health professional who accepts full professional responsibility;

55.26 (5) providing direction to a mental health behavioral aide. For entities that employ
55.27 mental health behavioral aides, the clinical supervisor must be employed by the provider
55.28 entity or other certified children's therapeutic supports and services provider entity to
55.29 ensure necessary and appropriate oversight for the client's treatment and continuity
55.30 of care. The mental health professional or mental health practitioner giving direction
55.31 must begin with the goals on the individualized treatment plan, and instruct the mental
55.32 health behavioral aide on how to construct therapeutic activities and interventions that
55.33 will lead to goal attainment. The professional or practitioner giving direction must also
55.34 instruct the mental health behavioral aide about the client's diagnosis, functional status,
55.35 and other characteristics that are likely to affect service delivery. Direction must also
55.36 include determining that the mental health behavioral aide has the skills to interact with

56.1 the client and the client's family in ways that convey personal and cultural respect and
56.2 that the aide actively solicits information relevant to treatment from the family. The aide
56.3 must be able to clearly explain the activities the aide is doing with the client and the
56.4 activities' relationship to treatment goals. Direction is more didactic than is supervision
56.5 and requires the professional or practitioner providing it to continuously evaluate the
56.6 mental health behavioral aide's ability to carry out the activities of the individualized
56.7 treatment plan and the individualized behavior plan. When providing direction, the
56.8 professional or practitioner must:

56.9 (i) review progress notes prepared by the mental health behavioral aide for accuracy
56.10 and consistency with diagnostic assessment, treatment plan, and behavior goals and the
56.11 professional or practitioner must approve and sign the progress notes;

56.12 (ii) identify changes in treatment strategies, revise the individual behavior plan,
56.13 and communicate treatment instructions and methodologies as appropriate to ensure
56.14 that treatment is implemented correctly;

56.15 (iii) demonstrate family-friendly behaviors that support healthy collaboration among
56.16 the child, the child's family, and providers as treatment is planned and implemented;

56.17 (iv) ensure that the mental health behavioral aide is able to effectively communicate
56.18 with the child, the child's family, and the provider; and

56.19 (v) record the results of any evaluation and corrective actions taken to modify the
56.20 work of the mental health behavioral aide;

56.21 (6) providing service delivery that implements the individual treatment plan and
56.22 meets the requirements under subdivision 9; and

56.23 (7) individual treatment plan review. The review must determine the extent to which
56.24 the services have met the goals and objectives in the previous treatment plan. The review
56.25 must assess the client's progress and ensure that services and treatment goals continue to
56.26 be necessary and appropriate to the client and the client's family or foster family. Revision
56.27 of the individual treatment plan does not require a new diagnostic assessment unless the
56.28 client's mental health status has changed markedly. The updated treatment plan must be
56.29 signed by the client, if appropriate, and by the client's parent or other person authorized by
56.30 statute to give consent to the mental health services for the child.

56.31 Sec. 40. Minnesota Statutes 2008, section 256B.0943, subdivision 9, is amended to
56.32 read:

56.33 Subd. 9. **Service delivery criteria.** (a) In delivering services under this section, a
56.34 certified provider entity must ensure that:

57.1 (1) each individual provider's caseload size permits the provider to deliver services
57.2 to both clients with severe, complex needs and clients with less intensive needs. The
57.3 provider's caseload size should reasonably enable the provider to play an active role in
57.4 service planning, monitoring, and delivering services to meet the client's and client's
57.5 family's needs, as specified in each client's individual treatment plan;

57.6 (2) site-based programs, including day treatment and preschool programs, provide
57.7 staffing and facilities to ensure the client's health, safety, and protection of rights, and that
57.8 the programs are able to implement each client's individual treatment plan;

57.9 (3) a day treatment program is provided to a group of clients by a multidisciplinary
57.10 team under the clinical supervision of a mental health professional. The day treatment
57.11 program must be provided in and by: (i) an outpatient hospital accredited by the Joint
57.12 Commission on Accreditation of Health Organizations and licensed under sections
57.13 144.50 to 144.55; (ii) a community mental health center under section 245.62; and (iii)
57.14 an entity that is under contract with the county board to operate a program that meets
57.15 the requirements of sections 245.4712, subdivision 2, and 245.4884, subdivision 2,
57.16 and Minnesota Rules, parts 9505.0170 to 9505.0475. The day treatment program must
57.17 stabilize the client's mental health status while developing and improving the client's
57.18 independent living and socialization skills. The goal of the day treatment program must
57.19 be to reduce or relieve the effects of mental illness and provide training to enable the
57.20 client to live in the community. The program must be available at least one day a week
57.21 for a ~~three-hour~~ two-hour time block. The ~~three-hour~~ two-hour time block must include
57.22 at least one hour, ~~but no more than two hours,~~ of individual or group psychotherapy.
57.23 ~~The remainder of the three-hour time block may include recreation therapy, socialization~~
57.24 ~~therapy, or independent living skills therapy, but only if the therapies are included in the~~
57.25 ~~client's individual treatment plan~~ The structured treatment program may include individual
57.26 or group psychotherapy and recreation therapy, socialization therapy, or independent
57.27 living skills therapy, if included in the client's individual treatment plan. Day treatment
57.28 programs are not part of inpatient or residential treatment services; and

57.29 (4) a preschool program is a structured treatment program offered to a child who
57.30 is at least 33 months old, but who has not yet reached the first day of kindergarten, by a
57.31 preschool multidisciplinary team in a day program licensed under Minnesota Rules, parts
57.32 9503.0005 to 9503.0175. The program must be available at least one day a week for a
57.33 minimum two-hour time block. The structured treatment program may include individual
57.34 or group psychotherapy and recreation therapy, socialization therapy, or independent
57.35 living skills therapy, if included in the client's individual treatment plan.

58.1 (b) A provider entity must deliver the service components of children's therapeutic
58.2 services and supports in compliance with the following requirements:

58.3 (1) individual, family, and group psychotherapy must be delivered as specified in
58.4 Minnesota Rules, part 9505.0323;

58.5 (2) individual, family, or group skills training must be provided by a mental health
58.6 professional or a mental health practitioner who has a consulting relationship with a
58.7 mental health professional who accepts full professional responsibility for the training;

58.8 (3) crisis assistance must be time-limited and designed to resolve or stabilize crisis
58.9 through arrangements for direct intervention and support services to the child and the
58.10 child's family. Crisis assistance must utilize resources designed to address abrupt or
58.11 substantial changes in the functioning of the child or the child's family as evidenced by
58.12 a sudden change in behavior with negative consequences for well being, a loss of usual
58.13 coping mechanisms, or the presentation of danger to self or others;

58.14 (4) medically necessary services that are provided by a mental health behavioral
58.15 aide must be designed to improve the functioning of the child and support the family in
58.16 activities of daily and community living. A mental health behavioral aide must document
58.17 the delivery of services in written progress notes. The mental health behavioral aide
58.18 must implement goals in the treatment plan for the child's emotional disturbance that
58.19 allow the child to acquire developmentally and therapeutically appropriate daily living
58.20 skills, social skills, and leisure and recreational skills through targeted activities. These
58.21 activities may include:

58.22 (i) assisting a child as needed with skills development in dressing, eating, and
58.23 toileting;

58.24 (ii) assisting, monitoring, and guiding the child to complete tasks, including
58.25 facilitating the child's participation in medical appointments;

58.26 (iii) observing the child and intervening to redirect the child's inappropriate behavior;

58.27 (iv) assisting the child in using age-appropriate self-management skills as related
58.28 to the child's emotional disorder or mental illness, including problem solving, decision
58.29 making, communication, conflict resolution, anger management, social skills, and
58.30 recreational skills;

58.31 (v) implementing deescalation techniques as recommended by the mental health
58.32 professional;

58.33 (vi) implementing any other mental health service that the mental health professional
58.34 has approved as being within the scope of the behavioral aide's duties; or

59.1 (vii) assisting the parents to develop and use parenting skills that help the child
59.2 achieve the goals outlined in the child's individual treatment plan or individual behavioral
59.3 plan. Parenting skills must be directed exclusively to the child's treatment; and

59.4 (5) direction of a mental health behavioral aide must include the following:

59.5 (i) a total of one hour of on-site observation by a mental health professional during
59.6 the first 12 hours of service provided to a child;

59.7 (ii) ongoing on-site observation by a mental health professional or mental health
59.8 practitioner for at least a total of one hour during every 40 hours of service provided
59.9 to a child; and

59.10 (iii) immediate accessibility of the mental health professional or mental health
59.11 practitioner to the mental health behavioral aide during service provision.

59.12 Sec. 41. Minnesota Statutes 2008, section 256D.44, subdivision 5, is amended to read:

59.13 Subd. 5. **Special needs.** In addition to the state standards of assistance established in
59.14 subdivisions 1 to 4, payments are allowed for the following special needs of recipients of
59.15 Minnesota supplemental aid who are not residents of a nursing home, a regional treatment
59.16 center, or a group residential housing facility.

59.17 (a) The county agency shall pay a monthly allowance for medically prescribed
59.18 diets if the cost of those additional dietary needs cannot be met through some other
59.19 maintenance benefit. The need for special diets or dietary items must be prescribed by
59.20 a licensed physician. Costs for special diets shall be determined as percentages of the
59.21 allotment for a one-person household under the thrifty food plan as defined by the United
59.22 States Department of Agriculture. The types of diets and the percentages of the thrifty
59.23 food plan that are covered are as follows:

59.24 (1) high protein diet, at least 80 grams daily, 25 percent of thrifty food plan;

59.25 (2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent
59.26 of thrifty food plan;

59.27 (3) controlled protein diet, less than 40 grams and requires special products, 125
59.28 percent of thrifty food plan;

59.29 (4) low cholesterol diet, 25 percent of thrifty food plan;

59.30 (5) high residue diet, 20 percent of thrifty food plan;

59.31 (6) pregnancy and lactation diet, 35 percent of thrifty food plan;

59.32 (7) gluten-free diet, 25 percent of thrifty food plan;

59.33 (8) lactose-free diet, 25 percent of thrifty food plan;

59.34 (9) antidumping diet, 15 percent of thrifty food plan;

59.35 (10) hypoglycemic diet, 15 percent of thrifty food plan; or

60.1 (11) ketogenic diet, 25 percent of thrifty food plan.

60.2 (b) Payment for nonrecurring special needs must be allowed for necessary home
60.3 repairs or necessary repairs or replacement of household furniture and appliances using
60.4 the payment standard of the AFDC program in effect on July 16, 1996, for these expenses,
60.5 as long as other funding sources are not available.

60.6 (c) A fee for guardian or conservator service is allowed at a reasonable rate
60.7 negotiated by the county or approved by the court. This rate shall not exceed five percent
60.8 of the assistance unit's gross monthly income up to a maximum of \$100 per month. If the
60.9 guardian or conservator is a member of the county agency staff, no fee is allowed.

60.10 (d) The county agency shall continue to pay a monthly allowance of \$68 for
60.11 restaurant meals for a person who was receiving a restaurant meal allowance on June 1,
60.12 1990, and who eats two or more meals in a restaurant daily. The allowance must continue
60.13 until the person has not received Minnesota supplemental aid for one full calendar month
60.14 or until the person's living arrangement changes and the person no longer meets the criteria
60.15 for the restaurant meal allowance, whichever occurs first.

60.16 (e) A fee of ten percent of the recipient's gross income or \$25, whichever is less,
60.17 is allowed for representative payee services provided by an agency that meets the
60.18 requirements under SSI regulations to charge a fee for representative payee services. This
60.19 special need is available to all recipients of Minnesota supplemental aid regardless of
60.20 their living arrangement.

60.21 (f)(1) Notwithstanding the language in this subdivision, an amount equal to the
60.22 maximum allotment authorized by the federal Food Stamp Program for a single individual
60.23 which is in effect on the first day of July of each year will be added to the standards of
60.24 assistance established in subdivisions 1 to 4 for adults under the age of 65 who qualify
60.25 as shelter needy and are: (i) relocating from an institution, or an adult mental health
60.26 residential treatment program under section 256B.0622; (ii) eligible for the self-directed
60.27 supports option as defined under section 256B.0657, subdivision 2; or (iii) home and
60.28 community-based waiver recipients living in their own home or rented or leased apartment
60.29 which is not owned, operated, or controlled by a provider of service not related by blood
60.30 or marriage.

60.31 (2) Notwithstanding subdivision 3, paragraph (c), an individual eligible for the
60.32 shelter needy benefit under this paragraph is considered a household of one. An eligible
60.33 individual who receives this benefit prior to age 65 may continue to receive the benefit
60.34 after the age of 65.

60.35 (3) "Shelter needy" means that the assistance unit incurs monthly shelter costs that
60.36 exceed 40 percent of the assistance unit's gross income before the application of this

61.1 special needs standard. "Gross income" for the purposes of this section is the applicant's or
61.2 recipient's income as defined in section 256D.35, subdivision 10, or the standard specified
61.3 in subdivision 3, paragraph (a) or (b), whichever is greater. A recipient of a federal or
61.4 state housing subsidy, that limits shelter costs to a percentage of gross income, shall not be
61.5 considered shelter needy for purposes of this paragraph.

61.6 (g) Notwithstanding this subdivision, to access housing and services as provided in
61.7 paragraph (f), the recipient may choose housing that may or may not be owned, operated,
61.8 or controlled by the recipient's service provider if the housing is located in a multifamily
61.9 building of six or more units. The maximum number of units that may be used by
61.10 recipients of this program shall be 50 percent of the units in a building. The department
61.11 shall develop an exception process to the 50 percent maximum. This paragraph expires
61.12 on June 30, 2011.

61.13 Sec. 42. [471.709] LICENSE; PERMIT.

61.14 Notwithstanding any law to the contrary, a municipality shall not require a massage
61.15 therapist to obtain a license or permit when the therapist is working for or an employee of
61.16 a medical professional licensed under chapter 147 or 148.

61.17 Sec. 43. Minnesota Statutes 2008, section 626.556, subdivision 2, is amended to read:

61.18 Subd. 2. **Definitions.** As used in this section, the following terms have the meanings
61.19 given them unless the specific content indicates otherwise:

61.20 (a) "Family assessment" means a comprehensive assessment of child safety, risk
61.21 of subsequent child maltreatment, and family strengths and needs that is applied to a
61.22 child maltreatment report that does not allege substantial child endangerment. Family
61.23 assessment does not include a determination as to whether child maltreatment occurred
61.24 but does determine the need for services to address the safety of family members and the
61.25 risk of subsequent maltreatment.

61.26 (b) "Investigation" means fact gathering related to the current safety of a child
61.27 and the risk of subsequent maltreatment that determines whether child maltreatment
61.28 occurred and whether child protective services are needed. An investigation must be used
61.29 when reports involve substantial child endangerment, and for reports of maltreatment in
61.30 facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to
61.31 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and
61.32 13, and 124D.10; or in a nonlicensed personal care provider association as defined in
61.33 sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

62.1 (c) "Substantial child endangerment" means a person responsible for a child's care,
62.2 and in the case of sexual abuse includes a person who has a significant relationship to the
62.3 child as defined in section 609.341, or a person in a position of authority as defined in
62.4 section 609.341, who by act or omission commits or attempts to commit an act against a
62.5 child under their care that constitutes any of the following:

62.6 (1) egregious harm as defined in section 260C.007, subdivision 14;

62.7 (2) sexual abuse as defined in paragraph (d);

62.8 (3) abandonment under section 260C.301, subdivision 2;

62.9 (4) neglect as defined in paragraph (f), clause (2), that substantially endangers the
62.10 child's physical or mental health, including a growth delay, which may be referred to as
62.11 failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

62.12 (5) murder in the first, second, or third degree under section 609.185, 609.19, or
62.13 609.195;

62.14 (6) manslaughter in the first or second degree under section 609.20 or 609.205;

62.15 (7) assault in the first, second, or third degree under section 609.221, 609.222, or
62.16 609.223;

62.17 (8) solicitation, inducement, and promotion of prostitution under section 609.322;

62.18 (9) criminal sexual conduct under sections 609.342 to 609.3451;

62.19 (10) solicitation of children to engage in sexual conduct under section 609.352;

62.20 (11) malicious punishment or neglect or endangerment of a child under section
62.21 609.377 or 609.378;

62.22 (12) use of a minor in sexual performance under section 617.246; or

62.23 (13) parental behavior, status, or condition which mandates that the county attorney
62.24 file a termination of parental rights petition under section 260C.301, subdivision 3,
62.25 paragraph (a).

62.26 (d) "Sexual abuse" means the subjection of a child by a person responsible for the
62.27 child's care, by a person who has a significant relationship to the child, as defined in
62.28 section 609.341, or by a person in a position of authority, as defined in section 609.341,
62.29 subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual
62.30 conduct in the first degree), 609.343 (criminal sexual conduct in the second degree),
62.31 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct
62.32 in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual
62.33 abuse also includes any act which involves a minor which constitutes a violation of
62.34 prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes
62.35 threatened sexual abuse.

63.1 (e) "Person responsible for the child's care" means (1) an individual functioning
63.2 within the family unit and having responsibilities for the care of the child such as a
63.3 parent, guardian, or other person having similar care responsibilities, or (2) an individual
63.4 functioning outside the family unit and having responsibilities for the care of the child
63.5 such as a teacher, school administrator, other school employees or agents, or other lawful
63.6 custodian of a child having either full-time or short-term care responsibilities including,
63.7 but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching,
63.8 and coaching.

63.9 (f) "Neglect" means the commission or omission of any of the acts specified under
63.10 clauses (1) to (9), other than by accidental means:

63.11 (1) failure by a person responsible for a child's care to supply a child with necessary
63.12 food, clothing, shelter, health, medical, or other care required for the child's physical or
63.13 mental health when reasonably able to do so;

63.14 (2) failure to protect a child from conditions or actions that seriously endanger the
63.15 child's physical or mental health when reasonably able to do so, including a growth delay,
63.16 which may be referred to as a failure to thrive, that has been diagnosed by a physician and
63.17 is due to parental neglect;

63.18 (3) failure to provide for necessary supervision or child care arrangements
63.19 appropriate for a child after considering factors as the child's age, mental ability, physical
63.20 condition, length of absence, or environment, when the child is unable to care for the
63.21 child's own basic needs or safety, or the basic needs or safety of another child in their care;

63.22 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
63.23 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
63.24 child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

63.25 (5) nothing in this section shall be construed to mean that a child is neglected solely
63.26 because the child's parent, guardian, or other person responsible for the child's care in
63.27 good faith selects and depends upon spiritual means or prayer for treatment or care of
63.28 disease or remedial care of the child in lieu of medical care; except that a parent, guardian,
63.29 or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report
63.30 if a lack of medical care may cause serious danger to the child's health. This section does
63.31 not impose upon persons, not otherwise legally responsible for providing a child with
63.32 necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

63.33 (6) prenatal exposure to a controlled substance, as defined in section 253B.02,
63.34 subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal
63.35 symptoms in the child at birth, results of a toxicology test performed on the mother at

64.1 delivery or the child at birth, or medical effects or developmental delays during the child's
64.2 first year of life that medically indicate prenatal exposure to a controlled substance;

64.3 (7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

64.4 (8) chronic and severe use of alcohol or a controlled substance by a parent or
64.5 person responsible for the care of the child that adversely affects the child's basic needs
64.6 and safety; or

64.7 (9) emotional harm from a pattern of behavior which contributes to impaired
64.8 emotional functioning of the child which may be demonstrated by a substantial and
64.9 observable effect in the child's behavior, emotional response, or cognition that is not
64.10 within the normal range for the child's age and stage of development, with due regard to
64.11 the child's culture.

64.12 (g) "Physical abuse" means any physical injury, mental injury, or threatened injury,
64.13 inflicted by a person responsible for the child's care on a child other than by accidental
64.14 means, or any physical or mental injury that cannot reasonably be explained by the child's
64.15 history of injuries, or any aversive or deprivation procedures, or regulated interventions,
64.16 that have not been authorized under section 121A.67 or 245.825.

64.17 Abuse does not include reasonable and moderate physical discipline of a child
64.18 administered by a parent or legal guardian which does not result in an injury. Abuse does
64.19 not include the use of reasonable force by a teacher, principal, or school employee as
64.20 allowed by section 121A.582. Actions which are not reasonable and moderate include,
64.21 but are not limited to, any of the following that are done in anger or without regard to the
64.22 safety of the child:

64.23 (1) throwing, kicking, burning, biting, or cutting a child;

64.24 (2) striking a child with a closed fist;

64.25 (3) shaking a child under age three;

64.26 (4) striking or other actions which result in any nonaccidental injury to a child
64.27 under 18 months of age;

64.28 (5) unreasonable interference with a child's breathing;

64.29 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

64.30 (7) striking a child under age one on the face or head;

64.31 (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
64.32 substances which were not prescribed for the child by a practitioner, in order to control or
64.33 punish the child; or other substances that substantially affect the child's behavior, motor
64.34 coordination, or judgment or that results in sickness or internal injury, or subjects the
64.35 child to medical procedures that would be unnecessary if the child were not exposed
64.36 to the substances;

65.1 (9) unreasonable physical confinement or restraint not permitted under section
65.2 609.379, including but not limited to tying, caging, or chaining; or

65.3 (10) in a school facility or school zone, an act by a person responsible for the child's
65.4 care that is a violation under section 121A.58.

65.5 (h) "Report" means any report received by the local welfare agency, police
65.6 department, county sheriff, or agency responsible for assessing or investigating
65.7 maltreatment pursuant to this section.

65.8 (i) "Facility" means:

65.9 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,
65.10 sanitarium, or other facility or institution required to be licensed under sections 144.50 to
65.11 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;

65.12 (2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and
65.13 124D.10; or

65.14 (3) a nonlicensed personal care provider organization as defined in sections 256B.04,
65.15 subdivision 16, and 256B.0625, subdivision 19a.

65.16 (j) "Operator" means an operator or agency as defined in section 245A.02.

65.17 (k) "Commissioner" means the commissioner of human services.

65.18 (l) "Practice of social services," for the purposes of subdivision 3, includes but is
65.19 not limited to employee assistance counseling and the provision of guardian ad litem and
65.20 parenting time expeditor services.

65.21 (m) "Mental injury" means an injury to the psychological capacity or emotional
65.22 stability of a child as evidenced by an observable or substantial impairment in the child's
65.23 ability to function within a normal range of performance and behavior with due regard to
65.24 the child's culture.

65.25 (n) "Threatened injury" means a statement, overt act, condition, or status that
65.26 represents a substantial risk of physical or sexual abuse or mental injury. Threatened
65.27 injury includes, but is not limited to, exposing a child to a person responsible for the
65.28 child's care, as defined in paragraph (e), clause (1), who has:

65.29 (1) subjected a child to, or failed to protect a child from, an overt act or condition
65.30 that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a
65.31 similar law of another jurisdiction;

65.32 (2) been found to be palpably unfit under section 260C.301, paragraph (b), clause
65.33 (4), or a similar law of another jurisdiction;

65.34 (3) committed an act that has resulted in an involuntary termination of parental rights
65.35 under section 260C.301, or a similar law of another jurisdiction; or

66.1 (4) committed an act that has resulted in the involuntary transfer of permanent legal
66.2 and physical custody of a child to a relative under section 260C.201, subdivision 11,
66.3 paragraph (d), clause (1), or a similar law of another jurisdiction.

66.4 (o) Persons who conduct assessments or investigations under this section shall take
66.5 into account accepted child-rearing practices of the culture in which a child participates
66.6 and accepted teacher discipline practices, which are not injurious to the child's health,
66.7 welfare, and safety.

66.8 (p) "Accidental" means a sudden, not reasonably foreseeable, and unexpected
66.9 occurrence or event which:

66.10 (1) is not likely to occur and could not have been prevented by exercise of due
66.11 care; and

66.12 (2) if occurring while a child is receiving services from a facility, happens when the
66.13 facility and the employee or person providing services in the facility are in compliance
66.14 with the laws and rules relevant to the occurrence of event.

66.15 Sec. 44. Minnesota Statutes 2008, section 626.556, subdivision 10e, is amended to
66.16 read:

66.17 Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family
66.18 assessment or the investigation within 45 days of the receipt of a report. The conclusion of
66.19 the assessment or investigation may be extended to permit the completion of a criminal
66.20 investigation or the receipt of expert information requested within 45 days of the receipt
66.21 of the report.

66.22 (b) After conducting a family assessment, the local welfare agency shall determine
66.23 whether services are needed to address the safety of the child and other family members
66.24 and the risk of subsequent maltreatment.

66.25 (c) After conducting an investigation, the local welfare agency shall make two
66.26 determinations: first, whether maltreatment has occurred; and second, whether child
66.27 protective services are needed.

66.28 (d) If the commissioner of education conducts an assessment or investigation,
66.29 the commissioner shall determine whether maltreatment occurred and what corrective
66.30 or protective action was taken by the school facility. If a determination is made that
66.31 maltreatment has occurred, the commissioner shall report to the employer, the school
66.32 board, and any appropriate licensing entity the determination that maltreatment occurred
66.33 and what corrective or protective action was taken by the school facility. In all other cases,
66.34 the commissioner shall inform the school board or employer that a report was received,
66.35 the subject of the report, the date of the initial report, the category of maltreatment alleged

67.1 as defined in paragraph (f), the fact that maltreatment was not determined, and a summary
67.2 of the specific reasons for the determination.

67.3 (e) When maltreatment is determined in an investigation involving a facility,
67.4 the investigating agency shall also determine whether the facility or individual was
67.5 responsible, or whether both the facility and the individual were responsible for the
67.6 maltreatment using the mitigating factors in paragraph (i). Determinations under this
67.7 subdivision must be made based on a preponderance of the evidence and are private data
67.8 on individuals or nonpublic data as maintained by the commissioner of education.

67.9 (f) For the purposes of this subdivision, "maltreatment" means any of the following
67.10 acts or omissions:

- 67.11 (1) physical abuse as defined in subdivision 2, paragraph (g);
- 67.12 (2) neglect as defined in subdivision 2, paragraph (f);
- 67.13 (3) sexual abuse as defined in subdivision 2, paragraph (d);
- 67.14 (4) mental injury as defined in subdivision 2, paragraph (m); or
- 67.15 (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (i).

67.16 (g) For the purposes of this subdivision, a determination that child protective
67.17 services are needed means that the local welfare agency has documented conditions
67.18 during the assessment or investigation sufficient to cause a child protection worker, as
67.19 defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of
67.20 maltreatment if protective intervention is not provided and that the individuals responsible
67.21 for the child's care have not taken or are not likely to take actions to protect the child
67.22 from maltreatment or risk of maltreatment.

67.23 (h) This subdivision does not mean that maltreatment has occurred solely because
67.24 the child's parent, guardian, or other person responsible for the child's care in good faith
67.25 selects and depends upon spiritual means or prayer for treatment or care of disease
67.26 or remedial care of the child, in lieu of medical care. However, if lack of medical care
67.27 may result in serious danger to the child's health, the local welfare agency may ensure
67.28 that necessary medical services are provided to the child.

67.29 (i) When determining whether the facility or individual is the responsible party, or
67.30 whether both the facility and the individual are responsible for determined maltreatment in
67.31 a facility, the investigating agency shall consider at least the following mitigating factors:

- 67.32 (1) whether the actions of the facility or the individual caregivers were according to,
67.33 and followed the terms of, an erroneous physician order, prescription, individual care plan,
67.34 or directive; however, this is not a mitigating factor when the facility or caregiver was
67.35 responsible for the issuance of the erroneous order, prescription, individual care plan, or

68.1 directive or knew or should have known of the errors and took no reasonable measures to
68.2 correct the defect before administering care;

68.3 (2) comparative responsibility between the facility, other caregivers, and
68.4 requirements placed upon an employee, including the facility's compliance with related
68.5 regulatory standards and the adequacy of facility policies and procedures, facility training,
68.6 an individual's participation in the training, the caregiver's supervision, and facility staffing
68.7 levels and the scope of the individual employee's authority and discretion; and

68.8 (3) whether the facility or individual followed professional standards in exercising
68.9 professional judgment.

68.10 (j) Notwithstanding paragraph (i), when maltreatment is determined to have been
68.11 committed by an individual who is also the facility license holder, both the individual and
68.12 the facility must be determined responsible for the maltreatment, and both the background
68.13 study disqualification standards under section 245C.15, subdivision 4, and the licensing
68.14 actions under sections 245A.06 or 245A.07 apply.

68.15 (k) Individual counties may implement more detailed definitions or criteria that
68.16 indicate which allegations to investigate, as long as a county's policies are consistent
68.17 with the definitions in the statutes and rules and are approved by the county board. Each
68.18 local welfare agency shall periodically inform mandated reporters under subdivision 3
68.19 who work in the county of the definitions of maltreatment in the statutes and rules and any
68.20 additional definitions or criteria that have been approved by the county board.

68.21 Sec. 45. Minnesota Statutes 2008, section 626.556, subdivision 10f, is amended to read:

68.22 Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion
68.23 of a family assessment, the local welfare agency shall notify the parent or guardian
68.24 of the child of the need for services to address child safety concerns or significant risk
68.25 of subsequent child maltreatment. The local welfare agency and the family may also
68.26 jointly agree that family support and family preservation services are needed. Within ten
68.27 working days of the conclusion of an investigation, the local welfare agency or agency
68.28 responsible for assessing or investigating the report shall notify the parent or guardian
68.29 of the child, the person determined to be maltreating the child, and if applicable, the
68.30 director of the facility, of the determination and a summary of the specific reasons for
68.31 the determination. When the investigation involves a child foster care setting that is
68.32 monitored by a private licensing agency under section 245A.16, the local welfare agency
68.33 responsible for assessing or investigating the report shall notify the private licensing
68.34 agency of the determination and shall provide a summary of the specific reasons for
68.35 the determination. The notice to the private licensing agency must include identifying

69.1 private data, but not the identity of the reporter of maltreatment. The notice must also
69.2 include a certification that the information collection procedures under subdivision 10,
69.3 paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to
69.4 obtain access to other private data on the subject collected, created, or maintained under
69.5 this section. In addition, the notice shall include the length of time that the records will be
69.6 kept under subdivision 11c. The investigating agency shall notify the parent or guardian
69.7 of the child who is the subject of the report, and any person or facility determined to
69.8 have maltreated a child, of their appeal or review rights under this section or section
69.9 256.022. The notice must also state that a finding of maltreatment may result in denial of a
69.10 license application or background study disqualification under chapter 245C related to
69.11 employment or services that are licensed by the Department of Human Services under
69.12 chapter 245A, the Department of Health under chapter 144 or 144A, the Department of
69.13 Corrections under section 241.021, and from providing services related to an unlicensed
69.14 personal care provider organization under chapter 256B.

69.15 Sec. 46. Minnesota Statutes 2008, section 626.557, subdivision 9c, is amended to read:

69.16 Subd. 9c. **Lead agency; notifications, dispositions, determinations.** (a) Upon
69.17 request of the reporter, the lead agency shall notify the reporter that it has received the
69.18 report, and provide information on the initial disposition of the report within five business
69.19 days of receipt of the report, provided that the notification will not endanger the vulnerable
69.20 adult or hamper the investigation.

69.21 (b) Upon conclusion of every investigation it conducts, the lead agency shall make a
69.22 final disposition as defined in section 626.5572, subdivision 8.

69.23 (c) When determining whether the facility or individual is the responsible party for
69.24 substantiated maltreatment or whether both the facility and the individual are responsible
69.25 for substantiated maltreatment, the lead agency shall consider at least the following
69.26 mitigating factors:

69.27 (1) whether the actions of the facility or the individual caregivers were in accordance
69.28 with, and followed the terms of, an erroneous physician order, prescription, resident
69.29 care plan, or directive. This is not a mitigating factor when the facility or caregiver is
69.30 responsible for the issuance of the erroneous order, prescription, plan, or directive or
69.31 knows or should have known of the errors and took no reasonable measures to correct the
69.32 defect before administering care;

69.33 (2) the comparative responsibility between the facility, other caregivers, and
69.34 requirements placed upon the employee, including but not limited to, the facility's
69.35 compliance with related regulatory standards and factors such as the adequacy of facility

70.1 policies and procedures, the adequacy of facility training, the adequacy of an individual's
70.2 participation in the training, the adequacy of caregiver supervision, the adequacy of facility
70.3 staffing levels, and a consideration of the scope of the individual employee's authority; and

70.4 (3) whether the facility or individual followed professional standards in exercising
70.5 professional judgment.

70.6 (d) When substantiated maltreatment is determined to have been committed by
70.7 an individual who is also the facility license holder, both the individual and the facility
70.8 must be determined responsible for the maltreatment, and both the background study
70.9 disqualification standards under section 245C.15, subdivision 4, and the licensing actions
70.10 under section 245A.06 or 245A.07 apply.

70.11 (e) The lead agency shall complete its final disposition within 60 calendar days. If
70.12 the lead agency is unable to complete its final disposition within 60 calendar days, the lead
70.13 agency shall notify the following persons provided that the notification will not endanger
70.14 the vulnerable adult or hamper the investigation: (1) the vulnerable adult or the vulnerable
70.15 adult's legal guardian, when known, if the lead agency knows them to be aware of the
70.16 investigation; and (2) the facility, where applicable. The notice shall contain the reason for
70.17 the delay and the projected completion date. If the lead agency is unable to complete its
70.18 final disposition by a subsequent projected completion date, the lead agency shall again
70.19 notify the vulnerable adult or the vulnerable adult's legal guardian, when known if the lead
70.20 agency knows them to be aware of the investigation, and the facility, where applicable,
70.21 of the reason for the delay and the revised projected completion date provided that the
70.22 notification will not endanger the vulnerable adult or hamper the investigation. A lead
70.23 agency's inability to complete the final disposition within 60 calendar days or by any
70.24 projected completion date does not invalidate the final disposition.

70.25 ~~(e)~~ (f) Within ten calendar days of completing the final disposition, the lead agency
70.26 shall provide a copy of the public investigation memorandum under subdivision 12b,
70.27 paragraph (b), clause (1), when required to be completed under this section, to the
70.28 following persons: (1) the vulnerable adult, or the vulnerable adult's legal guardian, if
70.29 known unless the lead agency knows that the notification would endanger the well-being
70.30 of the vulnerable adult; (2) the reporter, if the reporter requested notification when making
70.31 the report, provided this notification would not endanger the well-being of the vulnerable
70.32 adult; (3) the alleged perpetrator, if known; (4) the facility; and (5) the ombudsman for
70.33 long-term care, or the ombudsman for mental health and developmental disabilities, as
70.34 appropriate.

70.35 ~~(f)~~ (g) The lead agency shall notify the vulnerable adult who is the subject of
70.36 the report or the vulnerable adult's legal guardian, if known, and any person or facility

71.1 determined to have maltreated a vulnerable adult, of their appeal or review rights under
71.2 this section or section 256.021.

71.3 ~~(g)~~ (h) The lead agency shall routinely provide investigation memoranda for
71.4 substantiated reports to the appropriate licensing boards. These reports must include
71.5 the names of substantiated perpetrators. The lead agency may not provide investigative
71.6 memoranda for inconclusive or false reports to the appropriate licensing boards unless the
71.7 lead agency's investigation gives reason to believe that there may have been a violation of
71.8 the applicable professional practice laws. If the investigation memorandum is provided
71.9 to a licensing board, the subject of the investigation memorandum shall be notified and
71.10 receive a summary of the investigative findings.

71.11 ~~(h)~~ (i) In order to avoid duplication, licensing boards shall consider the findings of
71.12 the lead agency in their investigations if they choose to investigate. This does not preclude
71.13 licensing boards from considering other information.

71.14 ~~(i)~~ (j) The lead agency must provide to the commissioner of human services its final
71.15 dispositions, including the names of all substantiated perpetrators. The commissioner of
71.16 human services shall establish records to retain the names of substantiated perpetrators.

71.17 Sec. 47. Minnesota Statutes 2008, section 626.557, subdivision 12b, is amended to
71.18 read:

71.19 Subd. 12b. **Data management.** (a) In performing any of the duties of this section as
71.20 a lead agency, the county social service agency shall maintain appropriate records. Data
71.21 collected by the county social service agency under this section are welfare data under
71.22 section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a), data under this
71.23 paragraph that are inactive investigative data on an individual who is a vendor of services
71.24 are private data on individuals, as defined in section 13.02. The identity of the reporter
71.25 may only be disclosed as provided in paragraph (c).

71.26 Data maintained by the common entry point are confidential data on individuals or
71.27 protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163,
71.28 the common entry point shall destroy data three calendar years after date of receipt.

71.29 (b) The commissioners of health and human services shall prepare an investigation
71.30 memorandum for each report alleging maltreatment investigated under this section.
71.31 County social service agencies must maintain private data on individuals but are not
71.32 required to prepare an investigation memorandum. During an investigation by the
71.33 commissioner of health or the commissioner of human services, data collected under this
71.34 section are confidential data on individuals or protected nonpublic data as defined in

72.1 section 13.02. Upon completion of the investigation, the data are classified as provided in
72.2 clauses (1) to (3) and paragraph (c).

72.3 (1) The investigation memorandum must contain the following data, which are
72.4 public:

72.5 (i) the name of the facility investigated;

72.6 (ii) a statement of the nature of the alleged maltreatment;

72.7 (iii) pertinent information obtained from medical or other records reviewed;

72.8 (iv) the identity of the investigator;

72.9 (v) a summary of the investigation's findings;

72.10 (vi) statement of whether the report was found to be substantiated, inconclusive,
72.11 false, or that no determination will be made;

72.12 (vii) a statement of any action taken by the facility;

72.13 (viii) a statement of any action taken by the lead agency; and

72.14 (ix) when a lead agency's determination has substantiated maltreatment, a statement
72.15 of whether an individual, individuals, or a facility were responsible for the substantiated
72.16 maltreatment, if known.

72.17 The investigation memorandum must be written in a manner which protects the
72.18 identity of the reporter and of the vulnerable adult and may not contain the names or, to
72.19 the extent possible, data on individuals or private data listed in clause (2).

72.20 (2) Data on individuals collected and maintained in the investigation memorandum
72.21 are private data, including:

72.22 (i) the name of the vulnerable adult;

72.23 (ii) the identity of the individual alleged to be the perpetrator;

72.24 (iii) the identity of the individual substantiated as the perpetrator; and

72.25 (iv) the identity of all individuals interviewed as part of the investigation.

72.26 (3) Other data on individuals maintained as part of an investigation under this section
72.27 are private data on individuals upon completion of the investigation.

72.28 (c) After the assessment or investigation is completed, the name of the reporter
72.29 must be confidential. The subject of the report may compel disclosure of the name of the
72.30 reporter only with the consent of the reporter or upon a written finding by a court that
72.31 the report was false and there is evidence that the report was made in bad faith. This
72.32 subdivision does not alter disclosure responsibilities or obligations under the Rules of
72.33 Criminal Procedure, except that where the identity of the reporter is relevant to a criminal
72.34 prosecution, the district court shall do an in-camera review prior to determining whether
72.35 to order disclosure of the identity of the reporter.

73.1 (d) Notwithstanding section 138.163, data maintained under this section by the
73.2 commissioners of health and human services must be destroyed under the following
73.3 schedule:

73.4 (1) data from reports determined to be false, two years after the finding was made;

73.5 (2) data from reports determined to be inconclusive, four years after the finding
73.6 was made;

73.7 (3) data from reports determined to be substantiated, seven years after the finding
73.8 was made; and

73.9 (4) data from reports which were not investigated by a lead agency and for which
73.10 there is no final disposition, two years from the date of the report.

73.11 (e) The commissioners of health and human services shall each annually report to
73.12 the legislature and the governor on the number and type of reports of alleged maltreatment
73.13 involving licensed facilities reported under this section, the number of those requiring
73.14 investigation under this section, and the resolution of those investigations. The report
73.15 shall identify:

73.16 (1) whether and where backlogs of cases result in a failure to conform with statutory
73.17 time frames;

73.18 (2) where adequate coverage requires additional appropriations and staffing; and

73.19 (3) any other trends that affect the safety of vulnerable adults.

73.20 (f) Each lead agency must have a record retention policy.

73.21 (g) Lead agencies, prosecuting authorities, and law enforcement agencies may
73.22 exchange not public data, as defined in section 13.02, if the agency or authority requesting
73.23 the data determines that the data are pertinent and necessary to the requesting agency in
73.24 initiating, furthering, or completing an investigation under this section. Data collected
73.25 under this section must be made available to prosecuting authorities and law enforcement
73.26 officials, local county agencies, and licensing agencies investigating the alleged
73.27 maltreatment under this section. The lead agency shall exchange not public data with the
73.28 vulnerable adult maltreatment review panel established in section 256.021 if the data are
73.29 pertinent and necessary for a review requested under that section. Upon completion of the
73.30 review, not public data received by the review panel must be returned to the lead agency.

73.31 (h) Each lead agency shall keep records of the length of time it takes to complete its
73.32 investigations.

73.33 (i) A lead agency may notify other affected parties and their authorized representative
73.34 if the agency has reason to believe maltreatment has occurred and determines the
73.35 information will safeguard the well-being of the affected parties or dispel widespread
73.36 rumor or unrest in the affected facility.

74.1 (j) Under any notification provision of this section, where federal law specifically
74.2 prohibits the disclosure of patient identifying information, a lead agency may not provide
74.3 any notice unless the vulnerable adult has consented to disclosure in a manner which
74.4 conforms to federal requirements.

74.5 Sec. 48. Minnesota Statutes 2008, section 626.5572, subdivision 13, is amended to
74.6 read:

74.7 Subd. 13. **Lead agency.** "Lead agency" is the primary administrative agency
74.8 responsible for investigating reports made under section 626.557.

74.9 (a) The Department of Health is the lead agency for the facilities which are licensed
74.10 or are required to be licensed as hospitals, home care providers, nursing homes, residential
74.11 care homes, ~~or~~ boarding care homes, or residential facilities that are also federally certified
74.12 as intermediate care facilities that serve people with developmental disabilities.

74.13 (b) The Department of Human Services is the lead agency for the programs licensed
74.14 or required to be licensed as adult day care, adult foster care, programs for people with
74.15 developmental disabilities, mental health programs, or chemical health programs,~~or~~
74.16 ~~personal care provider organizations.~~

74.17 (c) The county social service agency or its designee is the lead agency for all
74.18 other reports.

74.19 Sec. 49. **REPEALER.**

74.20 Minnesota Statutes 2008, section 245C.10, subdivision 1, is repealed.

74.21 ARTICLE 3

74.22 DEPARTMENT OF HUMAN SERVICES LICENSING TECHNICAL

74.23 Section 1. Minnesota Statutes 2008, section 245C.03, subdivision 4, is amended to read:

74.24 Subd. 4. **Personnel agencies; educational programs; professional services**
74.25 **agencies.** The commissioner also may conduct studies on individuals specified in
74.26 subdivision 1, paragraph (a), clauses (3) and (4), when the studies are initiated by:

74.27 (1) personnel pool agencies;

74.28 (2) temporary personnel agencies;

74.29 (3) educational programs that train individuals by providing direct contact services
74.30 in licensed programs; and

74.31 (4) professional services agencies that are not licensed and which contract with
74.32 licensed programs to provide direct contact services or individuals who provide direct
74.33 contact services.

75.1 Sec. 2. Minnesota Statutes 2008, section 245C.08, subdivision 1, is amended to read:

75.2 Subdivision 1. **Background studies conducted by commissioner of human**
75.3 **services.** (a) For a background study conducted by the commissioner, the commissioner
75.4 shall review:

75.5 (1) information related to names of substantiated perpetrators of maltreatment of
75.6 vulnerable adults that has been received by the commissioner as required under section
75.7 626.557, subdivision 9c, paragraph (i);

75.8 (2) the commissioner's records relating to the maltreatment of minors in licensed
75.9 programs, and from findings of maltreatment of minors as indicated through the social
75.10 service information system;

75.11 (3) information from juvenile courts as required in subdivision 4 for individuals
75.12 listed in section 245C.03, subdivision 1, paragraph (a), clauses (2), (5), and (6);

75.13 (4) information from the Bureau of Criminal Apprehension;

75.14 (5) except as provided in clause (6), information from the national crime information
75.15 system when the commissioner has reasonable cause as defined under section 245C.05,
75.16 subdivision 5; and

75.17 (6) for a background study related to a child foster care application for licensure or
75.18 adoptions, the commissioner shall also review:

75.19 (i) information from the child abuse and neglect registry for any state in which the
75.20 background study subject has resided for the past five years; and

75.21 (ii) information from national crime information databases, when the background
75.22 study object is 18 years of age or older.

75.23 (b) Notwithstanding expungement by a court, the commissioner may consider
75.24 information obtained under paragraph (a), clauses (3) and (4), unless the commissioner
75.25 received notice of the petition for expungement and the court order for expungement is
75.26 directed specifically to the commissioner.

75.27 Sec. 3. Minnesota Statutes 2008, section 245C.08, subdivision 2, is amended to read:

75.28 Subd. 2. **Background studies conducted by a county agency.** (a) For a background
75.29 study conducted by a county agency for adult foster care, family adult day services, and
75.30 family child care services, the commissioner shall review:

75.31 (1) information from the county agency's record of substantiated maltreatment
75.32 of adults and the maltreatment of minors;

75.33 (2) information from juvenile courts as required in subdivision 4 for individuals
75.34 listed in section 245C.03, subdivision 1, paragraph (a), clauses (2), (5), and (6); and

75.35 (3) information from the Bureau of Criminal Apprehension.

76.1 (b) If the individual has resided in the county for less than five years, the study shall
76.2 include the records specified under paragraph (a) for the previous county or counties of
76.3 residence for the past five years.

76.4 (c) Notwithstanding expungement by a court, the county agency may consider
76.5 information obtained under paragraph (a), clause (3), unless the commissioner received
76.6 notice of the petition for expungement and the court order for expungement is directed
76.7 specifically to the commissioner.

76.8 Sec. 4. Minnesota Statutes 2008, section 245C.08, subdivision 4, is amended to read:

76.9 Subd. 4. **Juvenile court records.** (a) The commissioner shall review records
76.10 from the juvenile courts for an individual studied under section 245C.03, subdivision 1,
76.11 paragraph (a), clauses (2) and (5).

76.12 (b) For individuals studied under section 245C.03, subdivision 1, paragraph (a),
76.13 clauses (1), (3), (4), and (6), and subdivision 2, who are ages 13 to 17, the commissioner
76.14 shall review records from the juvenile courts when the commissioner has reasonable cause.

76.15 (c) The juvenile courts shall help with the study by giving the commissioner
76.16 existing juvenile court records on individuals described in section 245C.03, subdivision 1,
76.17 paragraph (a), clauses (2), (5), and (6), relating to delinquency proceedings held within
76.18 either the five years immediately preceding the background study or the five years
76.19 immediately preceding the individual's 18th birthday, whichever time period is longer.

76.20 (d) For purposes of this chapter, a finding that a delinquency petition is proven in
76.21 juvenile court shall be considered a conviction in state district court.

76.22 (e) Juvenile courts shall provide orders of involuntary and voluntary termination of
76.23 parental rights under section 260C.301 to the commissioner upon request for purposes of
76.24 conducting a background study under this chapter.

76.25 Sec. 5. Minnesota Statutes 2008, section 245C.14, subdivision 2, is amended to read:

76.26 Subd. 2. **Disqualification from access.** (a) If an individual who is studied under
76.27 section 245C.03, subdivision 1, paragraph (a), clauses (2), (5), and (6), is disqualified from
76.28 direct contact under subdivision 1, the commissioner shall also disqualify the individual
76.29 from access to a person receiving services from the license holder.

76.30 (b) No individual who is disqualified following a background study under section
76.31 245C.03, subdivision 1, paragraph (a), clauses (2), (5), and (6), or as provided elsewhere
76.32 in statute who is disqualified as a result of this section, may be allowed access to persons
76.33 served by the program unless the commissioner has provided written notice under section
76.34 245C.17 stating that:

77.1 (1) the individual may remain in direct contact during the period in which the
77.2 individual may request reconsideration as provided in section 245C.21, subdivision 2;

77.3 (2) the commissioner has set aside the individual's disqualification for that
77.4 licensed program or entity identified in section 245C.03 as provided in section 245C.22,
77.5 subdivision 4; or

77.6 (3) the license holder has been granted a variance for the disqualified individual
77.7 under section 245C.30.

77.8 Sec. 6. Minnesota Statutes 2008, section 299C.61, subdivision 6, is amended to read:

77.9 Subd. 6. **Children's service worker.** "Children's service worker" means a person
77.10 who has, may have, or seeks to have access to a child to whom the children's service
77.11 provider provides children's services, and who:

77.12 (1) is employed by, volunteers with, or seeks to be employed by or volunteer with
77.13 a children's service provider; ~~or~~

77.14 (2) is an independent contractor who provides children's services to a children's
77.15 service provider; or

77.16 (3) owns, operates, or seeks to own or operate a children's service provider.

77.17 Sec. 7. Minnesota Statutes 2008, section 299C.62, subdivision 3, is amended to read:

77.18 Subd. 3. **Children's service worker rights.** (a) The children's service provider
77.19 shall notify the children's service worker of the children's service worker's rights under
77.20 paragraph (b).

77.21 (b) A children's service worker who is the subject of a background check request
77.22 has the following rights:

77.23 (1) the right to be informed that a children's service provider will request a
77.24 background check on the children's service worker:

77.25 (i) for purposes of the children's service worker's application to be employed by,
77.26 volunteer with, be an independent contractor for, or be an owner of a children's service
77.27 provider or for purposes of continuing as an employee, volunteer, independent contractor,
77.28 or owner; and

77.29 (ii) to determine whether the children's service worker has been convicted of any
77.30 crime specified in section 299C.61, subdivision 2 or 4;

77.31 (2) the right to be informed by the children's service provider of the superintendent's
77.32 response to the background check and to obtain from the children's service provider a copy
77.33 of the background check report;

78.1 (3) the right to obtain from the superintendent any record that forms the basis for
78.2 the report;

78.3 (4) the right to challenge the accuracy and completeness of any information
78.4 contained in the report or record pursuant to section 13.04, subdivision 4;

78.5 (5) the right to be informed by the children's service provider if the children's
78.6 service worker's application to be employed with, volunteer with, be an independent
78.7 contractor for, or be an owner of a children's service provider, or to continue as an
78.8 employee, volunteer, independent contractor, or owner, has been denied because of the
78.9 superintendent's response; and

78.10 (6) the right not to be required directly or indirectly to pay the cost of the background
78.11 check.

78.12 Sec. 8. Minnesota Statutes 2008, section 299C.62, subdivision 4, is amended to read:

78.13 Subd. 4. **Response of bureau.** The superintendent shall respond to a background
78.14 check request within a reasonable time after receiving the signed, written document
78.15 described in subdivision 2. The superintendent shall provide the children's service
78.16 provider with a copy of the applicant's criminal record or a statement that the applicant is
78.17 not the subject of a criminal history record at the bureau. It is the responsibility of the
78.18 service provider to determine if the applicant qualifies as an employee ~~or~~, volunteer, or
78.19 independent contractor under this section."

78.20 Delete the title and insert:

78.21 "A bill for an act

78.22 relating to human services; making changes to licensing provisions;
78.23 data practices; modifying license disqualifications and background study
78.24 requirements; requiring licensure of respiratory therapists; changing SIDS
78.25 reduction provisions; providing for alternative inspection for day training and
78.26 habilitation programs; exempting certain massage therapists from licensure;
78.27 amending Minnesota Statutes 2008, sections 13.43, by adding subdivisions;
78.28 13.46, subdivisions 3, 4; 147C.01; 147C.05; 147C.10; 147C.15; 147C.20;
78.29 147C.25; 147C.30; 147C.35; 147C.40; 157.22; 245.4871, subdivision 10;
78.30 245A.03, subdivision 2, by adding a subdivision; 245A.04, subdivisions 5,
78.31 7; 245A.05; 245A.07, subdivisions 1, 3; 245A.1435; 245A.16, subdivision
78.32 1; 245A.50, subdivision 5; 245C.03, subdivision 4; 245C.04, subdivision 1;
78.33 245C.07; 245C.08; 245C.13, subdivision 2; 245C.14, subdivision 2; 245C.15,
78.34 subdivisions 1, 2, 3, 4; 245C.22, subdivision 7; 245C.24, subdivisions 2, 3;
78.35 245C.25; 245C.27, subdivision 1; 256.045, subdivisions 3, 3b; 256B.0943,
78.36 subdivisions 4, 6, 9; 256D.44, subdivision 5; 299C.61, subdivision 6; 299C.62,
78.37 subdivisions 3, 4; 626.556, subdivisions 2, 10e, 10f; 626.557, subdivisions 9c,
78.38 12b; 626.5572, subdivision 13; proposing coding for new law in Minnesota
78.39 Statutes, chapters 245B; 471; repealing Minnesota Statutes 2008, section
78.40 245C.10, subdivision 1."

79.1 We request the adoption of this report and repassage of the bill.

79.2 Senate Conferees: (Signed)

79.3
79.4 Tony Lourey Gen Olson

79.5
79.6 Rick Olseen

79.7 House Conferees: (Signed)

79.8
79.9 Jim Abeler Cy Thao

79.10
79.11 John Lesch