

1.1 A bill for an act

1.2 relating to human services; modifying the personal care assistance program;
1.3 amending Minnesota Statutes 2009 Supplement, section 256B.0659, subdivisions
1.4 11, 13, 21, 27.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 11,
1.7 is amended to read:

1.8 Subd. 11. **Personal care assistant; requirements.** (a) A personal care assistant
1.9 must meet the following requirements:

1.10 (1) be at least 18 years of age with the exception of persons who are 16 or 17 years
1.11 of age with these additional requirements:

1.12 (i) supervision by a qualified professional every 60 days; and

1.13 (ii) employment by only one personal care assistance provider agency responsible
1.14 for compliance with current labor laws;

1.15 (2) be employed by a personal care assistance provider agency;

1.16 (3) enroll with the department as a personal care assistant after clearing a background
1.17 study. Before a personal care assistant provides services, the personal care assistance
1.18 provider agency must initiate a background study on the personal care assistant under
1.19 chapter 245C, and the personal care assistance provider agency must have received a
1.20 notice from the commissioner that the personal care assistant is:

1.21 (i) not disqualified under section 245C.14; or

1.22 (ii) is disqualified, but the personal care assistant has received a set aside of the
1.23 disqualification under section 245C.22;

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2.1 (4) be able to effectively communicate with the recipient and personal care
2.2 assistance provider agency;

2.3 (5) be able to provide covered personal care assistance services according to the
2.4 recipient's personal care assistance care plan, respond appropriately to recipient needs,
2.5 and report changes in the recipient's condition to the supervising qualified professional
2.6 or physician;

2.7 (6) not be a consumer of personal care assistance services;

2.8 (7) maintain daily written records including, but not limited to, time sheets under
2.9 subdivision 12;

2.10 (8) effective January 1, 2010, complete standardized training as determined by the
2.11 commissioner before completing enrollment. Personal care assistant training must include
2.12 successful completion of the following training components: basic first aid, vulnerable
2.13 adult, child maltreatment, OSHA universal precautions, basic roles and responsibilities of
2.14 personal care assistants including information about assistance with lifting and transfers
2.15 for recipients, emergency preparedness, orientation to positive behavioral practices, fraud
2.16 issues, and completion of time sheets. Upon completion of the training components,
2.17 the personal care assistant must demonstrate the competency to provide assistance to
2.18 recipients. A personal care assistant employed by a personal care assistance provider
2.19 agency currently licensed under Minnesota Rules, part 4668.0012, as a class A provider
2.20 or certified for participation in Medicare as a home health agency is exempt from the
2.21 training requirements in this clause;

2.22 (9) complete training and orientation on the needs of the recipient within the first
2.23 seven days after the services begin; and

2.24 (10) be limited to providing and being paid for up to 310 hours per month of personal
2.25 care assistance services regardless of the number of recipients being served or the number
2.26 of personal care assistance provider agencies enrolled with.

2.27 (b) A legal guardian may be a personal care assistant if the guardian is not being paid
2.28 for the guardian services and meets the criteria for personal care assistants in paragraph (a).

2.29 (c) Effective January 1, 2010, persons who do not qualify as a personal care assistant
2.30 include parents and stepparents of minors, spouses, paid legal guardians, family foster
2.31 care providers, except as otherwise allowed in section 256B.0625, subdivision 19a, or
2.32 staff of a residential setting.

2.33 Sec. 2. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 13,
2.34 is amended to read:

3.1 Subd. 13. **Qualified professional; qualifications.** (a) The qualified professional
3.2 must be employed by a personal care assistance provider agency and meet the definition
3.3 under section 256B.0625, subdivision 19c. Before a qualified professional provides
3.4 services, the personal care assistance provider agency must initiate a background study on
3.5 the qualified professional under chapter 245C, and the personal care assistance provider
3.6 agency must have received a notice from the commissioner that the qualified professional:

3.7 (1) is not disqualified under section 245C.14; or

3.8 (2) is disqualified, but the qualified professional has received a set aside of the
3.9 disqualification under section 245C.22.

3.10 (b) The qualified professional shall perform the duties of training, supervision, and
3.11 evaluation of the personal care assistance staff and evaluation of the effectiveness of
3.12 personal care assistance services. The qualified professional shall:

3.13 (1) develop and monitor with the recipient a personal care assistance care plan based
3.14 on the service plan and individualized needs of the recipient;

3.15 (2) develop and monitor with the recipient a monthly plan for the use of personal
3.16 care assistance services;

3.17 (3) review documentation of personal care assistance services provided;

3.18 (4) provide training and ensure competency for the personal care assistant in the
3.19 individual needs of the recipient; and

3.20 (5) document all training, communication, evaluations, and needed actions to
3.21 improve performance of the personal care assistants.

3.22 (c) Effective January 1, 2010, the qualified professional shall complete the provider
3.23 training with basic information about the personal care assistance program approved
3.24 by the commissioner within six months of the date hired by a personal care assistance
3.25 provider agency. Qualified professionals who have completed the required trainings
3.26 as an employee with a personal care assistance provider agency do not need to repeat
3.27 the required trainings if they are hired by another agency, if they have completed the
3.28 training within the last three years. A qualified professional employed by a personal care
3.29 assistance provider agency currently licensed under Minnesota Rules, part 4668.0012, as
3.30 a class A provider or certified for participation in Medicare as a home health agency is
3.31 exempt from the training requirements in this paragraph.

3.32 Sec. 3. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 21,
3.33 is amended to read:

3.34 Subd. 21. **Requirements for initial enrollment of personal care assistance**
3.35 **provider agencies.** (a) All personal care assistance provider agencies must provide, at the

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4.1 time of enrollment as a personal care assistance provider agency in a format determined
4.2 by the commissioner, information and documentation that includes, but is not limited to,
4.3 the following:

4.4 (1) the personal care assistance provider agency's current contact information
4.5 including address, telephone number, and e-mail address;

4.6 (2) proof of surety bond coverage in the amount of \$50,000 or ten percent of the
4.7 provider's payments from Medicaid in the previous year, whichever is less;

4.8 (3) proof of fidelity bond coverage in the amount of \$20,000;

4.9 (4) proof of workers' compensation insurance coverage;

4.10 (5) a description of the personal care assistance provider agency's organization
4.11 identifying the names of all owners, managing employees, staff, board of directors, and
4.12 the affiliations of the directors, owners, or staff to other service providers;

4.13 (6) a copy of the personal care assistance provider agency's written policies and
4.14 procedures including: hiring of employees; training requirements; service delivery;
4.15 and employee and consumer safety including process for notification and resolution
4.16 of consumer grievances, identification and prevention of communicable diseases, and
4.17 employee misconduct;

4.18 (7) copies of all other forms the personal care assistance provider agency uses in
4.19 the course of daily business including, but not limited to:

4.20 (i) a copy of the personal care assistance provider agency's time sheet if the time
4.21 sheet varies from the standard time sheet for personal care assistance services approved
4.22 by the commissioner, and a letter requesting approval of the personal care assistance
4.23 provider agency's nonstandard time sheet;

4.24 (ii) the personal care assistance provider agency's template for the personal care
4.25 assistance care plan; and

4.26 (iii) the personal care assistance provider agency's template for the written
4.27 agreement in subdivision 20 for recipients using the personal care assistance choice
4.28 option, if applicable;

4.29 (8) a list of all trainings and classes that the personal care assistance provider agency
4.30 requires of its staff providing personal care assistance services;

4.31 (9) documentation that the personal care assistance provider agency and staff have
4.32 successfully completed all the training required by this section;

4.33 (10) documentation of the agency's marketing practices;

4.34 (11) disclosure of ownership, leasing, or management of all residential properties
4.35 that is used or could be used for providing home care services; and

5.1 (12) documentation that the agency will use the following percentages of revenue
5.2 generated from the medical assistance rate paid for personal care assistance services
5.3 for employee personal care assistant wages and benefits: 72.5 percent of revenue in the
5.4 personal care assistance choice option and 72.5 percent of revenue from other personal
5.5 care assistance providers.

5.6 (b) Personal care assistance provider agencies shall provide the information specified
5.7 in paragraph (a) to the commissioner at the time the personal care assistance provider
5.8 agency enrolls as a vendor or upon request from the commissioner. The commissioner
5.9 shall collect the information specified in paragraph (a) from all personal care assistance
5.10 providers beginning July 1, 2009.

5.11 (c) All personal care assistance provider agencies shall complete mandatory training
5.12 as determined by the commissioner before enrollment as a provider. Personal care
5.13 assistance provider agencies are required to send all owners, qualified professionals
5.14 employed by the agency, and all other managing employees to the initial and subsequent
5.15 trainings. Personal care assistance provider agency billing staff shall complete training
5.16 about personal care assistance program financial management. This training is effective
5.17 July 1, 2009. Any personal care assistance provider agency enrolled before that date shall,
5.18 if it has not already, complete the provider training within 18 months of July 1, 2009. Any
5.19 new owners, new qualified professionals, and new managing employees are required to
5.20 complete mandatory training as a requisite of hiring. Personal care assistance provider
5.21 agencies currently licensed under Minnesota Rules, part 4668.0012, as class A providers
5.22 or certified for participation in Medicare as home health agencies are exempt from the
5.23 training requirements in this paragraph.

5.24 Sec. 4. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 27,
5.25 is amended to read:

5.26 Subd. 27. **Personal care assistance provider agency; ventilator training.** The
5.27 personal care assistance provider agency is required to provide training for the personal
5.28 care assistant responsible for working with a recipient who is ventilator dependent. All
5.29 training must be administered by a respiratory therapist, nurse, or physician. Qualified
5.30 professional supervision by a nurse must be completed and documented on file in the
5.31 personal care assistant's employment record and the recipient's health record. If offering
5.32 personal care services to a ventilator-dependent recipient, the personal care assistance
5.33 provider agency shall demonstrate the ability to:

5.34 (1) train the personal care assistant;

5.35 (2) supervise the personal care assistant in ventilator operation and maintenance; and

6.1 (3) supervise the recipient and responsible party in ventilator operation and
6.2 maintenance.

6.3 Personal care assistance provider agencies currently licensed under Minnesota
6.4 Rules, part 4668.0012, as class A providers or certified for participation in Medicare as
6.5 home health agencies are exempt from providing the training required in this subdivision.