

**SENATE**  
**STATE OF MINNESOTA**  
**NINETY-THIRD SESSION**

**S.F. No. 2818**

(SENATE AUTHORS: HOFFMAN and Wiklund)

DATE	D-PG	OFFICIAL STATUS
03/13/2023	1689	Introduction and first reading Referred to Health and Human Services
03/20/2023	2126	Chief author stricken, shown as co-author Wiklund
	2126	Chief author added Hoffman
	2127	Withdrawn and re-referred to Human Services
03/27/2023		Comm report: To pass as amended Second reading

1.1 A bill for an act

1.2 relating to human services; modifying and establishing laws regarding aging,

1.3 disability, behavioral health, substance use disorder, and civil commitment;

1.4 modifying eligibility for home and community-bases services workforce

1.5 development grants; amending Minnesota Statutes 2022, sections 62N.25,

1.6 subdivision 5; 62Q.1055; 62Q.47; 144A.06, subdivision 2; 144A.071, subdivision

1.7 2; 144A.073, subdivision 3b; 144A.474, subdivisions 3, 9, 12; 144A.4791,

1.8 subdivision 10; 148F.01, by adding a subdivision; 148F.11, by adding a subdivision;

1.9 169A.70, subdivisions 3, 4; 245.462, subdivisions 3, 12; 245.4711, subdivisions

1.10 3, 4; 245.477; 245.4835, subdivision 2; 245.4871, subdivisions 3, 19; 245.4873,

1.11 subdivision 4; 245.4881, subdivisions 3, 4; 245.4885, subdivision 1; 245.4887;

1.12 245.50, subdivision 5; 245A.03, subdivision 7; 245A.043, subdivision 3; 245A.11,

1.13 subdivision 7; 245A.16, subdivision 1; 245A.19; 245D.03, subdivision 1; 245F.04,

1.14 subdivision 1; 245G.05, subdivision 2; 245G.06, subdivision 2b; 245G.22,

1.15 subdivisions 2, 15, 17; 246.0135; 253B.10, subdivision 1; 254A.03, subdivision

1.16 3; 254A.035, subdivision 2; 254A.19, subdivisions 1, 3, 4, by adding subdivisions;

1.17 254B.01, subdivision 5, by adding subdivisions; 254B.03, subdivisions 1, 2, 5;

1.18 254B.04, subdivisions 1, 2a, by adding subdivisions; 254B.05, subdivisions 1a,

1.19 5; 256.01, by adding a subdivision; 256B.0659, by adding a subdivision;

1.20 256B.0911, subdivision 23; 256B.092, subdivision 10; 256B.093, subdivision 1;

1.21 256B.434, subdivision 4f; 256B.439, subdivision 3d, by adding a subdivision;

1.22 256B.492; 256B.493, subdivisions 2a, 4; 256D.09, subdivision 2a; 256L.03,

1.23 subdivision 2; 256L.12, subdivision 8; 256S.202, subdivision 1; 260B.157,

1.24 subdivisions 1, 3; 260C.157, subdivision 3; 260E.20, subdivision 1; 299A.299,

1.25 subdivision 1; 524.5-104; 524.5-313; Laws 2021, First Special Session chapter 7,

1.26 article 2, section 17; article 6, section 12; article 11, section 18; article 13, section

1.27 43; article 17, section 20; Laws 2022, chapter 98, article 4, section 37; proposing

1.28 coding for new law in Minnesota Statutes, chapter 325F; repealing Minnesota

1.29 Statutes 2022, sections 169A.70, subdivision 6; 245G.22, subdivision 19; 254A.02,

1.30 subdivision 8a; 254A.16, subdivision 6; 254A.19, subdivisions 1a, 2, 5; 254B.04,

1.31 subdivisions 2b, 2c; 254B.041, subdivision 2; 254B.13, subdivisions 1, 2, 2a, 4,

1.32 5, 6, 7, 8; 254B.16; 256.041, subdivision 10; 256B.49, subdivision 23; 260.835,

1.33 subdivision 2; Minnesota Rules, parts 9530.7000, subparts 1, 2, 5, 6, 7, 8, 9, 10,

1.34 11, 13, 14, 15, 17a, 19, 20, 21; 9530.7005; 9530.7010; 9530.7012; 9530.7015,

1.35 subparts 1, 2a, 4, 5, 6; 9530.7020, subparts 1, 1a, 2; 9530.7021; 9530.7022, subpart

1.36 1; 9530.7025; 9530.7030, subpart 1.

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

2.2

**ARTICLE 1**

2.3

**DEPARTMENT OF HEALTH POLICY**

2.4 Section 1. Minnesota Statutes 2022, section 144A.06, subdivision 2, is amended to read:

2.5 Subd. 2. **New license required; change of ownership.** (a) The commissioner of health  
2.6 by rule shall prescribe procedures for licensure under this section.

2.7 (b) A new license is required and the prospective licensee must apply for a license prior  
2.8 to operating a currently licensed nursing home. The licensee must change whenever one of  
2.9 the following events occur:

2.10 (1) the form of the licensee's legal entity structure is converted or changed to a different  
2.11 type of legal entity structure;

2.12 (2) the licensee dissolves, consolidates, or merges with another legal organization and  
2.13 the licensee's legal organization does not survive;

2.14 (3) within the previous 24 months, 50 percent or more of the licensee's ownership interest  
2.15 is transferred, whether by a single transaction or multiple transactions to:

2.16 (i) a different person or multiple persons; or

2.17 (ii) a person or multiple different persons who had less than a five percent ownership  
2.18 interest in the facility at the time of the first transaction; or

2.19 (4) any other event or combination of events that results in a substitution, elimination,  
2.20 or withdrawal of the licensee's responsibility for the facility.

2.21 Sec. 2. Minnesota Statutes 2022, section 144A.071, subdivision 2, is amended to read:

2.22 Subd. 2. **Moratorium.** (a) The commissioner of health, in coordination with the  
2.23 commissioner of human services, shall deny each request for new licensed or certified  
2.24 nursing home or certified boarding care beds except as provided in subdivision 3 or 4a, or  
2.25 section 144A.073. "Certified bed" means a nursing home bed or a boarding care bed certified  
2.26 by the commissioner of health for the purposes of the medical assistance program, under  
2.27 United States Code, title 42, sections 1396 et seq. Certified beds in facilities which do not  
2.28 allow medical assistance intake shall be deemed to be decertified for purposes of this section  
2.29 only.

2.30 (b) The commissioner of human services, in coordination with the commissioner of  
2.31 health, shall deny any request to issue a license under section 252.28 and chapter 245A to

3.1 a nursing home or boarding care home, if that license would result in an increase in the  
3.2 medical assistance reimbursement amount.

3.3 (c) In addition, the commissioner of health must not approve any construction project  
3.4 whose cost exceeds \$1,000,000, unless:

3.5 ~~(a)~~ (1) any construction costs exceeding \$1,000,000 are not added to the facility's  
3.6 appraised value and are not included in the facility's payment rate for reimbursement under  
3.7 the medical assistance program; or

3.8 ~~(b)~~ (2) the project:

3.9 ~~(1)~~ (i) has been approved through the process described in section 144A.073 and if  
3.10 approved under section 144A.073, subdivision 3, after March 1, 2020, is subject to the fair  
3.11 rental value property rate as described in section 256R.26;

3.12 ~~(2)~~ (ii) meets an exception in subdivision 3 or 4a;

3.13 ~~(3)~~ (iii) is necessary to correct violations of state or federal law issued by the  
3.14 commissioner of health;

3.15 ~~(4)~~ (iv) is necessary to repair or replace a portion of the facility that was damaged by  
3.16 fire, lightning, ground shifts, or other such hazards, including environmental hazards,  
3.17 provided that the provisions of subdivision 4a, clause (a), are met; or

3.18 ~~(5)~~ (v) is being proposed by a licensed nursing facility that is not certified to participate  
3.19 in the medical assistance program and will not result in new licensed or certified beds.

3.20 (d) Prior to the final plan approval of any construction project, the commissioners of  
3.21 health and human services shall be provided with an itemized cost estimate for the project  
3.22 construction costs. If a construction project is anticipated to be completed in phases, the  
3.23 total estimated cost of all phases of the project shall be submitted to the commissioners and  
3.24 shall be considered as one construction project. Once the construction project is completed  
3.25 and prior to the final clearance by the commissioners, the total project construction costs  
3.26 for the construction project shall be submitted to the commissioners. If the final project  
3.27 construction cost exceeds the dollar threshold in this subdivision, the commissioner of  
3.28 human services shall not recognize any of the project construction costs or the related  
3.29 financing costs in excess of this threshold in establishing the facility's property-related  
3.30 payment rate.

3.31 (e) The dollar thresholds for construction projects are as follows: for construction projects  
3.32 other than those authorized in ~~clauses (1) to (6)~~ paragraph (c), clause (2), items (i) to (v),  
3.33 the dollar threshold is \$1,000,000. For projects authorized after July 1, 1993, under ~~clause~~

4.1 ~~(1) paragraph (c), clause (2), item (i),~~ the dollar threshold is the cost estimate submitted  
 4.2 with a proposal for an exception under section 144A.073, plus inflation as calculated  
 4.3 according to section 256B.431, subdivision 3f, paragraph (a). For projects authorized under  
 4.4 ~~clauses (2) to (4) paragraph (c), clause (2), items (ii) to (iv),~~ the dollar threshold is the  
 4.5 itemized estimate project construction costs submitted to the commissioner of health at the  
 4.6 time of final plan approval, plus inflation as calculated according to section 256B.431,  
 4.7 subdivision 3f, paragraph (a).

4.8 (f) The commissioner of health shall adopt rules to implement this section or to amend  
 4.9 the emergency rules for granting exceptions to the moratorium on nursing homes under  
 4.10 section 144A.073.

4.11 Sec. 3. Minnesota Statutes 2022, section 144A.073, subdivision 3b, is amended to read:

4.12 **Subd. 3b. Amendments to approved projects.** (a) Nursing facilities that have received  
 4.13 approval ~~on or after July 1, 1993,~~ for exceptions to the moratorium on nursing homes through  
 4.14 the process described in this section may request amendments to the designs of the projects  
 4.15 by writing the commissioner within 15 months of receiving approval. An approved project  
 4.16 may not be amended to reduce the scope of an approved project. Applicants shall submit  
 4.17 supporting materials that demonstrate how the amended projects meet the criteria described  
 4.18 in paragraph (b).

4.19 (b) The commissioner shall approve requests for amendments for projects approved ~~on~~  
 4.20 ~~or after July 1, 1993,~~ according to the following criteria:

4.21 (1) the amended project designs must provide solutions to all of the problems addressed  
 4.22 by the original application that are at least as effective as the original solutions;

4.23 (2) the amended project designs may not reduce the space in each resident's living area  
 4.24 or in the total amount of common space devoted to resident and family uses by more than  
 4.25 five percent;

4.26 (3) the costs ~~recognized for reimbursement~~ of amended project designs shall be ~~the~~  
 4.27 ~~threshold amount of the original proposal as identified according to section 144A.071,~~  
 4.28 ~~subdivision 2~~ the cost estimate associated with the project as originally approved, except  
 4.29 under conditions described in clause (4); and

4.30 (4) total costs ~~up to ten percent greater than the cost identified in clause (3) may be~~  
 4.31 ~~recognized for reimbursement if~~ of the amendment are no greater than ten percent of the  
 4.32 cost estimate associated with the project as initially approved if the proposer can document  
 4.33 that one of the following circumstances is true:

- 5.1 (i) changes are needed due to a natural disaster;
- 5.2 (ii) conditions that affect the safety or durability of the project that could not have
- 5.3 reasonably been known prior to approval are discovered;
- 5.4 (iii) state or federal law require changes in project design; or
- 5.5 (iv) documentable circumstances occur that are beyond the control of the owner and
- 5.6 require changes in the design.
- 5.7 (c) Approval of a request for an amendment does not alter the expiration of approval of
- 5.8 the project according to subdivision 3.

5.9 (d) Reimbursement for amendments to approved projects is independent of the actual

5.10 construction costs and based on the allowable appraised value of the completed project.

5.11 **EFFECTIVE DATE.** This section is effective retroactively from March 1, 2020.

5.12 Sec. 4. Minnesota Statutes 2022, section 144A.474, subdivision 3, is amended to read:

5.13 Subd. 3. **Survey process.** The survey process for core surveys shall include the following

5.14 as applicable to the particular licensee and setting surveyed:

5.15 (1) presurvey review of pertinent documents and notification to the ombudsman for

5.16 long-term care;

5.17 (2) an entrance conference with available staff;

5.18 (3) communication with managerial officials or the registered nurse in charge, if available,

5.19 and ongoing communication with key staff throughout the survey regarding information

5.20 needed by the surveyor, clarifications regarding home care requirements, and applicable

5.21 standards of practice;

5.22 (4) presentation of written contact information to the provider about the survey staff

5.23 conducting the survey, the supervisor, and the process for requesting a reconsideration of

5.24 the survey results;

5.25 (5) a brief tour of ~~a sample of the housing with services establishments~~ establishment

5.26 in which the provider is providing home care services;

5.27 (6) a sample selection of home care clients;

5.28 (7) information-gathering through client and staff observations, client and staff interviews,

5.29 and reviews of records, policies, procedures, practices, and other agency information;

6.1 (8) interviews of clients' family members, if available, with clients' consent when the  
6.2 client can legally give consent;

6.3 (9) except for complaint surveys conducted by the Office of Health Facilities Complaints,  
6.4 an ~~on-site~~ exit conference; with preliminary findings ~~shared and~~ discussed with the provider  
6.5 within one business day after completion of survey activities, documentation that an exit  
6.6 ~~conference occurred~~, and with written information provided on the process for requesting  
6.7 a reconsideration of the survey results; and

6.8 (10) postsurvey analysis of findings and formulation of survey results, including  
6.9 correction orders when applicable.

6.10 **EFFECTIVE DATE.** This section is effective August 1, 2023.

6.11 Sec. 5. Minnesota Statutes 2022, section 144A.474, subdivision 9, is amended to read:

6.12 Subd. 9. **Follow-up surveys.** For providers that have Level 3 or Level 4 violations under  
6.13 subdivision 11, ~~or any violations determined to be widespread~~, the department shall conduct  
6.14 a follow-up survey within 90 calendar days of the survey. When conducting a follow-up  
6.15 survey, the surveyor will focus on whether the previous violations have been corrected and  
6.16 may also address any new violations that are observed while evaluating the corrections that  
6.17 have been made.

6.18 **EFFECTIVE DATE.** This section is effective August 1, 2023.

6.19 Sec. 6. Minnesota Statutes 2022, section 144A.474, subdivision 12, is amended to read:

6.20 Subd. 12. **Reconsideration.** (a) The commissioner shall make available to home care  
6.21 providers a correction order reconsideration process. This process may be used to challenge  
6.22 the correction order issued, including the level and scope described in subdivision 11, and  
6.23 any fine assessed. During the correction order reconsideration request, the issuance for the  
6.24 correction orders under reconsideration are not stayed, but the department shall post  
6.25 information on the website with the correction order that the licensee has requested a  
6.26 reconsideration and that the review is pending.

6.27 (b) A licensed home care provider may request from the commissioner, in writing, a  
6.28 correction order reconsideration regarding any correction order issued to the provider. The  
6.29 written request for reconsideration must be received by the commissioner within 15 ~~calendar~~  
6.30 business days of the correction order receipt date. The correction order reconsideration shall  
6.31 not be reviewed by any surveyor, investigator, or supervisor that participated in the writing  
6.32 or reviewing of the correction order being disputed. The correction order reconsiderations

7.1 may be conducted in person, by telephone, by another electronic form, or in writing, as  
7.2 determined by the commissioner. The commissioner shall respond in writing to the request  
7.3 from a home care provider for a correction order reconsideration within 60 days of the date  
7.4 the provider requests a reconsideration. The commissioner's response shall identify the  
7.5 commissioner's decision regarding each citation challenged by the home care provider.

7.6 (c) The findings of a correction order reconsideration process shall be one or more of  
7.7 the following:

7.8 (1) supported in full, the correction order is supported in full, with no deletion of findings  
7.9 to the citation;

7.10 (2) supported in substance, the correction order is supported, but one or more findings  
7.11 are deleted or modified without any change in the citation;

7.12 (3) correction order cited an incorrect home care licensing requirement, the correction  
7.13 order is amended by changing the correction order to the appropriate statutory reference;

7.14 (4) correction order was issued under an incorrect citation, the correction order is amended  
7.15 to be issued under the more appropriate correction order citation;

7.16 (5) the correction order is rescinded;

7.17 (6) fine is amended, it is determined that the fine assigned to the correction order was  
7.18 applied incorrectly; or

7.19 (7) the level or scope of the citation is modified based on the reconsideration.

7.20 (d) If the correction order findings are changed by the commissioner, the commissioner  
7.21 shall update the correction order website.

7.22 (e) This subdivision does not apply to temporary licensees.

7.23 Sec. 7. Minnesota Statutes 2022, section 144A.4791, subdivision 10, is amended to read:

7.24 Subd. 10. **Termination of service plan.** (a) If a home care provider terminates a service  
7.25 plan with a client, and the client continues to need home care services, the home care provider  
7.26 shall provide the client and the client's representative, if any, with a written notice of  
7.27 termination which includes the following information:

7.28 (1) the effective date of termination;

7.29 (2) the reason for termination;

8.1 (3) a statement that the client may contact the Office of Ombudsman for Long-Term  
 8.2 Care to request an advocate to assist regarding the termination and contact information for  
 8.3 the office, including the office's central telephone number;

8.4 ~~(3)~~ (4) a list of known licensed home care providers in the client's immediate geographic  
 8.5 area;

8.6 ~~(4)~~ (5) a statement that the home care provider will participate in a coordinated transfer  
 8.7 of care of the client to another home care provider, health care provider, or caregiver, as  
 8.8 required by the home care bill of rights, section 144A.44, subdivision 1, clause (17);

8.9 ~~(5)~~ (6) the name and contact information of a person employed by the home care provider  
 8.10 with whom the client may discuss the notice of termination; and

8.11 ~~(6)~~ (7) if applicable, a statement that the notice of termination of home care services  
 8.12 does not constitute notice of termination of ~~the housing with services contract with a housing~~  
 8.13 ~~with services establishment~~ any housing contract.

8.14 (b) When the home care provider voluntarily discontinues services to all clients, the  
 8.15 home care provider must notify the commissioner, lead agencies, and ombudsman for  
 8.16 long-term care about its clients and comply with the requirements in this subdivision.

8.17 Sec. 8. Minnesota Statutes 2022, section 256B.434, subdivision 4f, is amended to read:

8.18 Subd. 4f. **Construction project rate adjustments effective October 1, 2006.** (a)  
 8.19 Effective October 1, 2006, facilities reimbursed under this section may receive a property  
 8.20 rate adjustment for construction projects exceeding the threshold in section 256B.431,  
 8.21 subdivision 16, and below the threshold in section 144A.071, subdivision 2, ~~clause (a)~~  
 8.22 paragraph (c), clause (1). For these projects, capital assets purchased shall be counted as  
 8.23 construction project costs for a rate adjustment request made by a facility if they are: (1)  
 8.24 purchased within 24 months of the completion of the construction project; (2) purchased  
 8.25 after the completion date of any prior construction project; and (3) are not purchased prior  
 8.26 to July 14, 2005. Except as otherwise provided in this subdivision, the definitions, rate  
 8.27 calculation methods, and principles in sections 144A.071 and 256B.431 and Minnesota  
 8.28 Rules, parts 9549.0010 to 9549.0080, shall be used to calculate rate adjustments for allowable  
 8.29 construction projects under this subdivision and section 144A.073. Facilities completing  
 8.30 construction projects between October 1, 2005, and October 1, 2006, are eligible to have a  
 8.31 property rate adjustment effective October 1, 2006. Facilities completing projects after  
 8.32 October 1, 2006, are eligible for a property rate adjustment effective on the first day of the  
 8.33 month following the completion date. Facilities completing projects after January 1, 2018,



9.1 are eligible for a property rate adjustment effective on the first day of the month of January  
9.2 or July, whichever occurs immediately following the completion date.

9.3 (b) Notwithstanding subdivision 18, as of July 14, 2005, facilities with rates set under  
9.4 section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080, that commenced a  
9.5 construction project on or after October 1, 2004, and do not have a contract under subdivision  
9.6 3 by September 30, 2006, are eligible to request a rate adjustment under section 256B.431,  
9.7 subdivision 10, through September 30, 2006. If the request results in the commissioner  
9.8 determining a rate adjustment is allowable, the rate adjustment is effective on the first of  
9.9 the month following project completion. These facilities shall be allowed to accumulate  
9.10 construction project costs for the period October 1, 2004, to September 30, 2006.

9.11 (c) Facilities shall be allowed construction project rate adjustments no sooner than 12  
9.12 months after completing a previous construction project. Facilities must request the rate  
9.13 adjustment according to section 256B.431, subdivision 10.

9.14 (d) Capacity days shall be computed according to Minnesota Rules, part 9549.0060,  
9.15 subpart 11. For rate calculations under this section, the number of licensed beds in the  
9.16 nursing facility shall be the number existing after the construction project is completed and  
9.17 the number of days in the nursing facility's reporting period shall be 365.

9.18 (e) The value of assets to be recognized for a total replacement project as defined in  
9.19 section 256B.431, subdivision 17d, shall be computed as described in clause (1). The value  
9.20 of assets to be recognized for all other projects shall be computed as described in clause  
9.21 (2).

9.22 (1) Replacement-cost-new limits under section 256B.431, subdivision 17e, and the  
9.23 number of beds allowed under subdivision 3a, paragraph (c), shall be used to compute the  
9.24 maximum amount of assets allowable in a facility's property rate calculation. If a facility's  
9.25 current request for a rate adjustment results from the completion of a construction project  
9.26 that was previously approved under section 144A.073, the assets to be used in the rate  
9.27 calculation cannot exceed the lesser of the amount determined under sections 144A.071,  
9.28 subdivision 2, and 144A.073, subdivision 3b, or the actual allowable costs of the construction  
9.29 project. A current request that is not the result of a project under section 144A.073 cannot  
9.30 exceed the limit under section 144A.071, subdivision 2, paragraph ~~(a)~~ (c), clause (1).  
9.31 Applicable credits must be deducted from the cost of the construction project.

9.32 (2)(i) Replacement-cost-new limits under section 256B.431, subdivision 17e, and the  
9.33 number of beds allowed under section 256B.431, subdivision 3a, paragraph (c), shall be

10.1 used to compute the maximum amount of assets allowable in a facility's property rate  
10.2 calculation.

10.3 (ii) The value of a facility's assets to be compared to the amount in item (i) begins with  
10.4 the total appraised value from the last rate notice a facility received when its rates were set  
10.5 under section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080. This value  
10.6 shall be indexed by the factor in section 256B.431, subdivision 3f, paragraph (a), for each  
10.7 rate year the facility received an inflation factor on its property-related rate when its rates  
10.8 were set under this section. The value of assets listed as previous capital additions, capital  
10.9 additions, and special projects on the facility's base year rate notice and the value of assets  
10.10 related to a construction project for which the facility received a rate adjustment when its  
10.11 rates were determined under this section shall be added to the indexed appraised value.

10.12 (iii) The maximum amount of assets to be recognized in computing a facility's rate  
10.13 adjustment after a project is completed is the lesser of the aggregate replacement-cost-new  
10.14 limit computed in (i) minus the assets recognized in (ii) or the actual allowable costs of the  
10.15 construction project.

10.16 (iv) If a facility's current request for a rate adjustment results from the completion of a  
10.17 construction project that was previously approved under section 144A.073, the assets to be  
10.18 added to the rate calculation cannot exceed the lesser of the amount determined under  
10.19 sections 144A.071, subdivision 2, and 144A.073, subdivision 3b, or the actual allowable  
10.20 costs of the construction project. A current request that is not the result of a project under  
10.21 section 144A.073 cannot exceed the limit stated in section 144A.071, subdivision 2,  
10.22 paragraph ~~(a)~~ (c), clause (1). Assets disposed of as a result of a construction project and  
10.23 applicable credits must be deducted from the cost of the construction project.

10.24 (f) For construction projects approved under section 144A.073, allowable debt may  
10.25 never exceed the lesser of the cost of the assets purchased, the threshold limit in section  
10.26 144A.071, subdivision 2, or the replacement-cost-new limit less previously existing capital  
10.27 debt.

10.28 (g) For construction projects that were not approved under section 144A.073, allowable  
10.29 debt is limited to the lesser of the threshold in section 144A.071, subdivision 2, for such  
10.30 construction projects or the applicable limit in paragraph (e), clause (1) or (2), less previously  
10.31 existing capital debt. Amounts of debt taken out that exceed the costs of a construction  
10.32 project shall not be allowed regardless of the use of the funds.

10.33 For all construction projects being recognized, interest expense and average debt shall  
10.34 be computed based on the first 12 months following project completion. "Previously existing

11.1 capital debt" means capital debt recognized on the last rate determined under section  
11.2 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080, and the amount of debt  
11.3 recognized for a construction project for which the facility received a rate adjustment when  
11.4 its rates were determined under this section.

11.5 For a total replacement project as defined in section 256B.431, subdivision 17d, the  
11.6 value of previously existing capital debt shall be zero.

11.7 (h) In addition to the interest expense allowed from the application of paragraph (f), the  
11.8 amounts allowed under section 256B.431, subdivision 17a, paragraph (a), clauses (2) and  
11.9 (3), will be added to interest expense.

11.10 (i) The equity portion of the construction project shall be computed as the allowable  
11.11 assets in paragraph (e), less the average debt in paragraph (f). The equity portion must be  
11.12 multiplied by 5.66 percent and the allowable interest expense in paragraph (f) must be added.  
11.13 This sum must be divided by 95 percent of capacity days to compute the construction project  
11.14 rate adjustment.

11.15 (j) For projects that are not a total replacement of a nursing facility, the amount in  
11.16 paragraph (i) is adjusted for nonreimbursable areas and then added to the current property  
11.17 payment rate of the facility.

11.18 (k) For projects that are a total replacement of a nursing facility, the amount in paragraph  
11.19 (i) becomes the new property payment rate after being adjusted for nonreimbursable areas.  
11.20 Any amounts existing in a facility's rate before the effective date of the construction project  
11.21 for equity incentives under section 256B.431, subdivision 16; capital repairs and replacements  
11.22 under section 256B.431, subdivision 15; or refinancing incentives under section 256B.431,  
11.23 subdivision 19, shall be removed from the facility's rates.

11.24 (l) No additional equipment allowance is allowed under Minnesota Rules, part 9549.0060,  
11.25 subpart 10, as the result of construction projects under this section. Allowable equipment  
11.26 shall be included in the construction project costs.

11.27 (m) Capital assets purchased after the completion date of a construction project shall be  
11.28 counted as construction project costs for any future rate adjustment request made by a facility  
11.29 under section 144A.071, subdivision 2, ~~clause (a)~~ paragraph (c), clause (1), if they are  
11.30 purchased within 24 months of the completion of the future construction project.

11.31 (n) In subsequent rate years, the property payment rate for a facility that results from  
11.32 the application of this subdivision shall be the amount inflated in subdivision 4.

12.1 (o) Construction projects are eligible for an equity incentive under section 256B.431,  
 12.2 subdivision 16. When computing the equity incentive for a construction project under this  
 12.3 subdivision, only the allowable costs and allowable debt related to the construction project  
 12.4 shall be used. The equity incentive shall not be a part of the property payment rate and not  
 12.5 inflated under subdivision 4. Effective October 1, 2006, all equity incentives for nursing  
 12.6 facilities reimbursed under this section shall be allowed for a duration determined under  
 12.7 section 256B.431, subdivision 16, paragraph (c).

## 12.8 ARTICLE 2

### 12.9 SUBSTANCE USE DISORDER DIRECT ACCESS POLICY

12.10 Section 1. Minnesota Statutes 2022, section 62N.25, subdivision 5, is amended to read:

12.11 Subd. 5. **Benefits.** Community integrated service networks must offer the health  
 12.12 maintenance organization benefit set, as defined in chapter 62D, and other laws applicable  
 12.13 to entities regulated under chapter 62D. Community networks and chemical dependency  
 12.14 facilities under contract with a community network shall use the assessment criteria in  
 12.15 ~~Minnesota Rules, parts 9530.6600 to 9530.6655, section 245G.05~~ when assessing enrollees  
 12.16 for chemical dependency treatment.

12.17 Sec. 2. Minnesota Statutes 2022, section 62Q.1055, is amended to read:

#### 12.18 **62Q.1055 CHEMICAL DEPENDENCY.**

12.19 All health plan companies shall use the assessment criteria in ~~Minnesota Rules, parts~~  
 12.20 ~~9530.6600 to 9530.6655, section 245G.05~~ when assessing and ~~placing~~ treating enrollees  
 12.21 for chemical dependency treatment.

12.22 Sec. 3. Minnesota Statutes 2022, section 62Q.47, is amended to read:

#### 12.23 **62Q.47 ALCOHOLISM, MENTAL HEALTH, AND CHEMICAL DEPENDENCY** 12.24 **SERVICES.**

12.25 (a) All health plans, as defined in section 62Q.01, that provide coverage for alcoholism,  
 12.26 mental health, or chemical dependency services, must comply with the requirements of this  
 12.27 section.

12.28 (b) Cost-sharing requirements and benefit or service limitations for outpatient mental  
 12.29 health and outpatient chemical dependency and alcoholism services, except for persons  
 12.30 ~~placed in~~ seeking chemical dependency services under ~~Minnesota Rules, parts 9530.6600~~  
 12.31 ~~to 9530.6655~~ section 245G.05, must not place a greater financial burden on the insured or

13.1 enrollee, or be more restrictive than those requirements and limitations for outpatient medical  
13.2 services.

13.3 (c) Cost-sharing requirements and benefit or service limitations for inpatient hospital  
13.4 mental health and inpatient hospital and residential chemical dependency and alcoholism  
13.5 services, except for persons ~~placed in~~ seeking chemical dependency services under ~~Minnesota~~  
13.6 ~~Rules, parts 9530.6600 to 9530.6655~~ section 245G.05, must not place a greater financial  
13.7 burden on the insured or enrollee, or be more restrictive than those requirements and  
13.8 limitations for inpatient hospital medical services.

13.9 (d) A health plan company must not impose an NQTL with respect to mental health and  
13.10 substance use disorders in any classification of benefits unless, under the terms of the health  
13.11 plan as written and in operation, any processes, strategies, evidentiary standards, or other  
13.12 factors used in applying the NQTL to mental health and substance use disorders in the  
13.13 classification are comparable to, and are applied no more stringently than, the processes,  
13.14 strategies, evidentiary standards, or other factors used in applying the NQTL with respect  
13.15 to medical and surgical benefits in the same classification.

13.16 (e) All health plans must meet the requirements of the federal Mental Health Parity Act  
13.17 of 1996, Public Law 104-204; Paul Wellstone and Pete Domenici Mental Health Parity and  
13.18 Addiction Equity Act of 2008; the Affordable Care Act; and any amendments to, and federal  
13.19 guidance or regulations issued under, those acts.

13.20 (f) The commissioner may require information from health plan companies to confirm  
13.21 that mental health parity is being implemented by the health plan company. Information  
13.22 required may include comparisons between mental health and substance use disorder  
13.23 treatment and other medical conditions, including a comparison of prior authorization  
13.24 requirements, drug formulary design, claim denials, rehabilitation services, and other  
13.25 information the commissioner deems appropriate.

13.26 (g) Regardless of the health care provider's professional license, if the service provided  
13.27 is consistent with the provider's scope of practice and the health plan company's credentialing  
13.28 and contracting provisions, mental health therapy visits and medication maintenance visits  
13.29 shall be considered primary care visits for the purpose of applying any enrollee cost-sharing  
13.30 requirements imposed under the enrollee's health plan.

13.31 (h) By June 1 of each year, beginning June 1, 2021, the commissioner of commerce, in  
13.32 consultation with the commissioner of health, shall submit a report on compliance and  
13.33 oversight to the chairs and ranking minority members of the legislative committees with  
13.34 jurisdiction over health and commerce. The report must:

14.1 (1) describe the commissioner's process for reviewing health plan company compliance  
14.2 with United States Code, title 42, section 18031(j), any federal regulations or guidance  
14.3 relating to compliance and oversight, and compliance with this section and section 62Q.53;

14.4 (2) identify any enforcement actions taken by either commissioner during the preceding  
14.5 12-month period regarding compliance with parity for mental health and substance use  
14.6 disorders benefits under state and federal law, summarizing the results of any market conduct  
14.7 examinations. The summary must include: (i) the number of formal enforcement actions  
14.8 taken; (ii) the benefit classifications examined in each enforcement action; and (iii) the  
14.9 subject matter of each enforcement action, including quantitative and nonquantitative  
14.10 treatment limitations;

14.11 (3) detail any corrective action taken by either commissioner to ensure health plan  
14.12 company compliance with this section, section 62Q.53, and United States Code, title 42,  
14.13 section 18031(j); and

14.14 (4) describe the information provided by either commissioner to the public about  
14.15 alcoholism, mental health, or chemical dependency parity protections under state and federal  
14.16 law.

14.17 The report must be written in nontechnical, readily understandable language and must be  
14.18 made available to the public by, among other means as the commissioners find appropriate,  
14.19 posting the report on department websites. Individually identifiable information must be  
14.20 excluded from the report, consistent with state and federal privacy protections.

14.21 Sec. 4. Minnesota Statutes 2022, section 169A.70, subdivision 3, is amended to read:

14.22 Subd. 3. **Assessment report.** (a) The assessment report must be on a form prescribed  
14.23 by the commissioner and shall contain an evaluation of the convicted defendant concerning  
14.24 the defendant's prior traffic and criminal record, characteristics and history of alcohol and  
14.25 chemical use problems, and amenability to rehabilitation through the alcohol safety program.  
14.26 The report is classified as private data on individuals as defined in section 13.02, subdivision  
14.27 12.

14.28 (b) The assessment report must include:

14.29 (1) a diagnosis of the nature of the offender's chemical and alcohol involvement;

14.30 (2) an assessment of the severity level of the involvement;

15.1 (3) a recommended level of care for the offender in accordance with the criteria contained  
 15.2 in ~~rules adopted by the commissioner of human services under section 254A.03, subdivision~~  
 15.3 ~~3 (substance use disorder treatment rules)~~ section 245G.05;

15.4 (4) an assessment of the offender's placement needs;

15.5 (5) recommendations for other appropriate remedial action or care, including aftercare  
 15.6 services in section 254B.01, subdivision 3, that may consist of educational programs,  
 15.7 one-on-one counseling, a program or type of treatment that addresses mental health concerns,  
 15.8 or a combination of them; and

15.9 (6) a specific explanation why no level of care or action was recommended, if applicable.

15.10 Sec. 5. Minnesota Statutes 2022, section 169A.70, subdivision 4, is amended to read:

15.11 Subd. 4. **Assessor standards; rules; assessment time limits.** A chemical use assessment  
 15.12 required by this section must be conducted by an assessor appointed by the court. The  
 15.13 assessor must meet the training and qualification requirements of ~~rules adopted by the~~  
 15.14 ~~commissioner of human services under section 254A.03, subdivision 3 (substance use~~  
 15.15 ~~disorder treatment rules)~~ section 245G.11, subdivisions 1 and 5. Notwithstanding section  
 15.16 13.82 (law enforcement data), the assessor shall have access to any police reports, laboratory  
 15.17 test results, and other law enforcement data relating to the current offense or previous  
 15.18 offenses that are necessary to complete the evaluation. ~~An assessor providing an assessment~~  
 15.19 ~~under this section may not have any direct or shared financial interest or referral relationship~~  
 15.20 ~~resulting in shared financial gain with a treatment provider, except as authorized under~~  
 15.21 ~~section 254A.19, subdivision 3. If an independent assessor is not available, the court may~~  
 15.22 ~~use the services of an assessor authorized to perform assessments for the county social~~  
 15.23 ~~services agency under a variance granted under rules adopted by the commissioner of human~~  
 15.24 ~~services under section 254A.03, subdivision 3.~~ An appointment for the defendant to undergo  
 15.25 the assessment must be made by the court, a court services probation officer, or the court  
 15.26 administrator as soon as possible but in no case more than one week after the defendant's  
 15.27 court appearance. The assessment must be completed no later than three weeks after the  
 15.28 defendant's court appearance. If the assessment is not performed within this time limit, the  
 15.29 county where the defendant is to be sentenced shall perform the assessment. The county of  
 15.30 financial responsibility must be determined under chapter 256G.

15.31 Sec. 6. Minnesota Statutes 2022, section 245A.043, subdivision 3, is amended to read:

15.32 Subd. 3. **Change of ownership process.** (a) When a change in ownership is proposed  
 15.33 and the party intends to assume operation without an interruption in service longer than 60

16.1 days after acquiring the program or service, the license holder must provide the commissioner  
16.2 with written notice of the proposed change on a form provided by the commissioner at least  
16.3 60 days before the anticipated date of the change in ownership. For purposes of this  
16.4 subdivision and subdivision 4, "party" means the party that intends to operate the service  
16.5 or program.

16.6 (b) The party must submit a license application under this chapter on the form and in  
16.7 the manner prescribed by the commissioner at least 30 days before the change in ownership  
16.8 is complete, and must include documentation to support the upcoming change. The party  
16.9 must comply with background study requirements under chapter 245C and shall pay the  
16.10 application fee required under section 245A.10. A party that intends to assume operation  
16.11 without an interruption in service longer than 60 days after acquiring the program or service  
16.12 is exempt from the requirements of sections 245G.03, subdivision 2, paragraph (b), and  
16.13 254B.03, subdivision 2, paragraphs (c) and (d) ~~and (e)~~.

16.14 (c) The commissioner may streamline application procedures when the party is an existing  
16.15 license holder under this chapter and is acquiring a program licensed under this chapter or  
16.16 service in the same service class as one or more licensed programs or services the party  
16.17 operates and those licenses are in substantial compliance. For purposes of this subdivision,  
16.18 "substantial compliance" means within the previous 12 months the commissioner did not  
16.19 (1) issue a sanction under section 245A.07 against a license held by the party, or (2) make  
16.20 a license held by the party conditional according to section 245A.06.

16.21 (d) Except when a temporary change in ownership license is issued pursuant to  
16.22 subdivision 4, the existing license holder is solely responsible for operating the program  
16.23 according to applicable laws and rules until a license under this chapter is issued to the  
16.24 party.

16.25 (e) If a licensing inspection of the program or service was conducted within the previous  
16.26 12 months and the existing license holder's license record demonstrates substantial  
16.27 compliance with the applicable licensing requirements, the commissioner may waive the  
16.28 party's inspection required by section 245A.04, subdivision 4. The party must submit to the  
16.29 commissioner (1) proof that the premises was inspected by a fire marshal or that the fire  
16.30 marshal deemed that an inspection was not warranted, and (2) proof that the premises was  
16.31 inspected for compliance with the building code or that no inspection was deemed warranted.

16.32 (f) If the party is seeking a license for a program or service that has an outstanding action  
16.33 under section 245A.06 or 245A.07, the party must submit a letter as part of the application



17.1 process identifying how the party has or will come into full compliance with the licensing  
17.2 requirements.

17.3 (g) The commissioner shall evaluate the party's application according to section 245A.04,  
17.4 subdivision 6. If the commissioner determines that the party has remedied or demonstrates  
17.5 the ability to remedy the outstanding actions under section 245A.06 or 245A.07 and has  
17.6 determined that the program otherwise complies with all applicable laws and rules, the  
17.7 commissioner shall issue a license or conditional license under this chapter. The conditional  
17.8 license remains in effect until the commissioner determines that the grounds for the action  
17.9 are corrected or no longer exist.

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

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

17.15 Sec. 7. Minnesota Statutes 2022, section 245G.05, subdivision 2, is amended to read:

17.16 Subd. 2. **Assessment summary.** (a) An alcohol and drug counselor must complete an  
17.17 assessment summary within three calendar days from the day of service initiation for a  
17.18 residential program and within three calendar days on which a treatment session has been  
17.19 provided from the day of service initiation for a client in a nonresidential program. The  
17.20 comprehensive assessment summary is complete upon a qualified staff member's dated  
17.21 signature. If the comprehensive assessment is used to authorize the treatment service, the  
17.22 alcohol and drug counselor must prepare an assessment summary on the same date the  
17.23 comprehensive assessment is completed. If the comprehensive assessment and assessment  
17.24 summary are to authorize treatment services, the assessor must determine appropriate level  
17.25 of care and services for the client using the ~~dimensions in Minnesota Rules, part 9530.6622,~~  
17.26 criteria established in section 254B.04, subdivision 4, and document the recommendations.

17.27 (b) An assessment summary must include:

17.28 (1) a risk description according to section 245G.05 for each dimension listed in paragraph  
17.29 (c);

17.30 (2) a narrative summary supporting the risk descriptions; and

17.31 (3) a determination of whether the client has a substance use disorder.

18.1 (c) An assessment summary must contain information relevant to treatment service  
18.2 planning and recorded in the dimensions in clauses (1) to (6). The license holder must  
18.3 consider:

18.4 (1) Dimension 1, acute intoxication/withdrawal potential; the client's ability to cope with  
18.5 withdrawal symptoms and current state of intoxication;

18.6 (2) Dimension 2, biomedical conditions and complications; the degree to which any  
18.7 physical disorder of the client would interfere with treatment for substance use, and the  
18.8 client's ability to tolerate any related discomfort. The license holder must determine the  
18.9 impact of continued substance use on the unborn child, if the client is pregnant;

18.10 (3) Dimension 3, emotional, behavioral, and cognitive conditions and complications;  
18.11 the degree to which any condition or complication is likely to interfere with treatment for  
18.12 substance use or with functioning in significant life areas and the likelihood of harm to self  
18.13 or others;

18.14 (4) Dimension 4, readiness for change; the support necessary to keep the client involved  
18.15 in treatment service;

18.16 (5) Dimension 5, relapse, continued use, and continued problem potential; the degree  
18.17 to which the client recognizes relapse issues and has the skills to prevent relapse of either  
18.18 substance use or mental health problems; and

18.19 (6) Dimension 6, recovery environment; whether the areas of the client's life are  
18.20 supportive of or antagonistic to treatment participation and recovery.

18.21 Sec. 8. Minnesota Statutes 2022, section 245G.22, subdivision 2, is amended to read:

18.22 Subd. 2. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision  
18.23 have the meanings given them.

18.24 (b) "Diversion" means the use of a medication for the treatment of opioid addiction being  
18.25 diverted from intended use of the medication.

18.26 (c) "Guest dose" means administration of a medication used for the treatment of opioid  
18.27 addiction to a person who is not a client of the program that is administering or dispensing  
18.28 the medication.

18.29 (d) "Medical director" means a practitioner licensed to practice medicine in the  
18.30 jurisdiction that the opioid treatment program is located who assumes responsibility for  
18.31 administering all medical services performed by the program, either by performing the

19.1 services directly or by delegating specific responsibility to a practitioner of the opioid  
19.2 treatment program.

19.3 (e) "Medication used for the treatment of opioid use disorder" means a medication  
19.4 approved by the Food and Drug Administration for the treatment of opioid use disorder.

19.5 (f) "Minnesota health care programs" has the meaning given in section 256B.0636.

19.6 (g) "Opioid treatment program" has the meaning given in Code of Federal Regulations,  
19.7 title 42, section 8.12, and includes programs licensed under this chapter.

19.8 ~~(h) "Placing authority" has the meaning given in Minnesota Rules, part 9530.6605,~~  
19.9 ~~subpart 21a.~~

19.10 ~~(h)~~ (h) "Practitioner" means a staff member holding a current, unrestricted license to  
19.11 practice medicine issued by the Board of Medical Practice or nursing issued by the Board  
19.12 of Nursing and is currently registered with the Drug Enforcement Administration to order  
19.13 or dispense controlled substances in Schedules II to V under the Controlled Substances Act,  
19.14 United States Code, title 21, part B, section 821. Practitioner includes an advanced practice  
19.15 registered nurse and physician assistant if the staff member receives a variance by the state  
19.16 opioid treatment authority under section 254A.03 and the federal Substance Abuse and  
19.17 Mental Health Services Administration.

19.18 ~~(i)~~ (i) "Unsupervised use" means the use of a medication for the treatment of opioid use  
19.19 disorder dispensed for use by a client outside of the program setting.

19.20 Sec. 9. Minnesota Statutes 2022, section 254A.03, subdivision 3, is amended to read:

19.21 Subd. 3. **Rules for substance use disorder care.** ~~(a) The commissioner of human~~  
19.22 ~~services shall establish by rule criteria to be used in determining the appropriate level of~~  
19.23 ~~substance use disorder care for each recipient of public assistance seeking treatment for~~  
19.24 ~~substance misuse or substance use disorder. Upon federal approval of a comprehensive~~  
19.25 ~~assessment as a Medicaid benefit, or on July 1, 2018, whichever is later, and notwithstanding~~  
19.26 ~~the criteria in Minnesota Rules, parts 9530.6600 to 9530.6655, An eligible vendor of~~  
19.27 ~~comprehensive assessments under section 254B.05 may determine and approve the~~  
19.28 ~~appropriate level of substance use disorder treatment for a recipient of public assistance.~~  
19.29 The process for determining an individual's financial eligibility for the behavioral health  
19.30 fund or determining an individual's enrollment in or eligibility for a publicly subsidized  
19.31 health plan is not affected by the individual's choice to access a comprehensive assessment  
19.32 for placement.

20.1 (b) The commissioner shall develop and implement a utilization review process for  
 20.2 publicly funded treatment placements to monitor and review the clinical appropriateness  
 20.3 and timeliness of all publicly funded placements in treatment.

20.4 (c) If a screen result is positive for alcohol or substance misuse, a brief screening for  
 20.5 alcohol or substance use disorder that is provided to a recipient of public assistance within  
 20.6 a primary care clinic, hospital, or other medical setting or school setting establishes medical  
 20.7 necessity and approval for an initial set of substance use disorder services identified in  
 20.8 section 254B.05, subdivision 5. The initial set of services approved for a recipient whose  
 20.9 screen result is positive may include any combination of up to four hours of individual or  
 20.10 group substance use disorder treatment, two hours of substance use disorder treatment  
 20.11 coordination, or two hours of substance use disorder peer support services provided by a  
 20.12 qualified individual according to chapter 245G. A recipient must obtain an assessment  
 20.13 pursuant to paragraph (a) to be approved for additional treatment services. ~~Minnesota Rules,~~  
 20.14 ~~parts 9530.6600 to 9530.6655, and~~ A comprehensive assessment pursuant to section 245G.05  
 20.15 ~~are not applicable~~ is not required to receive the initial set of services allowed under this  
 20.16 subdivision. A positive screen result establishes eligibility for the initial set of services  
 20.17 allowed under this subdivision.

20.18 ~~(d) Notwithstanding Minnesota Rules, parts 9530.6600 to 9530.6655, An individual~~  
 20.19 ~~may choose to obtain a comprehensive assessment as provided in section 245G.05.~~  
 20.20 ~~Individuals obtaining a comprehensive assessment may access any enrolled provider that~~  
 20.21 ~~is licensed to provide the level of service authorized pursuant to section 254A.19, subdivision~~  
 20.22 ~~3, paragraph (d). If the individual is enrolled in a prepaid health plan, the individual must~~  
 20.23 ~~comply with any provider network requirements or limitations. This paragraph expires July~~  
 20.24 ~~1, 2022.~~

20.25 (d) An individual may choose to obtain a comprehensive assessment as provided in  
 20.26 section 245G.05. Individuals obtaining a comprehensive assessment may access any enrolled  
 20.27 provider that is licensed to provide the level of service authorized pursuant to section  
 20.28 254A.19, subdivision 3. If the individual is enrolled in a prepaid health plan, the individual  
 20.29 must comply with any provider network requirements or limitations.

20.30 Sec. 10. Minnesota Statutes 2022, section 254A.19, subdivision 1, is amended to read:

20.31 Subdivision 1. **Persons arrested outside of home county.** When a chemical use  
 20.32 assessment is required ~~under Minnesota Rules, parts 9530.6600 to 9530.6655,~~ for a person  
 20.33 who is arrested and taken into custody by a peace officer outside of the person's county of  
 20.34 residence, ~~the assessment must be completed by the person's county of residence no later~~

21.1 ~~than three weeks after the assessment is initially requested. If the assessment is not performed~~  
 21.2 ~~within this time limit, the county where the person is to be sentenced shall perform the~~  
 21.3 ~~assessment~~ county where the person is detained must give access to an assessor qualified  
 21.4 under section 254A.19, subdivision 3. The county of financial responsibility is determined  
 21.5 under chapter 256G.

21.6 Sec. 11. Minnesota Statutes 2022, section 254A.19, subdivision 3, is amended to read:

21.7 Subd. 3. ~~Financial conflicts of interest.~~ Comprehensive assessments. (a) ~~Except as~~  
 21.8 ~~provided in paragraph (b), (c), or (d), an assessor conducting a chemical use assessment~~  
 21.9 ~~under Minnesota Rules, parts 9530.6600 to 9530.6655, may not have any direct or shared~~  
 21.10 ~~financial interest or referral relationship resulting in shared financial gain with a treatment~~  
 21.11 ~~provider.~~

21.12 (b) ~~A county may contract with an assessor having a conflict described in paragraph (a)~~  
 21.13 ~~if the county documents that:~~

21.14 (1) ~~the assessor is employed by a culturally specific service provider or a service provider~~  
 21.15 ~~with a program designed to treat individuals of a specific age, sex, or sexual preference;~~

21.16 (2) ~~the county does not employ a sufficient number of qualified assessors and the only~~  
 21.17 ~~qualified assessors available in the county have a direct or shared financial interest or a~~  
 21.18 ~~referral relationship resulting in shared financial gain with a treatment provider; or~~

21.19 (3) ~~the county social service agency has an existing relationship with an assessor or~~  
 21.20 ~~service provider and elects to enter into a contract with that assessor to provide both~~  
 21.21 ~~assessment and treatment under circumstances specified in the county's contract, provided~~  
 21.22 ~~the county retains responsibility for making placement decisions.~~

21.23 (c) ~~The county may contract with a hospital to conduct chemical assessments if the~~  
 21.24 ~~requirements in subdivision 1a are met.~~

21.25 ~~An assessor under this paragraph may not place clients in treatment. The assessor shall~~  
 21.26 ~~gather required information and provide it to the county along with any required~~  
 21.27 ~~documentation. The county shall make all placement decisions for clients assessed by~~  
 21.28 ~~assessors under this paragraph.~~

21.29 (d) An eligible vendor under section 254B.05 conducting a comprehensive assessment  
 21.30 for an individual seeking treatment shall approve the nature, intensity level, and duration  
 21.31 of treatment service if a need for services is indicated, but the individual assessed can access  
 21.32 any enrolled provider that is licensed to provide the level of service authorized, including  
 21.33 the provider or program that completed the assessment. If an individual is enrolled in a

22.1 prepaid health plan, the individual must comply with any provider network requirements  
22.2 or limitations.

22.3 Sec. 12. Minnesota Statutes 2022, section 254A.19, subdivision 4, is amended to read:

22.4 Subd. 4. **Civil commitments.** ~~A Rule 25 assessment, under Minnesota Rules, part~~  
22.5 ~~9530.6615, For the purposes of determining level of care, a comprehensive assessment does~~  
22.6 ~~not need to be completed for an individual being committed as a chemically dependent~~  
22.7 ~~person, as defined in section 253B.02, and for the duration of a civil commitment under~~  
22.8 ~~section 253B.065, 253B.09, or 253B.095 in order for a county to access the behavioral~~  
22.9 ~~health fund under section 254B.04. The county must determine if the individual meets the~~  
22.10 ~~financial eligibility requirements for the behavioral health fund under section 254B.04.~~  
22.11 ~~Nothing in this subdivision prohibits placement in a treatment facility or treatment program~~  
22.12 ~~governed under this chapter or Minnesota Rules, parts 9530.6600 to 9530.6655.~~

22.13 Sec. 13. Minnesota Statutes 2022, section 254A.19, is amended by adding a subdivision  
22.14 to read:

22.15 Subd. 6. **Assessments for detoxification programs.** For detoxification programs licensed  
22.16 under chapter 245A according to Minnesota Rules, parts 9530.6510 to 9530.6590, a  
22.17 "chemical use assessment" is a comprehensive assessment and assessment summary  
22.18 completed according to the requirements of section 245G.05 and a "chemical dependency  
22.19 assessor" or "assessor" is an individual who meets the qualifications of section 245G.11,  
22.20 subdivisions 1 and 5.

22.21 Sec. 14. Minnesota Statutes 2022, section 254A.19, is amended by adding a subdivision  
22.22 to read:

22.23 Subd. 7. **Assessments for children's residential facilities.** For children's residential  
22.24 facilities licensed under chapter 245A according to Minnesota Rules, parts 2960.0010 to  
22.25 2960.0220 and 2960.0430 to 2960.0490, a "chemical use assessment" is a comprehensive  
22.26 assessment and assessment summary completed according to the requirements of section  
22.27 245G.05 and must be completed by an individual who meets the qualifications of section  
22.28 245G.11, subdivisions 1 and 5.

23.1 Sec. 15. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision  
23.2 to read:

23.3 Subd. 2a. **Behavioral health fund.** "Behavioral health fund" means money allocated  
23.4 for payment of treatment services under chapter 254B.

23.5 Sec. 16. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision  
23.6 to read:

23.7 Subd. 2b. **Client.** "Client" means an individual who has requested substance use disorder  
23.8 services or for whom substance use disorder services have been requested.

23.9 Sec. 17. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision  
23.10 to read:

23.11 Subd. 2c. **Co-payment.** "Co-payment" means:

23.12 (1) the amount an insured person is obligated to pay before the person's third-party  
23.13 payment source is obligated to make a payment; or

23.14 (2) the amount an insured person is obligated to pay in addition to the amount the person's  
23.15 third-party payment source is obligated to pay.

23.16 Sec. 18. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision  
23.17 to read:

23.18 Subd. 4c. **Department.** "Department" means the Department of Human Services.

23.19 Sec. 19. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision  
23.20 to read:

23.21 Subd. 4d. **Drug and Alcohol Abuse Normative Evaluation System or DAANES.** "Drug  
23.22 and Alcohol Abuse Normative Evaluation System" or "DAANES" means the reporting  
23.23 system used to collect all substance use disorder treatment data across all levels of care and  
23.24 providers.

23.25 Sec. 20. Minnesota Statutes 2022, section 254B.01, subdivision 5, is amended to read:

23.26 Subd. 5. **Local agency.** "Local agency" means the agency designated by a board of  
23.27 county commissioners, a local social services agency, or a human services board to make  
23.28 placements and submit state invoices according to Laws 1986, chapter 394, sections 8 to

24.1 ~~20~~ authorized under section 254B.03, subdivision 1, to determine financial eligibility for  
24.2 the behavioral health fund.

24.3 Sec. 21. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision  
24.4 to read:

24.5 Subd. 6a. **Minor child.** "Minor child" means an individual under the age of 18 years.

24.6 Sec. 22. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision  
24.7 to read:

24.8 Subd. 6b. **Policyholder.** "Policyholder" means a person who has a third-party payment  
24.9 policy under which a third-party payment source has an obligation to pay all or part of a  
24.10 client's treatment costs.

24.11 Sec. 23. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision  
24.12 to read:

24.13 Subd. 9. **Responsible relative.** "Responsible relative" means a person who is a member  
24.14 of the client's household and is the client's spouse or the parent of a minor child who is a  
24.15 client.

24.16 Sec. 24. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision  
24.17 to read:

24.18 Subd. 10. **Third-party payment source** "Third-party payment source" means a person,  
24.19 entity, or public or private agency other than medical assistance or general assistance medical  
24.20 care that has a probable obligation to pay all or part of the costs of a client's substance use  
24.21 disorder treatment.

24.22 Sec. 25. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision  
24.23 to read:

24.24 Subd. 11. **Vendor.** "Vendor" means a provider of substance use disorder treatment  
24.25 services that meets the criteria established in section 254B.05, and that has applied to  
24.26 participate as a provider in the medical assistance program according to Minnesota Rules,  
24.27 part 9505.0195.



25.1 Sec. 26. Minnesota Statutes 2022, section 254B.03, subdivision 1, is amended to read:

25.2 Subdivision 1. **Local agency duties.** (a) Every local agency ~~shall~~ must determine financial  
25.3 eligibility for substance use disorder services and provide substance use disorder services  
25.4 to persons residing within its jurisdiction who meet criteria established by the commissioner  
25.5 ~~for placement in a substance use disorder residential or nonresidential treatment service.~~  
25.6 Substance use disorder money must be administered by the local agencies according to law  
25.7 and rules adopted by the commissioner under sections 14.001 to 14.69.

25.8 (b) In order to contain costs, the commissioner of human services shall select eligible  
25.9 vendors of substance use disorder services who can provide economical and appropriate  
25.10 treatment. Unless the local agency is a social services department directly administered by  
25.11 a county or human services board, the local agency shall not be an eligible vendor under  
25.12 section 254B.05. The commissioner may approve proposals from county boards to provide  
25.13 services in an economical manner or to control utilization, with safeguards to ensure that  
25.14 necessary services are provided. If a county implements a demonstration or experimental  
25.15 medical services funding plan, the commissioner shall transfer the money as appropriate.

25.16 ~~(c) A culturally specific vendor that provides assessments under a variance under~~  
25.17 ~~Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to persons~~  
25.18 ~~not covered by the variance.~~

25.19 ~~(d) Notwithstanding Minnesota Rules, parts 9530.6600 to 9530.6655,~~ (c) An individual  
25.20 may choose to obtain a comprehensive assessment as provided in section 245G.05.  
25.21 Individuals obtaining a comprehensive assessment may access any enrolled provider that  
25.22 is licensed to provide the level of service authorized pursuant to section 254A.19, subdivision  
25.23 3, ~~paragraph (d).~~ If the individual is enrolled in a prepaid health plan, the individual must  
25.24 comply with any provider network requirements or limitations.

25.25 ~~(e)~~ (d) Beginning July 1, 2022, local agencies shall not make placement location  
25.26 determinations.

25.27 Sec. 27. Minnesota Statutes 2022, section 254B.03, subdivision 2, is amended to read:

25.28 Subd. 2. **Behavioral health fund payment.** (a) Payment from the behavioral health  
25.29 fund is limited to payments for services identified in section 254B.05, other than  
25.30 detoxification licensed under Minnesota Rules, parts 9530.6510 to 9530.6590, and  
25.31 detoxification provided in another state that would be required to be licensed as a substance  
25.32 use disorder program if the program were in the state. Out of state vendors must also provide  
25.33 the commissioner with assurances that the program complies substantially with state licensing

26.1 requirements and possesses all licenses and certifications required by the host state to provide  
26.2 substance use disorder treatment. Vendors receiving payments from the behavioral health  
26.3 fund must not require co-payment from a recipient of benefits for services provided under  
26.4 this subdivision. The vendor is prohibited from using the client's public benefits to offset  
26.5 the cost of services paid under this section. The vendor shall not require the client to use  
26.6 public benefits for room or board costs. This includes but is not limited to cash assistance  
26.7 benefits under chapters 119B, 256D, and 256J, or SNAP benefits. Retention of SNAP  
26.8 benefits is a right of a client receiving services through the behavioral health fund or through  
26.9 state contracted managed care entities. Payment from the behavioral health fund shall be  
26.10 made for necessary room and board costs provided by vendors meeting the criteria under  
26.11 section 254B.05, subdivision 1a, or in a community hospital licensed by the commissioner  
26.12 of health according to sections 144.50 to 144.56 to a client who is:

26.13 (1) determined to meet the criteria for placement in a residential substance use disorder  
26.14 treatment program according to rules adopted under section 254A.03, subdivision 3; and

26.15 (2) concurrently receiving a substance use disorder treatment service in a program  
26.16 licensed by the commissioner and reimbursed by the behavioral health fund.

26.17 ~~(b) A county may, from its own resources, provide substance use disorder services for~~  
26.18 ~~which state payments are not made. A county may elect to use the same invoice procedures~~  
26.19 ~~and obtain the same state payment services as are used for substance use disorder services~~  
26.20 ~~for which state payments are made under this section if county payments are made to the~~  
26.21 ~~state in advance of state payments to vendors. When a county uses the state system for~~  
26.22 ~~payment, the commissioner shall make monthly billings to the county using the most recent~~  
26.23 ~~available information to determine the anticipated services for which payments will be made~~  
26.24 ~~in the coming month. Adjustment of any overestimate or underestimate based on actual~~  
26.25 ~~expenditures shall be made by the state agency by adjusting the estimate for any succeeding~~  
26.26 ~~month.~~

26.27 ~~(e)~~(b) The commissioner shall coordinate substance use disorder services and determine  
26.28 whether there is a need for any proposed expansion of substance use disorder treatment  
26.29 services. The commissioner shall deny vendor certification to any provider that has not  
26.30 received prior approval from the commissioner for the creation of new programs or the  
26.31 expansion of existing program capacity. The commissioner shall consider the provider's  
26.32 capacity to obtain clients from outside the state based on plans, agreements, and previous  
26.33 utilization history, when determining the need for new treatment services.

27.1 ~~(d)~~ (c) At least 60 days prior to submitting an application for new licensure under chapter  
 27.2 245G, the applicant must notify the county human services director in writing of the  
 27.3 applicant's intent to open a new treatment program. The written notification must include,  
 27.4 at a minimum:

27.5 (1) a description of the proposed treatment program; and

27.6 (2) a description of the target population to be served by the treatment program.

27.7 ~~(e)~~ (d) The county human services director may submit a written statement to the  
 27.8 commissioner, within 60 days of receiving notice from the applicant, regarding the county's  
 27.9 support of or opposition to the opening of the new treatment program. The written statement  
 27.10 must include documentation of the rationale for the county's determination. The commissioner  
 27.11 shall consider the county's written statement when determining whether there is a need for  
 27.12 the treatment program as required by paragraph (c).

27.13 Sec. 28. Minnesota Statutes 2022, section 254B.03, subdivision 5, is amended to read:

27.14 Subd. 5. **Rules; appeal.** The commissioner shall adopt rules as necessary to implement  
 27.15 this chapter. ~~The commissioner shall establish an appeals process for use by recipients when~~  
 27.16 ~~services certified by the county are disputed. The commissioner shall adopt rules and~~  
 27.17 ~~standards for the appeal process to assure adequate redress for persons referred to~~  
 27.18 ~~inappropriate services.~~

27.19 Sec. 29. Minnesota Statutes 2022, section 254B.04, subdivision 1, is amended to read:

27.20 Subdivision 1. **Eligibility. Scope and applicability.** ~~(a) Persons eligible for benefits~~  
 27.21 ~~under Code of Federal Regulations, title 25, part 20, who meet the income standards of~~  
 27.22 ~~section 256B.056, subdivision 4, and are not enrolled in medical assistance, are entitled to~~  
 27.23 ~~behavioral health fund services. State money appropriated for this paragraph must be placed~~  
 27.24 ~~in a separate account established for this purpose.~~

27.25 ~~(b) Persons with dependent children who are determined to be in need of chemical~~  
 27.26 ~~dependency treatment pursuant to an assessment under section 260E.20, subdivision 1, or~~  
 27.27 ~~a case plan under section 260C.201, subdivision 6, or 260C.212, shall be assisted by the~~  
 27.28 ~~local agency to access needed treatment services. Treatment services must be appropriate~~  
 27.29 ~~for the individual or family, which may include long-term care treatment or treatment in a~~  
 27.30 ~~facility that allows the dependent children to stay in the treatment facility. The county shall~~  
 27.31 ~~pay for out-of-home placement costs, if applicable.~~

28.1 ~~(e) Notwithstanding paragraph (a), persons enrolled in medical assistance are eligible~~  
 28.2 ~~for room and board services under section 254B.05, subdivision 5, paragraph (b), clause~~  
 28.3 ~~(12).~~

28.4 This section governs the administration of the behavioral health fund, establishes the  
 28.5 criteria to be applied by local agencies to determine a client's financial eligibility under the  
 28.6 behavioral health fund, and determines a client's obligation to pay for substance use disorder  
 28.7 treatment services.

28.8 Sec. 30. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision  
 28.9 to read:

28.10 Subd. 1a. **Client eligibility.** (a) Persons eligible for benefits under Code of Federal  
 28.11 Regulations, title 25, part 20, who meet the income standards of section 256B.056,  
 28.12 subdivision 4, and are not enrolled in medical assistance, are entitled to behavioral health  
 28.13 fund services. State money appropriated for this paragraph must be placed in a separate  
 28.14 account established for this purpose.

28.15 (b) Persons with dependent children who are determined to be in need of chemical  
 28.16 dependency treatment pursuant to an assessment under section 260E.20, subdivision 1, or  
 28.17 a case plan under section 260C.201, subdivision 6, or 260C.212, shall be assisted by the  
 28.18 local agency to access needed treatment services. Treatment services must be appropriate  
 28.19 for the individual or family, which may include long-term care treatment or treatment in a  
 28.20 facility that allows the dependent children to stay in the treatment facility. The county shall  
 28.21 pay for out-of-home placement costs, if applicable.

28.22 (c) Notwithstanding paragraph (a), persons enrolled in medical assistance are eligible  
 28.23 for room and board services under section 254B.05, subdivision 5, paragraph (b), clause  
 28.24 (12).

28.25 (d) A client is eligible to have substance use disorder treatment paid for with funds from  
 28.26 the behavioral health fund when the client:

28.27 (1) is eligible for MFIP as determined under chapter 256J;

28.28 (2) is eligible for medical assistance as determined under Minnesota Rules, parts  
 28.29 9505.0010 to 9505.0150;

28.30 (3) is eligible for general assistance, general assistance medical care, or work readiness  
 28.31 as determined under Minnesota Rules, parts 9500.1200 to 9500.1318; or

29.1 (4) has income that is within current household size and income guidelines for entitled  
 29.2 persons, as defined in this subdivision and subdivision 7.

29.3 (e) Clients who meet the financial eligibility requirement in paragraph (a) and who have  
 29.4 a third-party payment source are eligible for the behavioral health fund if the third-party  
 29.5 payment source pays less than 100 percent of the cost of treatment services for eligible  
 29.6 clients.

29.7 (f) A client is ineligible to have substance use disorder treatment services paid for with  
 29.8 behavioral health fund money if the client:

29.9 (1) has an income that exceeds current household size and income guidelines for entitled  
 29.10 persons as defined in this subdivision and subdivision 7; or

29.11 (2) has an available third-party payment source that will pay the total cost of the client's  
 29.12 treatment.

29.13 (g) A client who is disenrolled from a state prepaid health plan during a treatment episode  
 29.14 is eligible for continued treatment service that is paid for by the behavioral health fund until  
 29.15 the treatment episode is completed or the client is re-enrolled in a state prepaid health plan  
 29.16 if the client:

29.17 (1) continues to be enrolled in MinnesotaCare, medical assistance, or general assistance  
 29.18 medical care; or

29.19 (2) is eligible according to paragraphs (a) and (b) and is determined eligible by a local  
 29.20 agency under section 254B.04.

29.21 (h) When a county commits a client under chapter 253B to a regional treatment center  
 29.22 for substance use disorder services and the client is ineligible for the behavioral health fund,  
 29.23 the county is responsible for the payment to the regional treatment center according to  
 29.24 section 254B.05, subdivision 4.

29.25 Sec. 31. Minnesota Statutes 2022, section 254B.04, subdivision 2a, is amended to read:

29.26 Subd. 2a. **Eligibility for treatment in residential settings room and board services**  
 29.27 **for persons in outpatient substance use disorder treatment.** ~~Notwithstanding provisions~~  
 29.28 ~~of Minnesota Rules, part 9530.6622, subparts 5 and 6, related to an assessor's discretion in~~  
 29.29 ~~making placements to residential treatment settings,~~ A person eligible for room and board  
 29.30 services under this section 254B.05, subdivision 5, paragraph (b), clause (12), must score  
 29.31 at level 4 on assessment dimensions related to readiness to change, relapse, continued use,  
 29.32 or recovery environment in order to be assigned to services with a room and board component

30.1 reimbursed under this section. Whether a treatment facility has been designated an institution  
30.2 for mental diseases under United States Code, title 42, section 1396d, shall not be a factor  
30.3 in making placements.

30.4 Sec. 32. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision  
30.5 to read:

30.6 Subd. 4. **Assessment criteria and risk descriptions.** (a) The level of care determination  
30.7 must follow criteria approved by the commissioner.

30.8 (b) Dimension 1: Acute intoxication/withdrawal potential. A vendor must use the criteria  
30.9 in Dimension 1 to determine a client's acute intoxication and withdrawal potential, the  
30.10 client's ability to cope with withdrawal symptoms, and the client's current state of  
30.11 intoxication.

30.12 "0" The client displays full functioning with good ability to tolerate and cope with  
30.13 withdrawal discomfort, and the client shows no signs or symptoms of intoxication or  
30.14 withdrawal or diminishing signs or symptoms.

30.15 "1" The client can tolerate and cope with withdrawal discomfort. The client displays  
30.16 mild to moderate intoxication or signs and symptoms interfering with daily functioning but  
30.17 does not immediately endanger self or others. The client poses a minimal risk of severe  
30.18 withdrawal.

30.19 "2" The client has some difficulty tolerating and coping with withdrawal discomfort.  
30.20 The client's intoxication may be severe but responds to support and treatment such that the  
30.21 client does not immediately endanger self or others. The client displays moderate signs and  
30.22 symptoms of withdrawal with moderate risk of severe withdrawal.

30.23 "3" The client tolerates and copes with withdrawal discomfort poorly. The client has  
30.24 severe intoxication, such that the client endangers self or others, or intoxication has not  
30.25 abated with less intensive services. The client displays severe signs and symptoms of  
30.26 withdrawal, has a risk of severe but manageable withdrawal, or has worsening withdrawal  
30.27 despite detoxification at less intensive level.

30.28 "4" The client is incapacitated with severe signs and symptoms. The client displays  
30.29 severe withdrawal and is a danger to self or others.

30.30 (c) Dimension 2: biomedical conditions and complications. The vendor must use the  
30.31 criteria in Dimension 2 to determine a client's biomedical conditions and complications, the  
30.32 degree to which any physical disorder of the client would interfere with treatment for  
30.33 substance use, and the client's ability to tolerate any related discomfort. If the client is

31.1 pregnant, the provider must determine the impact of continued substance use on the unborn  
31.2 child.

31.3 "0" The client displays full functioning with good ability to cope with physical discomfort.

31.4 "1" The client tolerates and copes with physical discomfort and is able to get the services  
31.5 that the client needs.

31.6 "2" The client has difficulty tolerating and coping with physical problems or has other  
31.7 biomedical problems that interfere with recovery and treatment. The client neglects or does  
31.8 not seek care for serious biomedical problems.

31.9 "3" The client tolerates and copes poorly with physical problems or has poor general  
31.10 health. The client neglects the client's medical problems without active assistance.

31.11 "4" The client is unable to participate in substance use disorder treatment and has severe  
31.12 medical problems, a condition that requires immediate intervention, or is incapacitated.

31.13 (d) Dimension 3: Emotional, behavioral, and cognitive conditions and complications.

31.14 The vendor must use the criteria in Dimension 3 to determine a client's: emotional, behavioral,  
31.15 and cognitive conditions and complications; the degree to which any condition or  
31.16 complication is likely to interfere with treatment for substance use or with functioning in  
31.17 significant life areas; and the likelihood of harm to self or others.

31.18 "0" The client has good impulse control and coping skills and presents no risk of harm  
31.19 to self or others. The client functions in all life areas and displays no emotional, behavioral,  
31.20 or cognitive problems or the problems are stable.

31.21 "1" The client has impulse control and coping skills. The client presents a mild to  
31.22 moderate risk of harm to self or others or displays symptoms of emotional, behavioral, or  
31.23 cognitive problems. The client has a mental health diagnosis and is stable. The client  
31.24 functions adequately in significant life areas.

31.25 "2" The client has difficulty with impulse control and lacks coping skills. The client has  
31.26 thoughts of suicide or harm to others without means; however, the thoughts may interfere  
31.27 with participation in some activities. The client has difficulty functioning in significant life  
31.28 areas. The client has moderate symptoms of emotional, behavioral, or cognitive problems.  
31.29 The client is able to participate in most treatment activities.

31.30 "3" The client has a severe lack of impulse control and coping skills. The client also has  
31.31 frequent thoughts of suicide or harm to others including a plan and the means to carry out  
31.32 the plan. In addition, the client is severely impaired in significant life areas and has severe

32.1 symptoms of emotional, behavioral, or cognitive problems that interfere with the client's  
 32.2 participation in treatment activities.

32.3 "4" The client has severe emotional or behavioral symptoms that place the client or  
 32.4 others at acute risk of harm. The client also has intrusive thoughts of harming self or others.  
 32.5 The client is unable to participate in treatment activities.

32.6 (e) Dimension 4: Readiness for change. The vendor must use the criteria in Dimension  
 32.7 4 to determine a client's readiness for change and the support necessary to keep the client  
 32.8 involved in treatment services.

32.9 "0" The client is cooperative, motivated, ready to change, admits problems, committed  
 32.10 to change, and engaged in treatment as a responsible participant.

32.11 "1" The client is motivated with active reinforcement to explore treatment and strategies  
 32.12 for change but ambivalent about illness or need for change.

32.13 "2" The client displays verbal compliance, but lacks consistent behaviors; has low  
 32.14 motivation for change; and is passively involved in treatment.

32.15 "3" The client displays inconsistent compliance, minimal awareness of either the client's  
 32.16 addiction or mental disorder, and is minimally cooperative.

32.17 "4" The client is:

32.18 (i) noncompliant with treatment and has no awareness of addiction or mental disorder  
 32.19 and does not want or is unwilling to explore change or is in total denial of the client's illness  
 32.20 and its implications; or

32.21 (ii) the client is dangerously oppositional to the extent that the client is a threat of  
 32.22 imminent harm to self and others.

32.23 (f) Dimension 5: Relapse, continued use, and continued problem potential. The vendor  
 32.24 must use the criteria in Dimension 5 to determine a client's relapse, continued use, and  
 32.25 continued problem potential and the degree to which the client recognizes relapse issues  
 32.26 and has the skills to prevent relapse of either substance use or mental health problems.

32.27 "0" The client recognizes risk well and is able to manage potential problems.

32.28 "1" The client recognizes relapse issues and prevention strategies but displays some  
 32.29 vulnerability for further substance use or mental health problems.

32.30 "2" The client has:



33.1 (i) minimal recognition and understanding of relapse and recidivism issues and displays  
33.2 moderate vulnerability for further substance use or mental health problems; or

33.3 (ii) some coping skills inconsistently applied.

33.4 "3" The client has poor recognition and understanding of relapse and recidivism issues  
33.5 and displays moderately high vulnerability for further substance use or mental health  
33.6 problems. The client has few coping skills and rarely applies coping skills.

33.7 "4" The client has no coping skills to arrest mental health or addiction illnesses or prevent  
33.8 relapse. The client has no recognition or understanding of relapse and recidivism issues and  
33.9 displays high vulnerability for further substance use disorder or mental health problems.

33.10 (g) Dimension 6: Recovery environment. The vendor must use the criteria in Dimension  
33.11 6 to determine a client's recovery environment, whether the areas of the client's life are  
33.12 supportive of or antagonistic to treatment participation and recovery.

33.13 "0" The client is engaged in structured meaningful activity and has a supportive significant  
33.14 other, family, and living environment.

33.15 "1" The client has passive social network support, or family and significant other are  
33.16 not interested in the client's recovery. The client is engaged in structured meaningful activity.

33.17 "2" The client is engaged in structured, meaningful activity, but peers, family, significant  
33.18 other, and living environment are unsupportive, or there is criminal justice involvement by  
33.19 the client or among the client's peers, significant other, or in the client's living environment.

33.20 "3" The client is not engaged in structured meaningful activity and the client's peers,  
33.21 family, significant other, and living environment are unsupportive, or there is significant  
33.22 criminal justice system involvement.

33.23 "4" The client has:

33.24 (i) a chronically antagonistic significant other, living environment, family, peer group,  
33.25 or long-term criminal justice involvement that is harmful to recovery or treatment progress;  
33.26 or

33.27 (ii) the client has an actively antagonistic significant other, family, work, or living  
33.28 environment that poses an immediate threat to the client's safety and well-being.

34.1 Sec. 33. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision  
34.2 to read:

34.3 Subd. 5. Local agency responsibility to provide services. The local agency may employ  
34.4 individuals to conduct administrative activities and facilitate access to substance use disorder  
34.5 treatment services.

34.6 Sec. 34. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision  
34.7 to read:

34.8 Subd. 6. Local agency to determine client financial eligibility. (a) The local agency  
34.9 shall determine a client's financial eligibility for the behavioral health fund according to  
34.10 section 254B.04, subdivision 1a, with the income calculated prospectively for one year from  
34.11 the date of comprehensive assessment. The local agency shall pay for eligible clients  
34.12 according to chapter 256G. The local agency shall enter the financial eligibility span within  
34.13 ten calendar days of request. Client eligibility must be determined using forms prescribed  
34.14 by the department. To determine a client's eligibility, the local agency must determine the  
34.15 client's income, the size of the client's household, the availability of a third-party payment  
34.16 source, and a responsible relative's ability to pay for the client's substance use disorder  
34.17 treatment.

34.18 (b) A client who is a minor child must not be deemed to have income available to pay  
34.19 for substance use disorder treatment, unless the minor child is responsible for payment under  
34.20 section 144.347 for substance use disorder treatment services sought under section 144.343,  
34.21 subdivision 1.

34.22 (c) The local agency must determine the client's household size as follows:

34.23 (1) if the client is a minor child, the household size includes the following persons living  
34.24 in the same dwelling unit:

34.25 (i) the client;

34.26 (ii) the client's birth or adoptive parents; and

34.27 (iii) the client's siblings who are minors; and

34.28 (2) if the client is an adult, the household size includes the following persons living in  
34.29 the same dwelling unit:

34.30 (i) the client;

34.31 (ii) the client's spouse;

35.1 (iii) the client's minor children; and

35.2 (iv) the client's spouse's minor children.

35.3 For purposes of this paragraph, household size includes a person listed in clauses (1) and  
35.4 (2) who is in an out-of-home placement if a person listed in clause (1) or (2) is contributing  
35.5 to the cost of care of the person in out-of-home placement.

35.6 (d) The local agency must determine the client's current prepaid health plan enrollment,  
35.7 the availability of a third-party payment source, including the availability of total payment,  
35.8 partial payment, and amount of co-payment.

35.9 (e) The local agency must provide the required eligibility information to the department  
35.10 in the manner specified by the department.

35.11 (f) The local agency shall require the client and policyholder to conditionally assign to  
35.12 the department the client and policyholder's rights and the rights of minor children to benefits  
35.13 or services provided to the client if the department is required to collect from a third-party  
35.14 pay source.

35.15 (g) The local agency must redetermine a client's eligibility for the behavioral health fund  
35.16 every 12 months.

35.17 (h) A client, responsible relative, and policyholder must provide income or wage  
35.18 verification, household size verification, and must make an assignment of third-party payment  
35.19 rights under paragraph (f). If a client, responsible relative, or policyholder does not comply  
35.20 with the provisions of this subdivision, the client is ineligible for behavioral health fund  
35.21 payment for substance use disorder treatment, and the client and responsible relative must  
35.22 be obligated to pay for the full cost of substance use disorder treatment services provided  
35.23 to the client.

35.24 Sec. 35. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision  
35.25 to read:

35.26 Subd. 7. **Client fees.** A client whose household income is within current household size  
35.27 and income guidelines for entitled persons as defined in section 254B.04, subdivision 1a,  
35.28 must pay no fee for care related to substance use disorder, including drug screens.

36.1 Sec. 36. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision  
36.2 to read:

36.3 Subd. 8. **Vendor must participate in DAANES system.** To be eligible for payment  
36.4 under the behavioral health fund, a vendor must participate in the Drug and Alcohol Abuse  
36.5 Normative Evaluation System (DAANES) or submit to the commissioner the information  
36.6 required in the DAANES in the format specified by the commissioner.

36.7 Sec. 37. Minnesota Statutes 2022, section 256D.09, subdivision 2a, is amended to read:

36.8 Subd. 2a. **Vendor payments for drug dependent persons.** If, at the time of application  
36.9 or at any other time, there is a reasonable basis for questioning whether a person applying  
36.10 for or receiving financial assistance is drug dependent, as defined in section 254A.02,  
36.11 subdivision 5, the person shall be referred for a chemical health assessment, and only  
36.12 emergency assistance payments or general assistance vendor payments may be provided  
36.13 until the assessment is complete and the results of the assessment made available to the  
36.14 county agency. A reasonable basis for referring an individual for an assessment exists when:

36.15 (1) the person has required detoxification two or more times in the past 12 months;

36.16 (2) the person appears intoxicated at the county agency as indicated by two or more of  
36.17 the following:

36.18 (i) the odor of alcohol;

36.19 (ii) slurred speech;

36.20 (iii) disconjugate gaze;

36.21 (iv) impaired balance;

36.22 (v) difficulty remaining awake;

36.23 (vi) consumption of alcohol;

36.24 (vii) responding to sights or sounds that are not actually present;

36.25 (viii) extreme restlessness, fast speech, or unusual belligerence;

36.26 (3) the person has been involuntarily committed for drug dependency at least once in  
36.27 the past 12 months; or

36.28 (4) the person has received treatment, including domiciliary care, for drug abuse or  
36.29 dependency at least twice in the past 12 months.

37.1 The assessment and determination of drug dependency, if any, must be made by an  
 37.2 assessor qualified under ~~Minnesota Rules, part 9530.6615, subpart 2~~ section 245G.11,  
 37.3 subdivisions 1 and 5, to perform an assessment of chemical use. The county shall only  
 37.4 provide emergency general assistance or vendor payments to an otherwise eligible applicant  
 37.5 or recipient who is determined to be drug dependent, except up to 15 percent of the grant  
 37.6 amount the person would otherwise receive may be paid in cash. Notwithstanding subdivision  
 37.7 1, the commissioner of human services shall also require county agencies to provide  
 37.8 assistance only in the form of vendor payments to all eligible recipients who assert substance  
 37.9 use disorder as a basis for eligibility under section 256D.05, subdivision 1, paragraph (a),  
 37.10 clauses (1) and (5).

37.11 The determination of drug dependency shall be reviewed at least every 12 months. If  
 37.12 the county determines a recipient is no longer drug dependent, the county may cease vendor  
 37.13 payments and provide the recipient payments in cash.

37.14 Sec. 38. Minnesota Statutes 2022, section 256L.03, subdivision 2, is amended to read:

37.15 Subd. 2. **Substance use disorder.** Beginning July 1, 1993, covered health services shall  
 37.16 include individual outpatient treatment of substance use disorder by a qualified health  
 37.17 professional or outpatient program.

37.18 Persons who may need substance use disorder services under the provisions of this  
 37.19 chapter ~~shall be assessed by a local agency as defined under section 254B.01~~ must be  
 37.20 assessed by a qualified professional as defined in section 245G.11, subdivisions 1 and 5,  
 37.21 and under the assessment provisions of section 254A.03, subdivision 3. A local agency or  
 37.22 managed care plan under contract with the Department of Human Services must ~~place~~ offer  
 37.23 services to a person in need of substance use disorder services as provided in Minnesota  
 37.24 Rules, parts 9530.6600 to 9530.6655 based on the recommendations of section 245G.05.  
 37.25 Persons who are recipients of medical benefits under the provisions of this chapter and who  
 37.26 are financially eligible for behavioral health fund services provided under the provisions of  
 37.27 chapter 254B shall receive substance use disorder treatment services under the provisions  
 37.28 of chapter 254B only if:

37.29 (1) they have exhausted the substance use disorder benefits offered under this chapter;  
 37.30 or

37.31 (2) an assessment indicates that they need a level of care not provided under the provisions  
 37.32 of this chapter.

38.1 Recipients of covered health services under the children's health plan, as provided in  
38.2 Minnesota Statutes 1990, section 256.936, and as amended by Laws 1991, chapter 292,  
38.3 article 4, section 17, and recipients of covered health services enrolled in the children's  
38.4 health plan or the MinnesotaCare program after October 1, 1992, pursuant to Laws 1992,  
38.5 chapter 549, article 4, sections 5 and 17, are eligible to receive substance use disorder  
38.6 benefits under this subdivision.

38.7 Sec. 39. Minnesota Statutes 2022, section 256L.12, subdivision 8, is amended to read:

38.8 Subd. 8. **Substance use disorder assessments.** The managed care plan shall be  
38.9 responsible for assessing the need and ~~placement for~~ provision of substance use disorder  
38.10 services according to criteria set forth in ~~Minnesota Rules, parts 9530.6600 to 9530.6655~~  
38.11 section 245G.05.

38.12 Sec. 40. Minnesota Statutes 2022, section 260B.157, subdivision 1, is amended to read:

38.13 Subdivision 1. **Investigation.** Upon request of the court the local social services agency  
38.14 or probation officer shall investigate the personal and family history and environment of  
38.15 any minor coming within the jurisdiction of the court under section 260B.101 and shall  
38.16 report its findings to the court. The court may order any minor coming within its jurisdiction  
38.17 to be examined by a duly qualified physician, psychiatrist, or psychologist appointed by the  
38.18 court.

38.19 The court shall order a chemical use assessment conducted when a child is (1) found to  
38.20 be delinquent for violating a provision of chapter 152, or for committing a felony-level  
38.21 violation of a provision of chapter 609 if the probation officer determines that alcohol or  
38.22 drug use was a contributing factor in the commission of the offense, or (2) alleged to be  
38.23 delinquent for violating a provision of chapter 152, if the child is being held in custody  
38.24 under a detention order. The assessor's qualifications must comply with section 245G.11,  
38.25 subdivisions 1 and 5, and the assessment criteria ~~shall~~ must comply with ~~Minnesota Rules,~~  
38.26 ~~parts 9530.6600 to 9530.6655~~ section 245G.05. If funds under chapter 254B are to be used  
38.27 to pay for the recommended treatment, the assessment ~~and placement~~ must comply with all  
38.28 provisions of ~~Minnesota Rules, parts 9530.6600 to 9530.6655 and 9530.7000 to 9530.7030~~  
38.29 sections 245G.05 and 254B.04. The commissioner of human services shall reimburse the  
38.30 court for the cost of the chemical use assessment, up to a maximum of \$100.

38.31 The court shall order a children's mental health screening conducted when a child is  
38.32 found to be delinquent. The screening shall be conducted with a screening instrument  
38.33 approved by the commissioner of human services and shall be conducted by a mental health

39.1 practitioner as defined in section 245.4871, subdivision 26, or a probation officer who is  
39.2 trained in the use of the screening instrument. If the screening indicates a need for assessment,  
39.3 the local social services agency, in consultation with the child's family, shall have a diagnostic  
39.4 assessment conducted, including a functional assessment, as defined in section 245.4871.

39.5 With the consent of the commissioner of corrections and agreement of the county to pay  
39.6 the costs thereof, the court may, by order, place a minor coming within its jurisdiction in  
39.7 an institution maintained by the commissioner for the detention, diagnosis, custody and  
39.8 treatment of persons adjudicated to be delinquent, in order that the condition of the minor  
39.9 be given due consideration in the disposition of the case. Any funds received under the  
39.10 provisions of this subdivision shall not cancel until the end of the fiscal year immediately  
39.11 following the fiscal year in which the funds were received. The funds are available for use  
39.12 by the commissioner of corrections during that period and are hereby appropriated annually  
39.13 to the commissioner of corrections as reimbursement of the costs of providing these services  
39.14 to the juvenile courts.

39.15 Sec. 41. Minnesota Statutes 2022, section 260B.157, subdivision 3, is amended to read:

39.16 Subd. 3. **Juvenile treatment screening team.** (a) The local social services agency shall  
39.17 establish a juvenile treatment screening team to conduct screenings and prepare case plans  
39.18 under this subdivision. The team, which may be the team constituted under section 245.4885  
39.19 or 256B.092 or ~~Minnesota Rules, parts 9530.6600 to 9530.6655~~ chapter 254B, shall consist  
39.20 of social workers, juvenile justice professionals, and persons with expertise in the treatment  
39.21 of juveniles who are emotionally disabled, chemically dependent, or have a developmental  
39.22 disability. The team shall involve parents or guardians in the screening process as appropriate.  
39.23 The team may be the same team as defined in section 260C.157, subdivision 3.

39.24 (b) If the court, prior to, or as part of, a final disposition, proposes to place a child:

39.25 (1) for the primary purpose of treatment for an emotional disturbance, and residential  
39.26 placement is consistent with section 260.012, a developmental disability, or chemical  
39.27 dependency in a residential treatment facility out of state or in one which is within the state  
39.28 and licensed by the commissioner of human services under chapter 245A; or

39.29 (2) in any out-of-home setting potentially exceeding 30 days in duration, including a  
39.30 post-dispositional placement in a facility licensed by the commissioner of corrections or  
39.31 human services, the court shall notify the county welfare agency. The county's juvenile  
39.32 treatment screening team must either:

40.1 (i) screen and evaluate the child and file its recommendations with the court within 14  
40.2 days of receipt of the notice; or

40.3 (ii) elect not to screen a given case, and notify the court of that decision within three  
40.4 working days.

40.5 (c) If the screening team has elected to screen and evaluate the child, the child may not  
40.6 be placed for the primary purpose of treatment for an emotional disturbance, a developmental  
40.7 disability, or chemical dependency, in a residential treatment facility out of state nor in a  
40.8 residential treatment facility within the state that is licensed under chapter 245A, unless one  
40.9 of the following conditions applies:

40.10 (1) a treatment professional certifies that an emergency requires the placement of the  
40.11 child in a facility within the state;

40.12 (2) the screening team has evaluated the child and recommended that a residential  
40.13 placement is necessary to meet the child's treatment needs and the safety needs of the  
40.14 community, that it is a cost-effective means of meeting the treatment needs, and that it will  
40.15 be of therapeutic value to the child; or

40.16 (3) the court, having reviewed a screening team recommendation against placement,  
40.17 determines to the contrary that a residential placement is necessary. The court shall state  
40.18 the reasons for its determination in writing, on the record, and shall respond specifically to  
40.19 the findings and recommendation of the screening team in explaining why the  
40.20 recommendation was rejected. The attorney representing the child and the prosecuting  
40.21 attorney shall be afforded an opportunity to be heard on the matter.

40.22 Sec. 42. Minnesota Statutes 2022, section 260C.157, subdivision 3, is amended to read:

40.23 Subd. 3. **Juvenile treatment screening team.** (a) The responsible social services agency  
40.24 shall establish a juvenile treatment screening team to conduct screenings under this chapter  
40.25 and chapter 260D, for a child to receive treatment for an emotional disturbance, a  
40.26 developmental disability, or related condition in a residential treatment facility licensed by  
40.27 the commissioner of human services under chapter 245A, or licensed or approved by a tribe.  
40.28 A screening team is not required for a child to be in: (1) a residential facility specializing  
40.29 in prenatal, postpartum, or parenting support; (2) a facility specializing in high-quality  
40.30 residential care and supportive services to children and youth who have been or are at risk  
40.31 of becoming victims of sex trafficking or commercial sexual exploitation; (3) supervised  
40.32 settings for youth who are 18 years of age or older and living independently; or (4) a licensed  
40.33 residential family-based treatment facility for substance abuse consistent with section



41.1 260C.190. Screenings are also not required when a child must be placed in a facility due to  
41.2 an emotional crisis or other mental health emergency.

41.3 (b) The responsible social services agency shall conduct screenings within 15 days of a  
41.4 request for a screening, unless the screening is for the purpose of residential treatment and  
41.5 the child is enrolled in a prepaid health program under section 256B.69, in which case the  
41.6 agency shall conduct the screening within ten working days of a request. The responsible  
41.7 social services agency shall convene the juvenile treatment screening team, which may be  
41.8 constituted under section 245.4885, 254B.05, or 256B.092 ~~or Minnesota Rules, parts~~  
41.9 ~~9530.6600 to 9530.6655~~. The team shall consist of social workers; persons with expertise  
41.10 in the treatment of juveniles who are emotionally disturbed, chemically dependent, or have  
41.11 a developmental disability; and the child's parent, guardian, or permanent legal custodian.  
41.12 The team may include the child's relatives as defined in section 260C.007, subdivisions 26b  
41.13 and 27, the child's foster care provider, and professionals who are a resource to the child's  
41.14 family such as teachers, medical or mental health providers, and clergy, as appropriate,  
41.15 consistent with the family and permanency team as defined in section 260C.007, subdivision  
41.16 16a. Prior to forming the team, the responsible social services agency must consult with the  
41.17 child's parents, the child if the child is age 14 or older, and, if applicable, the child's tribe  
41.18 to obtain recommendations regarding which individuals to include on the team and to ensure  
41.19 that the team is family-centered and will act in the child's best interests. If the child, child's  
41.20 parents, or legal guardians raise concerns about specific relatives or professionals, the team  
41.21 should not include those individuals. This provision does not apply to paragraph (c).

41.22 (c) If the agency provides notice to tribes under section 260.761, and the child screened  
41.23 is an Indian child, the responsible social services agency must make a rigorous and concerted  
41.24 effort to include a designated representative of the Indian child's tribe on the juvenile  
41.25 treatment screening team, unless the child's tribal authority declines to appoint a  
41.26 representative. The Indian child's tribe may delegate its authority to represent the child to  
41.27 any other federally recognized Indian tribe, as defined in section 260.755, subdivision 12.  
41.28 The provisions of the Indian Child Welfare Act of 1978, United States Code, title 25, sections  
41.29 1901 to 1963, and the Minnesota Indian Family Preservation Act, sections 260.751 to  
41.30 260.835, apply to this section.

41.31 (d) If the court, prior to, or as part of, a final disposition or other court order, proposes  
41.32 to place a child with an emotional disturbance or developmental disability or related condition  
41.33 in residential treatment, the responsible social services agency must conduct a screening.  
41.34 If the team recommends treating the child in a qualified residential treatment program, the  
41.35 agency must follow the requirements of sections 260C.70 to 260C.714.

42.1 The court shall ascertain whether the child is an Indian child and shall notify the  
42.2 responsible social services agency and, if the child is an Indian child, shall notify the Indian  
42.3 child's tribe as paragraph (c) requires.

42.4 (e) When the responsible social services agency is responsible for placing and caring  
42.5 for the child and the screening team recommends placing a child in a qualified residential  
42.6 treatment program as defined in section 260C.007, subdivision 26d, the agency must: (1)  
42.7 begin the assessment and processes required in section 260C.704 without delay; and (2)  
42.8 conduct a relative search according to section 260C.221 to assemble the child's family and  
42.9 permanency team under section 260C.706. Prior to notifying relatives regarding the family  
42.10 and permanency team, the responsible social services agency must consult with the child's  
42.11 parent or legal guardian, the child if the child is age 14 or older, and, if applicable, the child's  
42.12 tribe to ensure that the agency is providing notice to individuals who will act in the child's  
42.13 best interests. The child and the child's parents may identify a culturally competent qualified  
42.14 individual to complete the child's assessment. The agency shall make efforts to refer the  
42.15 assessment to the identified qualified individual. The assessment may not be delayed for  
42.16 the purpose of having the assessment completed by a specific qualified individual.

42.17 (f) When a screening team determines that a child does not need treatment in a qualified  
42.18 residential treatment program, the screening team must:

42.19 (1) document the services and supports that will prevent the child's foster care placement  
42.20 and will support the child remaining at home;

42.21 (2) document the services and supports that the agency will arrange to place the child  
42.22 in a family foster home; or

42.23 (3) document the services and supports that the agency has provided in any other setting.

42.24 (g) When the Indian child's tribe or tribal health care services provider or Indian Health  
42.25 Services provider proposes to place a child for the primary purpose of treatment for an  
42.26 emotional disturbance, a developmental disability, or co-occurring emotional disturbance  
42.27 and chemical dependency, the Indian child's tribe or the tribe delegated by the child's tribe  
42.28 shall submit necessary documentation to the county juvenile treatment screening team,  
42.29 which must invite the Indian child's tribe to designate a representative to the screening team.

42.30 (h) The responsible social services agency must conduct and document the screening in  
42.31 a format approved by the commissioner of human services.

43.1 Sec. 43. Minnesota Statutes 2022, section 260E.20, subdivision 1, is amended to read:

43.2 Subdivision 1. **General duties.** (a) The local welfare agency shall offer services to  
43.3 prevent future maltreatment, safeguarding and enhancing the welfare of the maltreated child,  
43.4 and supporting and preserving family life whenever possible.

43.5 (b) If the report alleges a violation of a criminal statute involving maltreatment or child  
43.6 endangerment under section 609.378, the local law enforcement agency and local welfare  
43.7 agency shall coordinate the planning and execution of their respective investigation and  
43.8 assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews.  
43.9 Each agency shall prepare a separate report of the results of the agency's investigation or  
43.10 assessment.

43.11 (c) In cases of alleged child maltreatment resulting in death, the local agency may rely  
43.12 on the fact-finding efforts of a law enforcement investigation to make a determination of  
43.13 whether or not maltreatment occurred.

43.14 (d) When necessary, the local welfare agency shall seek authority to remove the child  
43.15 from the custody of a parent, guardian, or adult with whom the child is living.

43.16 (e) In performing any of these duties, the local welfare agency shall maintain an  
43.17 appropriate record.

43.18 (f) In conducting a family assessment or investigation, the local welfare agency shall  
43.19 gather information on the existence of substance abuse and domestic violence.

43.20 (g) If the family assessment or investigation indicates there is a potential for abuse of  
43.21 alcohol or other drugs by the parent, guardian, or person responsible for the child's care,  
43.22 the local welfare agency ~~shall conduct~~ must coordinate a chemical-use comprehensive  
43.23 assessment pursuant to Minnesota Rules, part 9530.6615 section 245G.05.

43.24 (h) The agency may use either a family assessment or investigation to determine whether  
43.25 the child is safe when responding to a report resulting from birth match data under section  
43.26 260E.03, subdivision 23, paragraph (c). If the child subject of birth match data is determined  
43.27 to be safe, the agency shall consult with the county attorney to determine the appropriateness  
43.28 of filing a petition alleging the child is in need of protection or services under section  
43.29 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is  
43.30 determined not to be safe, the agency and the county attorney shall take appropriate action  
43.31 as required under section 260C.503, subdivision 2.

44.1 Sec. 44. Minnesota Statutes 2022, section 299A.299, subdivision 1, is amended to read:

44.2 Subdivision 1. **Establishment of team.** A county, a multicounty organization of counties  
 44.3 formed by an agreement under section 471.59, or a city with a population of no more than  
 44.4 50,000, may establish a multidisciplinary chemical abuse prevention team. The chemical  
 44.5 abuse prevention team may include, but not be limited to, representatives of health, mental  
 44.6 health, public health, law enforcement, educational, social service, court service, community  
 44.7 education, religious, and other appropriate agencies, and parent and youth groups. For  
 44.8 purposes of this section, "chemical abuse" has the meaning given in ~~Minnesota Rules, part~~  
 44.9 ~~9530.6605, subpart 6~~ section 254A.02, subdivision 6a. When possible the team must  
 44.10 coordinate its activities with existing local groups, organizations, and teams dealing with  
 44.11 the same issues the team is addressing.

44.12 Sec. 45. **REVISOR INSTRUCTION.**

44.13 The revisor of statutes shall renumber the subdivisions in Minnesota Statutes, section  
 44.14 254B.01, in alphabetical order and correct any cross-reference changes that result.

44.15 Sec. 46. **REPEALER.**

44.16 (a) Minnesota Statutes 2022, sections 169A.70, subdivision 6; 245G.22, subdivision 19;  
 44.17 254A.02, subdivision 8a; 254A.16, subdivision 6; 254A.19, subdivisions 1a, 2, and 5;  
 44.18 254B.04, subdivisions 2b and 2c; and 254B.041, subdivision 2, are repealed.

44.19 (b) Minnesota Rules, parts 9530.7000, subparts 1, 2, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 17a,  
 44.20 19, 20, and 21; 9530.7005; 9530.7010; 9530.7012; 9530.7015, subparts 1, 2a, 4, 5, and 6;  
 44.21 9530.7020, subparts 1, 1a, and 2; 9530.7021; 9530.7022, subpart 1; 9530.7025; and  
 44.22 9530.7030, subpart 1, are repealed.

### 44.23 **ARTICLE 3**

#### 44.24 **AGING, DISABILITY, AND BEHAVIORAL HEALTH SERVICES POLICY**

44.25 Section 1. Minnesota Statutes 2022, section 245.462, subdivision 3, is amended to read:

44.26 Subd. 3. **Case management services.** "Case management services" means activities  
 44.27 that are coordinated with the community support services program as defined in subdivision  
 44.28 6 and are designed to help adults with serious and persistent mental illness in gaining access  
 44.29 to needed medical, social, educational, vocational, and other necessary services as they  
 44.30 relate to the client's mental health needs. Case management services include developing a  
 44.31 functional assessment, an individual ~~assessment summary~~ community support plan, referring

45.1 and assisting the person to obtain needed mental health and other services, ensuring  
45.2 coordination of services, and monitoring the delivery of services.

45.3 Sec. 2. Minnesota Statutes 2022, section 245.462, subdivision 12, is amended to read:

45.4 Subd. 12. **Individual ~~assessment summary~~ community support plan.** "Individual  
45.5 ~~assessment summary~~ community support plan" means a written plan developed by a case  
45.6 manager on the basis of a diagnostic assessment and functional assessment. The plan  
45.7 identifies specific services needed by an adult with serious and persistent mental illness to  
45.8 develop independence or improved functioning in daily living, health and medication  
45.9 management, social functioning, interpersonal relationships, financial management, housing,  
45.10 transportation, and employment.

45.11 Sec. 3. Minnesota Statutes 2022, section 245.4711, subdivision 3, is amended to read:

45.12 Subd. 3. **Duties of case manager.** Upon a determination of eligibility for case  
45.13 management services, and if the adult consents to the services, the case manager shall  
45.14 complete a written functional assessment according to section 245.462, subdivision 11a.  
45.15 The case manager shall develop an individual ~~assessment summary~~ community support  
45.16 plan for the adult according to subdivision 4, paragraph (a), review the adult's progress, and  
45.17 monitor the provision of services. If services are to be provided in a host county that is not  
45.18 the county of financial responsibility, the case manager shall consult with the host county  
45.19 and obtain a letter demonstrating the concurrence of the host county regarding the provision  
45.20 of services.

45.21 Sec. 4. Minnesota Statutes 2022, section 245.4711, subdivision 4, is amended to read:

45.22 Subd. 4. **Individual ~~assessment summary~~ community support plan.** (a) The case  
45.23 manager must develop an individual ~~assessment summary~~ community support plan for each  
45.24 adult that incorporates the client's individual treatment plan. The individual treatment plan  
45.25 may not be a substitute for the development of an individual ~~assessment summary~~ community  
45.26 support plan. The individual ~~assessment summary~~ community support plan must be developed  
45.27 within 30 days of client intake and reviewed at least every 180 days after it is developed,  
45.28 unless the case manager receives a written request from the client or the client's family for  
45.29 a review of the plan every 90 days after it is developed. The case manager is responsible  
45.30 for developing the individual ~~assessment summary~~ community support plan based on a  
45.31 diagnostic assessment and a functional assessment and for implementing and monitoring  
45.32 the delivery of services according to the individual ~~assessment summary~~ community support  
45.33 plan. To the extent possible, the adult with serious and persistent mental illness, the person's

46.1 family, advocates, service providers, and significant others must be involved in all phases  
 46.2 of development and implementation of the individual ~~or family assessment summary~~  
 46.3 community support plan.

46.4 (b) The client's individual ~~assessment summary~~ community support plan must state:

46.5 (1) the goals of each service;

46.6 (2) the activities for accomplishing each goal;

46.7 (3) a schedule for each activity; and

46.8 (4) the frequency of face-to-face contacts by the case manager, as appropriate to client  
 46.9 need and the implementation of the individual ~~assessment summary~~ community support  
 46.10 plan.

46.11 Sec. 5. Minnesota Statutes 2022, section 245.477, is amended to read:

46.12 **245.477 APPEALS.**

46.13 Any adult who requests mental health services under sections 245.461 to 245.486 must  
 46.14 be advised of services available and the right to appeal at the time of the request and each  
 46.15 time the individual ~~assessment summary~~ community support plan or individual treatment  
 46.16 plan is reviewed. Any adult whose request for mental health services under sections 245.461  
 46.17 to 245.486 is denied, not acted upon with reasonable promptness, or whose services are  
 46.18 suspended, reduced, or terminated by action or inaction for which the county board is  
 46.19 responsible under sections 245.461 to 245.486 may contest that action or inaction before  
 46.20 the state agency as specified in section 256.045. The commissioner shall monitor the nature  
 46.21 and frequency of administrative appeals under this section.

46.22 Sec. 6. Minnesota Statutes 2022, section 245.4835, subdivision 2, is amended to read:

46.23 Subd. 2. **Failure to maintain expenditures.** (a) If a county does not comply with  
 46.24 subdivision 1, the commissioner shall require the county to develop a corrective action plan  
 46.25 according to a format and timeline established by the commissioner. If the commissioner  
 46.26 determines that a county has not developed an acceptable corrective action plan within the  
 46.27 required timeline, or that the county is not in compliance with an approved corrective action  
 46.28 plan, the protections provided to that county under section 245.485 do not apply.

46.29 (b) The commissioner shall consider the following factors to determine whether to  
 46.30 approve a county's corrective action plan:

47.1 (1) the degree to which a county is maximizing revenues for mental health services from  
47.2 noncounty sources;

47.3 (2) the degree to which a county is expanding use of alternative services that meet mental  
47.4 health needs, but do not count as mental health services within existing reporting systems.  
47.5 If approved by the commissioner, the alternative services must be included in the county's  
47.6 base as well as subsequent years. The commissioner's approval for alternative services must  
47.7 be based on the following criteria:

47.8 (i) the service must be provided to children with emotional disturbance or adults with  
47.9 mental illness;

47.10 (ii) the services must be based on an individual treatment plan or individual ~~assessment~~  
47.11 ~~summary~~ community support plan as defined in the Comprehensive Mental Health Act;  
47.12 and

47.13 (iii) the services must be supervised by a mental health professional and provided by  
47.14 staff who meet the staff qualifications defined in sections 256B.0943, subdivision 7, and  
47.15 256B.0623, subdivision 5.

47.16 (c) Additional county expenditures to make up for the prior year's underspending may  
47.17 be spread out over a two-year period.

47.18 Sec. 7. Minnesota Statutes 2022, section 245.4871, subdivision 3, is amended to read:

47.19 Subd. 3. **Case management services.** "Case management services" means activities  
47.20 that are coordinated with the family community support services and are designed to help  
47.21 the child with severe emotional disturbance and the child's family obtain needed mental  
47.22 health services, social services, educational services, health services, vocational services,  
47.23 recreational services, and related services in the areas of volunteer services, advocacy,  
47.24 transportation, and legal services. Case management services include assisting in obtaining  
47.25 a comprehensive diagnostic assessment, developing an individual family ~~assessment summary~~  
47.26 community support plan, and assisting the child and the child's family in obtaining needed  
47.27 services by coordination with other agencies and assuring continuity of care. Case managers  
47.28 must assess and reassess the delivery, appropriateness, and effectiveness of services over  
47.29 time.

47.30 Sec. 8. Minnesota Statutes 2022, section 245.4871, subdivision 19, is amended to read:

47.31 Subd. 19. **Individual family ~~assessment summary~~ community support**  
47.32 **plan.** "Individual family ~~assessment summary~~ community support plan" means a written

48.1 plan developed by a case manager in conjunction with the family and the child with severe  
48.2 emotional disturbance on the basis of a diagnostic assessment and a functional assessment.

48.3 The plan identifies specific services needed by a child and the child's family to:

48.4 (1) treat the symptoms and dysfunctions determined in the diagnostic assessment;

48.5 (2) relieve conditions leading to emotional disturbance and improve the personal  
48.6 well-being of the child;

48.7 (3) improve family functioning;

48.8 (4) enhance daily living skills;

48.9 (5) improve functioning in education and recreation settings;

48.10 (6) improve interpersonal and family relationships;

48.11 (7) enhance vocational development; and

48.12 (8) assist in obtaining transportation, housing, health services, and employment.

48.13 Sec. 9. Minnesota Statutes 2022, section 245.4873, subdivision 4, is amended to read:

48.14 Subd. 4. **Individual case coordination.** The case manager designated under section  
48.15 245.4881 is responsible for ongoing coordination with any other person responsible for  
48.16 planning, development, and delivery of social services, education, corrections, health, or  
48.17 vocational services for the individual child. The individual family assessment summary  
48.18 community support plan developed by the case manager shall reflect the coordination among  
48.19 the local service system providers.

48.20 Sec. 10. Minnesota Statutes 2022, section 245.4881, subdivision 3, is amended to read:

48.21 Subd. 3. **Duties of case manager.** (a) Upon a determination of eligibility for case  
48.22 management services, the case manager shall develop an individual family ~~assessment~~  
48.23 ~~summary~~ community support plan for a child as specified in subdivision 4, review the child's  
48.24 progress, and monitor the provision of services. If services are to be provided in a host  
48.25 county that is not the county of financial responsibility, the case manager shall consult with  
48.26 the host county and obtain a letter demonstrating the concurrence of the host county regarding  
48.27 the provision of services.

48.28 (b) The case manager shall note in the child's record the services needed by the child  
48.29 and the child's family, the services requested by the family, services that are not available,  
48.30 and the unmet needs of the child and child's family. The case manager shall note this  
48.31 provision in the child's record.



49.1 Sec. 11. Minnesota Statutes 2022, section 245.4881, subdivision 4, is amended to read:

49.2 Subd. 4. **Individual family ~~assessment summary~~ community support plan.** (a) For  
49.3 each child, the case manager must develop an individual family ~~assessment summary~~  
49.4 community support plan that incorporates the child's individual treatment plan. The individual  
49.5 treatment plan may not be a substitute for the development of an individual family ~~assessment~~  
49.6 ~~summary~~ community support plan. The case manager is responsible for developing the  
49.7 individual family ~~assessment summary~~ community support plan within 30 days of intake  
49.8 based on a diagnostic assessment and for implementing and monitoring the delivery of  
49.9 services according to the individual family ~~assessment summary~~ community support plan.  
49.10 The case manager must review the plan at least every 180 calendar days after it is developed,  
49.11 unless the case manager has received a written request from the child's family or an advocate  
49.12 for the child for a review of the plan every 90 days after it is developed. To the extent  
49.13 appropriate, the child with severe emotional disturbance, the child's family, advocates,  
49.14 service providers, and significant others must be involved in all phases of development and  
49.15 implementation of the individual family ~~assessment summary~~ community support plan.  
49.16 Notwithstanding the lack of an individual family ~~assessment summary~~ community support  
49.17 plan, the case manager shall assist the child and child's family in accessing the needed  
49.18 services listed in section 245.4884, subdivision 1.

49.19 (b) The child's individual family ~~assessment summary~~ community support plan must  
49.20 state:

49.21 (1) the goals and expected outcomes of each service and criteria for evaluating the  
49.22 effectiveness and appropriateness of the service;

49.23 (2) the activities for accomplishing each goal;

49.24 (3) a schedule for each activity; and

49.25 (4) the frequency of face-to-face contacts by the case manager, as appropriate to client  
49.26 need and the implementation of the individual family ~~assessment summary~~ community  
49.27 support plan.

49.28 Sec. 12. Minnesota Statutes 2022, section 245.4885, subdivision 1, is amended to read:

49.29 Subdivision 1. **Admission criteria.** (a) Prior to admission or placement, except in the  
49.30 case of an emergency, all children referred for treatment of severe emotional disturbance  
49.31 in a treatment foster care setting, residential treatment facility, or informally admitted to a  
49.32 regional treatment center shall undergo an assessment to determine the appropriate level of  
49.33 care if county funds are used to pay for the child's services. An emergency includes when

50.1 a child is in need of and has been referred for crisis stabilization services under section  
50.2 245.4882, subdivision 6. A child who has been referred to residential treatment for crisis  
50.3 stabilization services in a residential treatment center is not required to undergo an assessment  
50.4 under this section.

50.5 (b) The county board shall determine the appropriate level of care for a child when  
50.6 county-controlled funds are used to pay for the child's residential treatment under this  
50.7 chapter, including residential treatment provided in a qualified residential treatment program  
50.8 as defined in section 260C.007, subdivision 26d. When a county board does not have  
50.9 responsibility for a child's placement and the child is enrolled in a prepaid health program  
50.10 under section 256B.69, the enrolled child's contracted health plan must determine the  
50.11 appropriate level of care for the child. When Indian Health Services funds or funds of a  
50.12 tribally owned facility funded under the Indian Self-Determination and Education Assistance  
50.13 Act, Public Law 93-638, are used for the child, the Indian Health Services or 638 tribal  
50.14 health facility must determine the appropriate level of care for the child. When more than  
50.15 one entity bears responsibility for a child's coverage, the entities shall coordinate level of  
50.16 care determination activities for the child to the extent possible.

50.17 (c) The child's level of care determination shall determine whether the proposed treatment:

50.18 (1) is necessary;

50.19 (2) is appropriate to the child's individual treatment needs;

50.20 (3) cannot be effectively provided in the child's home; and

50.21 (4) provides a length of stay as short as possible consistent with the individual child's  
50.22 needs.

50.23 (d) When a level of care determination is conducted, the county board or other entity  
50.24 may not determine that a screening of a child, referral, or admission to a residential treatment  
50.25 facility is not appropriate solely because services were not first provided to the child in a  
50.26 less restrictive setting and the child failed to make progress toward or meet treatment goals  
50.27 in the less restrictive setting. The level of care determination must be based on a diagnostic  
50.28 assessment of a child that evaluates the child's family, school, and community living  
50.29 situations; and an assessment of the child's need for care out of the home using a validated  
50.30 tool which assesses a child's functional status and assigns an appropriate level of care to the  
50.31 child. The validated tool must be approved by the commissioner of human services and  
50.32 may be the validated tool approved for the child's assessment under section 260C.704 if the  
50.33 juvenile treatment screening team recommended placement of the child in a qualified  
50.34 residential treatment program. If a diagnostic assessment has been completed by a mental

51.1 health professional within the past 180 days, a new diagnostic assessment need not be  
 51.2 completed unless in the opinion of the current treating mental health professional the child's  
 51.3 mental health status has changed markedly since the assessment was completed. The child's  
 51.4 parent shall be notified if an assessment will not be completed and of the reasons. A copy  
 51.5 of the notice shall be placed in the child's file. Recommendations developed as part of the  
 51.6 level of care determination process shall include specific community services needed by  
 51.7 the child and, if appropriate, the child's family, and shall indicate whether these services  
 51.8 are available and accessible to the child and the child's family. The child and the child's  
 51.9 family must be invited to any meeting where the level of care determination is discussed  
 51.10 and decisions regarding residential treatment are made. The child and the child's family  
 51.11 may invite other relatives, friends, or advocates to attend these meetings.

51.12 (e) During the level of care determination process, the child, child's family, or child's  
 51.13 legal representative, as appropriate, must be informed of the child's eligibility for case  
 51.14 management services and family community support services and that an individual family  
 51.15 ~~assessment summary~~ community support plan is being developed by the case manager, if  
 51.16 assigned.

51.17 (f) The level of care determination, placement decision, and recommendations for mental  
 51.18 health services must be documented in the child's record and made available to the child's  
 51.19 family, as appropriate.

51.20 Sec. 13. Minnesota Statutes 2022, section 245.4887, is amended to read:

51.21 **245.4887 APPEALS.**

51.22 A child or a child's family, as appropriate, who requests mental health services under  
 51.23 sections 245.487 to 245.4889 must be advised of services available and the right to appeal  
 51.24 as described in this section at the time of the request and each time the individual family  
 51.25 ~~assessment summary~~ community support plan or individual treatment plan is reviewed. A  
 51.26 child whose request for mental health services under sections 245.487 to 245.4889 is denied,  
 51.27 not acted upon with reasonable promptness, or whose services are suspended, reduced, or  
 51.28 terminated by action or inaction for which the county board is responsible under sections  
 51.29 245.487 to 245.4889 may contest that action or inaction before the state agency according  
 51.30 to section 256.045. The commissioner shall monitor the nature and frequency of  
 51.31 administrative appeals under this section.

52.1 Sec. 14. Minnesota Statutes 2022, section 245A.03, subdivision 7, is amended to read:

52.2 Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license  
 52.3 for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult  
 52.4 foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter  
 52.5 for a physical location that will not be the primary residence of the license holder for the  
 52.6 entire period of licensure. If a family child foster care home or family adult foster care home  
 52.7 license is issued during this moratorium, and the license holder changes the license holder's  
 52.8 primary residence away from the physical location of the foster care license, the  
 52.9 commissioner shall revoke the license according to section 245A.07. The commissioner  
 52.10 shall not issue an initial license for a community residential setting licensed under chapter  
 52.11 245D. When approving an exception under this paragraph, the commissioner shall consider  
 52.12 the resource need determination process in paragraph (h), the availability of foster care  
 52.13 licensed beds in the geographic area in which the licensee seeks to operate, the results of a  
 52.14 person's choices during their annual assessment and service plan review, and the  
 52.15 recommendation of the local county board. The determination by the commissioner is final  
 52.16 and not subject to appeal. Exceptions to the moratorium include:

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

52.20 (2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or  
 52.21 community residential setting licenses replacing adult foster care licenses in existence on  
 52.22 December 31, 2013, and determined to be needed by the commissioner under paragraph  
 52.23 (b);

52.24 (3) new foster care licenses or community residential setting licenses determined to be  
 52.25 needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD,  
 52.26 or regional treatment center; restructuring of state-operated services that limits the capacity  
 52.27 of state-operated facilities; or allowing movement to the community for people who no  
 52.28 longer require the level of care provided in state-operated facilities as provided under section  
 52.29 256B.092, subdivision 13, or 256B.49, subdivision 24;

52.30 (4) new foster care licenses or community residential setting licenses determined to be  
 52.31 needed by the commissioner under paragraph (b) for persons requiring hospital-level care;  
 52.32 or

52.33 (5) new foster care licenses or community residential setting licenses for people receiving  
 52.34 customized living or 24-hour customized living services under the brain injury or community

53.1 access for disability inclusion waiver plans under section 256B.49 and residing in the  
53.2 customized living setting before July 1, 2022, for which a license is required. A customized  
53.3 living service provider subject to this exception may rebut the presumption that a license  
53.4 is required by seeking a reconsideration of the commissioner's determination. The  
53.5 commissioner's disposition of a request for reconsideration is final and not subject to appeal  
53.6 under chapter 14. The exception is available until June 30, 2023. This exception is available  
53.7 when:

53.8 (i) the person's customized living services are provided in a customized living service  
53.9 setting serving four or fewer people under the brain injury or community access for disability  
53.10 inclusion waiver plans under section 256B.49 in a single-family home operational on or  
53.11 before June 30, 2021. Operational is defined in section 256B.49, subdivision 28;

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

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

53.18 (b) The commissioner shall determine the need for newly licensed foster care homes or  
53.19 community residential settings as defined under this subdivision. As part of the determination,  
53.20 the commissioner shall consider the availability of foster care capacity in the area in which  
53.21 the licensee seeks to operate, and the recommendation of the local county board. The  
53.22 determination by the commissioner must be final. A determination of need is not required  
53.23 for a change in ownership at the same address.

53.24 (c) When an adult resident served by the program moves out of a foster home that is not  
53.25 the primary residence of the license holder according to section 256B.49, subdivision 15,  
53.26 paragraph (f), or the adult community residential setting, the county shall immediately  
53.27 inform the Department of Human Services Licensing Division. The department may decrease  
53.28 the statewide licensed capacity for adult foster care settings.

53.29 (d) Residential settings that would otherwise be subject to the decreased license capacity  
53.30 established in paragraph (c) shall be exempt if the license holder's beds are occupied by  
53.31 residents whose primary diagnosis is mental illness and the license holder is certified under  
53.32 the requirements in subdivision 6a or section 245D.33.

53.33 (e) A resource need determination process, managed at the state level, using the available  
53.34 data required by section 144A.351, and other data and information shall be used to determine

54.1 where the reduced capacity determined under section 256B.493 will be implemented. The  
54.2 commissioner shall consult with the stakeholders described in section 144A.351, and employ  
54.3 a variety of methods to improve the state's capacity to meet the informed decisions of those  
54.4 people who want to move out of corporate foster care or community residential settings,  
54.5 long-term service needs within budgetary limits, including seeking proposals from service  
54.6 providers or lead agencies to change service type, capacity, or location to improve services,  
54.7 increase the independence of residents, and better meet needs identified by the long-term  
54.8 services and supports reports and statewide data and information.

54.9 (f) At the time of application and reapplication for licensure, the applicant and the license  
54.10 holder that are subject to the moratorium or an exclusion established in paragraph (a) are  
54.11 required to inform the commissioner whether the physical location where the foster care  
54.12 will be provided is or will be the primary residence of the license holder for the entire period  
54.13 of licensure. If the primary residence of the applicant or license holder changes, the applicant  
54.14 or license holder must notify the commissioner immediately. The commissioner shall print  
54.15 on the foster care license certificate whether or not the physical location is the primary  
54.16 residence of the license holder.

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

54.23 (h) The commissioner may adjust capacity to address needs identified in section  
54.24 144A.351. Under this authority, the commissioner may approve new licensed settings or  
54.25 delicense existing settings. Delicensing of settings will be accomplished through a process  
54.26 identified in section 256B.493.

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

55.1 reconsideration is made by personal service, it must be received by the commissioner within  
55.2 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

55.3 (j) The commissioner shall not issue an initial license for children's residential treatment  
55.4 services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter  
55.5 for a program that Centers for Medicare and Medicaid Services would consider an institution  
55.6 for mental diseases. Facilities that serve only private pay clients are exempt from the  
55.7 moratorium described in this paragraph. The commissioner has the authority to manage  
55.8 existing statewide capacity for children's residential treatment services subject to the  
55.9 moratorium under this paragraph and may issue an initial license for such facilities if the  
55.10 initial license would not increase the statewide capacity for children's residential treatment  
55.11 services subject to the moratorium under this paragraph.

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

55.13 Sec. 15. Minnesota Statutes 2022, section 245A.11, subdivision 7, is amended to read:

55.14 Subd. 7. **Adult foster care and community residential settings; variance for alternate**  
55.15 **overnight supervision.** (a) The commissioner may grant a variance under section 245A.04,  
55.16 subdivision 9, to statutes and rule parts requiring a caregiver to be present in an adult foster  
55.17 care home or a community residential setting during normal sleeping hours to allow for  
55.18 alternative methods of overnight supervision. The commissioner may grant the variance if  
55.19 the local county licensing agency recommends the variance and the county recommendation  
55.20 includes documentation verifying that:

55.21 (1) the county has approved the license holder's plan for alternative methods of providing  
55.22 overnight supervision and determined the plan protects the residents' health, safety, and  
55.23 rights;

55.24 (2) the license holder has obtained written and signed informed consent from each  
55.25 resident or each resident's legal representative documenting the resident's or legal  
55.26 representative's agreement with the alternative method of overnight supervision; and

55.27 (3) the alternative method of providing overnight supervision, which may include the  
55.28 use of technology, is specified for each resident in the resident's: (i) individualized plan of  
55.29 care; (ii) ~~individual service~~ support plan under section 256B.092, subdivision 1b, if required;  
55.30 or (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105,  
55.31 subpart 19, if required.

55.32 (b) To be eligible for a variance under paragraph (a), the adult foster care or community  
55.33 residential setting license holder must not have had a conditional license issued under section

56.1 245A.06, or any other licensing sanction issued under section 245A.07 during the prior 24  
 56.2 months based on failure to provide adequate supervision, health care services, or resident  
 56.3 safety in the adult foster care home or community residential setting.

56.4 (c) A license holder requesting a variance under this subdivision to utilize technology  
 56.5 as a component of a plan for alternative overnight supervision may request the commissioner's  
 56.6 review in the absence of a county recommendation. Upon receipt of such a request from a  
 56.7 license holder, the commissioner shall review the variance request with the county.

56.8 ~~(d) A variance granted by the commissioner according to this subdivision before January~~  
 56.9 ~~1, 2014, to a license holder for an adult foster care home must transfer with the license when~~  
 56.10 ~~the license converts to a community residential setting license under chapter 245D. The~~  
 56.11 ~~terms and conditions of the variance remain in effect as approved at the time the variance~~  
 56.12 ~~was granted.~~

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

56.14 Sec. 16. Minnesota Statutes 2022, section 245A.16, subdivision 1, is amended to read:

56.15 Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and private  
 56.16 agencies that have been designated or licensed by the commissioner to perform licensing  
 56.17 functions and activities under section 245A.04 and background studies for family child care  
 56.18 under chapter 245C; to recommend denial of applicants under section 245A.05; to issue  
 56.19 correction orders, to issue variances, and recommend a conditional license under section  
 56.20 245A.06; or to recommend suspending or revoking a license or issuing a fine under section  
 56.21 245A.07, shall comply with rules and directives of the commissioner governing those  
 56.22 functions and with this section. The following variances are excluded from the delegation  
 56.23 of variance authority and may be issued only by the commissioner:

56.24 (1) dual licensure of family child care and family child foster care, dual licensure of  
 56.25 family child foster care and family adult foster care, dual licensure of child foster residence  
 56.26 setting and community residential setting, and dual licensure of family adult foster care and  
 56.27 family child care;

56.28 (2) adult foster care maximum capacity;

56.29 (3) adult foster care minimum age requirement;

56.30 (4) child foster care maximum age requirement;

56.31 (5) variances regarding disqualified individuals except that, before the implementation  
 56.32 of NETStudy 2.0, county agencies may issue variances under section 245C.30 regarding



57.1 disqualified individuals when the county is responsible for conducting a consolidated  
57.2 reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and  
57.3 (b), of a county maltreatment determination and a disqualification based on serious or  
57.4 recurring maltreatment;

57.5 (6) the required presence of a caregiver in the adult foster care residence during normal  
57.6 sleeping hours;

57.7 (7) variances to requirements relating to chemical use problems of a license holder or a  
57.8 household member of a license holder; and

57.9 (8) variances to section 245A.53 for a time-limited period. If the commissioner grants  
57.10 a variance under this clause, the license holder must provide notice of the variance to all  
57.11 parents and guardians of the children in care.

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

57.15 (b) A county agency that has been designated by the commissioner to issue family child  
57.16 care variances must:

57.17 (1) publish the county agency's policies and criteria for issuing variances on the county's  
57.18 public website and update the policies as necessary; and

57.19 (2) annually distribute the county agency's policies and criteria for issuing variances to  
57.20 all family child care license holders in the county.

57.21 (c) Before the implementation of NETStudy 2.0, county agencies must report information  
57.22 about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision  
57.23 2, paragraphs (a) and (b), and variances granted under paragraph (a), clause (5), to the  
57.24 commissioner at least monthly in a format prescribed by the commissioner.

57.25 (d) For family child care programs, the commissioner shall require a county agency to  
57.26 conduct one unannounced licensing review at least annually.

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

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

57.30 (g) During implementation of chapter 245D, the commissioner shall consider:

57.31 (1) the role of counties in quality assurance;

58.1 (2) the duties of county licensing staff; and

58.2 (3) the possible use of joint powers agreements, according to section 471.59, with counties  
58.3 through which some licensing duties under chapter 245D may be delegated by the  
58.4 commissioner to the counties.

58.5 Any consideration related to this paragraph must meet all of the requirements of the corrective  
58.6 action plan ordered by the federal Centers for Medicare and Medicaid Services.

58.7 (h) Licensing authority specific to section 245D.06, subdivisions 5, 6, 7, and 8, or  
58.8 successor provisions; and section 245D.061 or successor provisions, for family child foster  
58.9 care programs providing out-of-home respite, as identified in section 245D.03, subdivision  
58.10 1, paragraph (b), clause (1), is excluded from the delegation of authority to county and  
58.11 private agencies.

58.12 (i) A county agency shall report to the commissioner, in a manner prescribed by the  
58.13 commissioner, the following information for a licensed family child care program:

58.14 (1) the results of each licensing review completed, including the date of the review, and  
58.15 any licensing correction order issued;

58.16 (2) any death, serious injury, or determination of substantiated maltreatment; and

58.17 (3) any fires that require the service of a fire department within 48 hours of the fire. The  
58.18 information under this clause must also be reported to the state fire marshal within two  
58.19 business days of receiving notice from a licensed family child care provider.

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

58.21 Sec. 17. Minnesota Statutes 2022, section 245D.03, subdivision 1, is amended to read:

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

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

58.30 (1) in-home and out-of-home respite care services as defined in section 245A.02,  
58.31 subdivision 15, and under the brain injury, community alternative care, community access  
58.32 for disability inclusion, developmental disabilities, and elderly waiver plans, excluding

59.1 out-of-home respite care provided to children in a family child foster care home licensed  
 59.2 under Minnesota Rules, parts 2960.3000 to 2960.3100, when the child foster care license  
 59.3 holder complies with the requirements under section 245D.06, subdivisions 5, 6, 7, and 8,  
 59.4 or successor provisions; and section 245D.061 or successor provisions, which must be  
 59.5 stipulated in the statement of intended use required under Minnesota Rules, part 2960.3000,  
 59.6 subpart 4;

59.7 (2) adult companion services as defined under the ~~brain injury, community access for~~  
 59.8 ~~disability inclusion, community alternative care, and elderly waiver plans~~ plan, excluding  
 59.9 adult companion services provided under the Corporation for National and Community  
 59.10 Services Senior Companion Program established under the Domestic Volunteer Service  
 59.11 Act of 1973, Public Law 98-288;

59.12 ~~(3) personal support as defined under the developmental disabilities waiver plan;~~

59.13 ~~(4)~~ (3) 24-hour emergency assistance, personal emergency response as defined under  
 59.14 the community access for disability inclusion and developmental disabilities waiver plans;

59.15 ~~(5)~~ (4) night supervision services as defined under the brain injury, community access  
 59.16 for disability inclusion, community alternative care, and developmental disabilities waiver  
 59.17 plans;

59.18 ~~(6)~~ (5) homemaker services as defined under the community access for disability  
 59.19 inclusion, brain injury, community alternative care, developmental disabilities, and elderly  
 59.20 waiver plans, excluding providers licensed by the Department of Health under chapter 144A  
 59.21 and those providers providing cleaning services only;

59.22 ~~(7)~~ (6) individual community living support under section 256S.13; and

59.23 ~~(8)~~ (7) individualized home supports without training services as defined under the brain  
 59.24 injury, community alternative care, and community access for disability inclusion, and  
 59.25 developmental disabilities waiver plans.

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

59.29 (1) intervention services, including:

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

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

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

60.7 (2) in-home support services, including:

60.8 ~~(i) in-home family support and supported living services as defined under the~~  
 60.9 ~~developmental disabilities waiver plan;~~

60.10 ~~(ii) independent living services training as defined under the brain injury and community~~  
 60.11 ~~access for disability inclusion waiver plans;~~

60.12 ~~(iii)~~ (i) semi-independent living services;

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

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

60.19 (3) residential supports and services, including:

60.20 ~~(i) supported living services as defined under the developmental disabilities waiver plan~~  
 60.21 ~~provided in a family or corporate child foster care residence, a family adult foster care~~  
 60.22 ~~residence, a community residential setting, or a supervised living facility;~~

60.23 ~~(ii) foster care services as defined in the brain injury, community alternative care, and~~  
 60.24 ~~community access for disability inclusion waiver plans provided in a family or corporate~~  
 60.25 ~~child foster care residence, a family adult foster care residence, or a community residential~~  
 60.26 ~~setting;~~

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

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

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

61.6 (4) day services, including:

61.7 ~~(i) structured day services as defined under the brain injury waiver plan;~~

61.8 ~~(ii)~~ (i) day services under sections 252.41 to 252.46, and as defined under the brain  
 61.9 injury, community alternative care, community access for disability inclusion, and  
 61.10 developmental disabilities waiver plans; and

61.11 ~~(iii) day training and habilitation services under sections 252.41 to 252.46, and as defined~~  
 61.12 ~~under the developmental disabilities waiver plan; and~~

61.13 ~~(iv)~~ (ii) prevocational services as defined under the brain injury, community alternative  
 61.14 care, community access for disability inclusion, and developmental disabilities waiver plans;  
 61.15 and

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

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

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

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

61.28 Sec. 18. Minnesota Statutes 2022, section 246.0135, is amended to read:

61.29 **246.0135 OPERATION OF REGIONAL TREATMENT CENTERS.**

61.30 (a) The commissioner of human services is prohibited from closing any regional treatment  
 61.31 center or state-operated nursing home or any program at any of the regional treatment centers

62.1 or state-operated nursing homes, without specific legislative authorization. ~~For persons with~~  
 62.2 ~~developmental disabilities who move from one regional treatment center to another regional~~  
 62.3 ~~treatment center, the provisions of section 256B.092, subdivision 10, must be followed for~~  
 62.4 ~~both the discharge from one regional treatment center and admission to another regional~~  
 62.5 ~~treatment center, except that the move is not subject to the consensus requirement of section~~  
 62.6 ~~256B.092, subdivision 10, paragraph (b).~~

62.7 (b) Prior to closing or downsizing a regional treatment center, the commissioner of  
 62.8 human services shall be responsible for assuring that community-based alternatives developed  
 62.9 in response are adequate to meet the program needs identified by each county within the  
 62.10 catchment area and do not require additional local county property tax expenditures.

62.11 (c) The nonfederal share of the cost of alternative treatment or care developed as the  
 62.12 result of the closure of a regional treatment center, including costs associated with fulfillment  
 62.13 of responsibilities under chapter 253B shall be paid from state funds appropriated for  
 62.14 purposes specified in section 246.013.

62.15 (d) The commissioner may not divert state funds used for providing for care or treatment  
 62.16 of persons residing in a regional treatment center for purposes unrelated to the care and  
 62.17 treatment of such persons.

62.18 Sec. 19. Minnesota Statutes 2022, section 254A.035, subdivision 2, is amended to read:

62.19 Subd. 2. **Membership terms, compensation, removal and expiration.** The membership  
 62.20 of this council shall be composed of 17 persons who are American Indians and who are  
 62.21 appointed by the commissioner. The commissioner shall appoint one representative from  
 62.22 each of the following groups: Red Lake Band of Chippewa Indians; Fond du Lac Band,  
 62.23 Minnesota Chippewa Tribe; Grand Portage Band, Minnesota Chippewa Tribe; Leech Lake  
 62.24 Band, Minnesota Chippewa Tribe; Mille Lacs Band, Minnesota Chippewa Tribe; Bois Forte  
 62.25 Band, Minnesota Chippewa Tribe; White Earth Band, Minnesota Chippewa Tribe; Lower  
 62.26 Sioux Indian Reservation; Prairie Island Sioux Indian Reservation; Shakopee Mdewakanton  
 62.27 Sioux Indian Reservation; Upper Sioux Indian Reservation; International Falls Northern  
 62.28 Range; Duluth Urban Indian Community; and two representatives from the Minneapolis  
 62.29 Urban Indian Community and two from the St. Paul Urban Indian Community. The terms,  
 62.30 compensation, and removal of American Indian Advisory Council members shall be as  
 62.31 provided in section 15.059. ~~The council expires June 30, 2023.~~

63.1 Sec. 20. Minnesota Statutes 2022, section 254B.05, subdivision 1a, is amended to read:

63.2 Subd. 1a. **Room and board provider requirements.** (a) Effective January 1, 2000,  
63.3 vendors of room and board are eligible for behavioral health fund payment if the vendor:

63.4 (1) has rules prohibiting residents bringing chemicals into the facility or using chemicals  
63.5 while residing in the facility and provide consequences for infractions of those rules;

63.6 (2) is determined to meet applicable health and safety requirements;

63.7 (3) is not a jail or prison;

63.8 (4) is not concurrently receiving funds under chapter 256I for the recipient;

63.9 (5) admits individuals who are 18 years of age or older;

63.10 (6) is registered as a board and lodging or lodging establishment according to section  
63.11 157.17;

63.12 (7) has awake staff on site ~~24 hours per day~~ whenever a client is present;

63.13 (8) has staff who are at least 18 years of age and meet the requirements of section  
63.14 245G.11, subdivision 1, paragraph (b);

63.15 (9) has emergency behavioral procedures that meet the requirements of section 245G.16;

63.16 (10) meets the requirements of section 245G.08, subdivision 5, if administering  
63.17 medications to clients;

63.18 (11) meets the abuse prevention requirements of section 245A.65, including a policy on  
63.19 fraternization and the mandatory reporting requirements of section 626.557;

63.20 (12) documents coordination with the treatment provider to ensure compliance with  
63.21 section 254B.03, subdivision 2;

63.22 (13) protects client funds and ensures freedom from exploitation by meeting the  
63.23 provisions of section 245A.04, subdivision 13;

63.24 (14) has a grievance procedure that meets the requirements of section 245G.15,  
63.25 subdivision 2; and

63.26 (15) has sleeping and bathroom facilities for men and women separated by a door that  
63.27 is locked, has an alarm, or is supervised by awake staff.

63.28 (b) Programs licensed according to Minnesota Rules, chapter 2960, are exempt from  
63.29 paragraph (a), clauses (5) to (15).

64.1 (c) Programs providing children's mental health crisis admissions and stabilization under  
64.2 section 245.4882, subdivision 6, are eligible vendors of room and board.

64.3 (d) Licensed programs providing intensive residential treatment services or residential  
64.4 crisis stabilization services pursuant to section 256B.0622 or 256B.0624 are eligible vendors  
64.5 of room and board and are exempt from paragraph (a), clauses (6) to (15).

64.6 (e) A vendor that is not licensed as a residential treatment program must have a policy  
64.7 to address staffing coverage when a client may unexpectedly need to be present at the room  
64.8 and board site.

64.9 Sec. 21. Minnesota Statutes 2022, section 254B.05, subdivision 5, is amended to read:

64.10 Subd. 5. **Rate requirements.** (a) The commissioner shall establish rates for substance  
64.11 use disorder services and service enhancements funded under this chapter.

64.12 (b) Eligible substance use disorder treatment services include:

64.13 (1) outpatient treatment services that are licensed according to sections 245G.01 to  
64.14 245G.17, or applicable tribal license;

64.15 (2) comprehensive assessments provided according to sections 245.4863, paragraph (a),  
64.16 and 245G.05;

64.17 (3) care coordination services provided according to section 245G.07, subdivision 1,  
64.18 paragraph (a), clause (5);

64.19 (4) peer recovery support services provided according to section 245G.07, subdivision  
64.20 2, clause (8);

64.21 (5) on July 1, 2019, or upon federal approval, whichever is later, withdrawal management  
64.22 services provided according to chapter 245F;

64.23 (6) substance use disorder treatment services with medications for opioid use disorder  
64.24 that are licensed according to sections 245G.01 to 245G.17 and 245G.22, or applicable  
64.25 tribal license;

64.26 (7) substance use disorder treatment with medications for opioid use disorder plus  
64.27 enhanced treatment services that meet the requirements of clause (6) and provide nine hours  
64.28 of clinical services each week;

64.29 (8) high, medium, and low intensity residential treatment services that are licensed  
64.30 according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license which  
64.31 provide, respectively, 30, 15, and five hours of clinical services each week;



65.1 (9) hospital-based treatment services that are licensed according to sections 245G.01 to  
 65.2 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to  
 65.3 144.56;

65.4 (10) adolescent treatment programs that are licensed as outpatient treatment programs  
 65.5 according to sections 245G.01 to 245G.18 or as residential treatment programs according  
 65.6 to Minnesota Rules, parts 2960.0010 to 2960.0220, and 2960.0430 to 2960.0490, or  
 65.7 applicable tribal license;

65.8 (11) high-intensity residential treatment services that are licensed according to sections  
 65.9 245G.01 to 245G.17 and 245G.21 or applicable tribal license, which provide 30 hours of  
 65.10 clinical services each week provided by a state-operated vendor or to clients who have been  
 65.11 civilly committed to the commissioner, present the most complex and difficult care needs,  
 65.12 and are a potential threat to the community; and

65.13 (12) room and board facilities that meet the requirements of subdivision 1a.

65.14 (c) The commissioner shall establish higher rates for programs that meet the requirements  
 65.15 of paragraph (b) and one of the following additional requirements:

65.16 (1) programs that serve parents with their children if the program:

65.17 (i) provides on-site child care during the hours of treatment activity that:

65.18 (A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter  
 65.19 9503; or

65.20 (B) ~~meets the licensure exclusion criteria of section 245A.03, subdivision 2, paragraph~~  
 65.21 ~~(a), clause (6), and meets the requirements~~ is licensed under section chapter 245A and  
 65.22 sections 245G.01 to 245G.19, subdivision 4; or

65.23 (ii) arranges for off-site child care during hours of treatment activity at a facility that is  
 65.24 licensed under chapter 245A as:

65.25 (A) a child care center under Minnesota Rules, chapter 9503; or

65.26 (B) a family child care home under Minnesota Rules, chapter 9502;

65.27 (2) culturally specific or culturally responsive programs as defined in section 254B.01,  
 65.28 subdivision 4a;

65.29 (3) disability responsive programs as defined in section 254B.01, subdivision 4b;

65.30 (4) programs that offer medical services delivered by appropriately credentialed health  
 65.31 care staff in an amount equal to two hours per client per week if the medical needs of the

66.1 client and the nature and provision of any medical services provided are documented in the  
66.2 client file; or

66.3 (5) programs that offer services to individuals with co-occurring mental health and  
66.4 substance use disorder problems if:

66.5 (i) the program meets the co-occurring requirements in section 245G.20;

66.6 (ii) 25 percent of the counseling staff are licensed mental health professionals under  
66.7 section 245I.04, subdivision 2, or are students or licensing candidates under the supervision  
66.8 of a licensed alcohol and drug counselor supervisor and mental health professional under  
66.9 section 245I.04, subdivision 2, except that no more than 50 percent of the mental health  
66.10 staff may be students or licensing candidates with time documented to be directly related  
66.11 to provisions of co-occurring services;

66.12 (iii) clients scoring positive on a standardized mental health screen receive a mental  
66.13 health diagnostic assessment within ten days of admission;

66.14 (iv) the program has standards for multidisciplinary case review that include a monthly  
66.15 review for each client that, at a minimum, includes a licensed mental health professional  
66.16 and licensed alcohol and drug counselor, and their involvement in the review is documented;

66.17 (v) family education is offered that addresses mental health and substance use disorder  
66.18 and the interaction between the two; and

66.19 (vi) co-occurring counseling staff shall receive eight hours of co-occurring disorder  
66.20 training annually.

66.21 (d) In order to be eligible for a higher rate under paragraph (c), clause (1), a program  
66.22 that provides arrangements for off-site child care must maintain current documentation at  
66.23 the substance use disorder facility of the child care provider's current licensure to provide  
66.24 child care services. ~~Programs that provide child care according to paragraph (c), clause (1),  
66.25 must be deemed in compliance with the licensing requirements in section 245G.19.~~

66.26 (e) Adolescent residential programs that meet the requirements of Minnesota Rules,  
66.27 parts 2960.0430 to 2960.0490 and 2960.0580 to 2960.0690, are exempt from the requirements  
66.28 in paragraph (c), clause (4), items (i) to (iv).

66.29 (f) Subject to federal approval, substance use disorder services that are otherwise covered  
66.30 as direct face-to-face services may be provided via telehealth as defined in section 256B.0625,  
66.31 subdivision 3b. The use of telehealth to deliver services must be medically appropriate to  
66.32 the condition and needs of the person being served. Reimbursement shall be at the same  
66.33 rates and under the same conditions that would otherwise apply to direct face-to-face services.

67.1 (g) For the purpose of reimbursement under this section, substance use disorder treatment  
 67.2 services provided in a group setting without a group participant maximum or maximum  
 67.3 client to staff ratio under chapter 245G shall not exceed a client to staff ratio of 48 to one.  
 67.4 At least one of the attending staff must meet the qualifications as established under this  
 67.5 chapter for the type of treatment service provided. A recovery peer may not be included as  
 67.6 part of the staff ratio.

67.7 (h) Payment for outpatient substance use disorder services that are licensed according  
 67.8 to sections 245G.01 to 245G.17 is limited to six hours per day or 30 hours per week unless  
 67.9 prior authorization of a greater number of hours is obtained from the commissioner.

67.10 Sec. 22. Minnesota Statutes 2022, section 256.01, is amended by adding a subdivision to  
 67.11 read:

67.12 Subd. 12b. Department of Human Services systemic critical incident review team. (a)  
 67.13 The commissioner may establish a Department of Human Services systemic critical incident  
 67.14 review team to review critical incidents reported as required under section 626.557 for  
 67.15 which the Department of Human Services is responsible under section 626.5572, subdivision  
 67.16 13; chapter 245D; or Minnesota Rules, chapter 9544. When reviewing a critical incident,  
 67.17 the systemic critical incident review team shall identify systemic influences to the incident  
 67.18 rather than determine the culpability of any actors involved in the incident. The systemic  
 67.19 critical incident review may assess the entire critical incident process from the point of an  
 67.20 entity reporting the critical incident through the ongoing case management process.  
 67.21 Department staff shall lead and conduct the reviews and may utilize county staff as reviewers.  
 67.22 The systemic critical incident review process may include but is not limited to:

67.23 (1) data collection about the incident and actors involved. Data may include the relevant  
 67.24 critical services; the service provider's policies and procedures applicable to the incident;  
 67.25 the community support plan as defined in section 245D.02, subdivision 4b, for the person  
 67.26 receiving services; or an interview of an actor involved in the critical incident or the review  
 67.27 of the critical incident. Actors may include:

67.28 (i) staff of the provider agency;

67.29 (ii) lead agency staff administering home and community-based services delivered by  
 67.30 the provider;

67.31 (iii) Department of Human Services staff with oversight of home and community-based  
 67.32 services;

67.33 (iv) Department of Health staff with oversight of home and community-based services;

68.1 (v) members of the community including advocates, legal representatives, health care  
68.2 providers, pharmacy staff, or others with knowledge of the incident or the actors in the  
68.3 incident; and

68.4 (vi) staff from the Office of the Ombudsman for Mental Health and Developmental  
68.5 Disabilities and the Office of the Ombudsman for Long-Term Care;

68.6 (2) systemic mapping of the critical incident. The team conducting the systemic mapping  
68.7 of the incident may include any actors identified in clause (1), designated representatives  
68.8 of other provider agencies, regional teams, and representatives of the local regional quality  
68.9 council identified in section 256B.097; and

68.10 (3) analysis of the case for systemic influences.

68.11 Data collected by the critical incident review team shall be aggregated and provided to  
68.12 regional teams, participating regional quality councils, and the commissioner. The regional  
68.13 teams and quality councils shall analyze the data and make recommendations to the  
68.14 commissioner regarding systemic changes that would decrease the number and severity of  
68.15 critical incidents in the future or improve the quality of the home and community-based  
68.16 service system.

68.17 (b) Cases selected for the systemic critical incident review process shall be selected by  
68.18 a selection committee among the following critical incident categories:

68.19 (1) cases of caregiver neglect identified in section 626.5572, subdivision 17;

68.20 (2) cases involving financial exploitation identified in section 626.5572, subdivision 9;

68.21 (3) incidents identified in section 245D.02, subdivision 11;

68.22 (4) behavior interventions identified in Minnesota Rules, part 9544.0110; and

68.23 (5) service terminations reported to the department in accordance with section 245D.10,  
68.24 subdivision 3a.

68.25 (c) The systemic critical incident review under this section shall not replace the process  
68.26 for screening or investigating cases of alleged maltreatment of an adult under section 626.557.  
68.27 The department may select cases for systemic critical incident review, under the jurisdiction  
68.28 of the commissioner, reported for suspected maltreatment and closed following initial or  
68.29 final disposition.

68.30 (d) The proceedings and records of the review team are confidential data on individuals  
68.31 or protected nonpublic data as defined in section 13.02, subdivisions 3 and 13. Data that  
68.32 document a person's opinions formed as a result of the review are not subject to discovery

69.1 or introduction into evidence in a civil or criminal action against a professional, the state,  
 69.2 or a county agency arising out of the matters that the team is reviewing. Information,  
 69.3 documents, and records otherwise available from other sources are not immune from  
 69.4 discovery or use in a civil or criminal action solely because the information, documents,  
 69.5 and records were assessed or presented during proceedings of the review team. A person  
 69.6 who presented information before the systemic critical incident review team or who is a  
 69.7 member of the team shall not be prevented from testifying about matters within the person's  
 69.8 knowledge. In a civil or criminal proceeding, a person shall not be questioned about opinions  
 69.9 formed by the person as a result of the review.

69.10 (e) By October 1 of each year, the commissioner shall prepare an annual public report  
 69.11 containing the following information:

69.12 (1) the number of cases reviewed under each critical incident category identified in  
 69.13 paragraph (b) and a geographical description of where cases under each category originated;

69.14 (2) an aggregate summary of the systemic themes from the critical incidents examined  
 69.15 by the critical incident review team during the previous year;

69.16 (3) a synopsis of the conclusions, incident analyses, or exploratory activities taken in  
 69.17 regard to the critical incidents examined by the critical incident review team; and

69.18 (4) recommendations made to the commissioner regarding systemic changes that could  
 69.19 decrease the number and severity of critical incidents in the future or improve the quality  
 69.20 of the home and community-based service system.

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

69.22 Sec. 23. Minnesota Statutes 2022, section 256B.0659, is amended by adding a subdivision  
 69.23 to read:

69.24 **Subd. 14a. Qualified professional; remote supervision.** (a) For recipients with chronic  
 69.25 health conditions or severely compromised immune systems, a qualified professional may  
 69.26 conduct the supervision required under subdivision 14 via two-way interactive audio and  
 69.27 visual telecommunications if, at the recipient's request, the recipient's primary health care  
 69.28 provider:

69.29 (1) determines that remote supervision is appropriate; and

69.30 (2) documents the determination under clause (1) in a statement of need or other document  
 69.31 that is subsequently included in the recipient's personal care assistance care plan.

70.1 (b) Notwithstanding any other provision of law, a care plan developed or amended via  
 70.2 remote supervision may be executed by electronic signature.

70.3 (c) A personal care assistance provider agency must not conduct the first supervisory  
 70.4 visit for a recipient and complete the initial personal care assistance care plan via a remote  
 70.5 visit.

70.6 (d) A recipient may request to return to in-person supervisory visits at any time.

70.7 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,  
 70.8 whichever is later. The commissioner of human services shall notify the revisor of statutes  
 70.9 when federal approval is obtained.

70.10 Sec. 24. Minnesota Statutes 2022, section 256B.0911, subdivision 23, is amended to read:

70.11 Subd. 23. **MnCHOICES reassessments; option for alternative and self-directed**  
 70.12 **waiver services.** (a) At the time of reassessment, the certified assessor shall assess a person  
 70.13 receiving waiver residential supports and services and currently residing in a setting listed  
 70.14 in clauses (1) to (5) to determine if the person would prefer to be served in a  
 70.15 community-living setting as defined in section ~~256B.49, subdivision 23~~ 256B.492,  
 70.16 subdivision 1, paragraph (b), or in a setting not controlled by a provider, or to receive  
 70.17 integrated community supports as described in section 245D.03, subdivision 1, paragraph  
 70.18 (c), clause (8). The certified assessor shall offer the person through a person-centered  
 70.19 planning process the option to receive alternative housing and service options. This paragraph  
 70.20 applies to those currently residing in a:

70.21 (1) community residential setting;

70.22 (2) licensed adult foster care home that is either not the primary residence of the license  
 70.23 holder or in which the license holder is not the primary caregiver;

70.24 (3) family adult foster care residence;

70.25 (4) customized living setting; or

70.26 (5) supervised living facility.

70.27 (b) At the time of reassessment, the certified assessor shall assess each person receiving  
 70.28 waiver day services to determine if that person would prefer to receive employment services  
 70.29 as described in section 245D.03, subdivision 1, paragraph (c), clauses (5) to (7). The certified  
 70.30 assessor shall describe to the person through a person-centered planning process the option  
 70.31 to receive employment services.

71.1 (c) At the time of reassessment, the certified assessor shall assess each person receiving  
 71.2 non-self-directed waiver services to determine if that person would prefer an available  
 71.3 service and setting option that would permit self-directed services and supports. The certified  
 71.4 assessor shall describe to the person through a person-centered planning process the option  
 71.5 to receive self-directed services and supports.

71.6 EFFECTIVE DATE. This section is effective upon federal approval. The commissioner  
 71.7 of human services shall notify the revisor of statutes when federal approval is obtained.

71.8 Sec. 25. Minnesota Statutes 2022, section 256B.092, subdivision 10, is amended to read:

71.9 Subd. 10. **Admission of persons to and discharge of persons from regional treatment**  
 71.10 **centers.** (a) Prior to the admission of a person to a regional treatment center program for  
 71.11 persons with developmental disabilities, the case manager shall make efforts to secure  
 71.12 community-based alternatives. If these alternatives are rejected by the person, the person's  
 71.13 legal guardian or conservator, or the county agency in favor of a regional treatment center  
 71.14 placement, the case manager shall document the reasons why the alternatives were rejected.

71.15 ~~(b) When discharge of a person from a regional treatment center to a community-based~~  
 71.16 ~~service is proposed, the case manager shall convene the screening team and in addition to~~  
 71.17 ~~members of the team identified in subdivision 7, the case manager shall invite to the meeting~~  
 71.18 ~~the person's parents and near relatives, and the ombudsman established under section 245.92~~  
 71.19 ~~if the person is under public guardianship. The meeting shall be convened at a time and~~  
 71.20 ~~place that allows for participation of all team members and invited individuals who choose~~  
 71.21 ~~to attend. The notice of the meeting shall inform the person's parents and near relatives~~  
 71.22 ~~about the screening team process, and their right to request a review if they object to the~~  
 71.23 ~~discharge, and shall provide the names and functions of advocacy organizations, and~~  
 71.24 ~~information relating to assistance available to individuals interested in establishing private~~  
 71.25 ~~guardianships under the provisions of section 252A.03. The screening team meeting shall~~  
 71.26 ~~be conducted according to subdivisions 7 and 8. Discharge of the person shall not go forward~~  
 71.27 ~~without consensus of the screening team.~~

71.28 ~~(c) The results of the screening team meeting and individual service plan developed~~  
 71.29 ~~according to subdivision 1b shall be used by the interdisciplinary team assembled in~~  
 71.30 ~~accordance with Code of Federal Regulations, title 42, section 483.440, to evaluate and~~  
 71.31 ~~make recommended modifications to the individual service plan as proposed. The individual~~  
 71.32 ~~service plan shall specify postplacement monitoring to be done by the case manager according~~  
 71.33 ~~to section 253B.15, subdivision 1a.~~

72.1 ~~(d) Notice of the meeting of the interdisciplinary team assembled in accordance with~~  
72.2 ~~Code of Federal Regulations, title 42, section 483.440, shall be sent to all team members~~  
72.3 ~~15 days prior to the meeting, along with a copy of the proposed individual service plan. The~~  
72.4 ~~case manager shall request that proposed providers visit the person and observe the person's~~  
72.5 ~~program at the regional treatment center prior to the discharge. Whenever possible,~~  
72.6 ~~preplacement visits by the person to proposed service sites should also be scheduled in~~  
72.7 ~~advance of the meeting. Members of the interdisciplinary team assembled for the purpose~~  
72.8 ~~of discharge planning shall include but not be limited to the case manager, the person, the~~  
72.9 ~~person's legal guardian or conservator, parents and near relatives, the person's advocate,~~  
72.10 ~~representatives of proposed community service providers, representatives of the regional~~  
72.11 ~~treatment center residential and training and habilitation services, a registered nurse if the~~  
72.12 ~~person has overriding medical needs that impact the delivery of services, and a qualified~~  
72.13 ~~developmental disability professional specializing in behavior management if the person~~  
72.14 ~~to be discharged has behaviors that may result in injury to self or others. The case manager~~  
72.15 ~~may also invite other service providers who have expertise in an area related to specific~~  
72.16 ~~service needs of the person to be discharged.~~

72.17 ~~(e) The interdisciplinary team shall review the proposed plan to assure that it identifies~~  
72.18 ~~service needs, availability of services, including support services, and the proposed providers'~~  
72.19 ~~abilities to meet the service needs identified in the person's individual service plan. The~~  
72.20 ~~interdisciplinary team shall review the most recent licensing reports of the proposed providers~~  
72.21 ~~and corrective action taken by the proposed provider, if required. The interdisciplinary team~~  
72.22 ~~shall review the current individual program plans for the person and agree to an interim~~  
72.23 ~~individual program plan to be followed for the first 30 days in the person's new living~~  
72.24 ~~arrangement. The interdisciplinary team may suggest revisions to the service plan, and all~~  
72.25 ~~team suggestions shall be documented. If the person is to be discharged to a community~~  
72.26 ~~intermediate care facility for persons with developmental disabilities, the team shall give~~  
72.27 ~~preference to facilities with a licensed capacity of 15 or fewer beds. Thirty days prior to the~~  
72.28 ~~date of discharge, the case manager shall send a final copy of the service plan to all invited~~  
72.29 ~~members of the team, the ombudsman, if the person is under public guardianship, and the~~  
72.30 ~~advocacy system established under United States Code, title 42, section 6042.~~

72.31 (b) Assessment and support planning must be completed in accordance with requirements  
72.32 identified in section 256B.0911.

72.33 ~~(f)~~ (c) No discharge shall take place until disputes are resolved under section 256.045,  
72.34 subdivision 4a, or until a review by the commissioner is completed upon request of the chief  
72.35 executive officer or program director of the regional treatment center, or the county agency.



73.1 For persons under public guardianship, the ombudsman may request a review or hearing  
 73.2 under section 256.045. ~~Notification schedules required under this subdivision may be waived~~  
 73.3 ~~by members of the team when judged urgent and with agreement of the parents or near~~  
 73.4 ~~relatives participating as members of the interdisciplinary team.~~

73.5 Sec. 26. Minnesota Statutes 2022, section 256B.093, subdivision 1, is amended to read:

73.6 Subdivision 1. **State traumatic brain injury program.** (a) The commissioner of human  
 73.7 services shall:

73.8 (1) maintain a statewide traumatic brain injury program;

73.9 (2) supervise and coordinate services and policies for persons with traumatic brain  
 73.10 injuries;

73.11 (3) contract with qualified agencies or employ staff to provide statewide administrative  
 73.12 case management and consultation;

73.13 (4) maintain an advisory committee to provide recommendations in reports to the  
 73.14 commissioner regarding program and service needs of persons with brain injuries;

73.15 (5) investigate the need for the development of rules or statutes for the brain injury home  
 73.16 and community-based services waiver; and

73.17 (6) investigate present and potential models of service coordination which can be  
 73.18 delivered at the local level.

73.19 (b) The advisory committee required by paragraph (a), clause (4), must consist of no  
 73.20 fewer than ten members and no more than 30 members. The commissioner shall appoint  
 73.21 all advisory committee members to one- or two-year terms and appoint one member as  
 73.22 chair. ~~The advisory committee expires on June 30, 2023.~~

73.23 Sec. 27. Minnesota Statutes 2022, section 256B.439, is amended by adding a subdivision  
 73.24 to read:

73.25 Subd. 2b. **Demographic information for home and community-based services quality**  
 73.26 **profiles.** For purposes of including in the home and community-based services quality  
 73.27 profiles relevant information for consumers on the populations served by providers and for  
 73.28 other data analysis, the commissioner may request from providers the following summary  
 73.29 data about clients served by the provider: (1) age; (2) race; (3) ethnicity; and (4) gender  
 73.30 identity. For the purposes of this subdivision, summary data has the meaning given in section  
 73.31 13.02, subdivision 19. Providers must furnish the summary data only if the data on individuals

74.1 is available to the provider. A provider is not required to collect any demographic data from  
 74.2 clients for the sole purpose of providing the information requested by the commissioner  
 74.3 under this subdivision. If a provider furnishes the requested summary data to the  
 74.4 commissioner, the provider must provide notice to clients and associated key representatives  
 74.5 that the client's demographic information was included in the summary data provided to the  
 74.6 commissioner.

74.7 Sec. 28. Minnesota Statutes 2022, section 256B.439, subdivision 3d, is amended to read:

74.8 Subd. 3d. **Resident experience survey and family survey for assisted living**  
 74.9 **facilities.** The commissioner shall develop and administer a resident experience survey for  
 74.10 assisted living facility residents and a family survey for families of assisted living facility  
 74.11 residents. Money appropriated to the commissioner to administer the resident experience  
 74.12 survey and family survey is available in either fiscal year of the biennium in which it is  
 74.13 appropriated. Assisted living facilities licensed under chapter 144G must participate in the  
 74.14 surveys when the commissioner requests their participation.

74.15 Sec. 29. Minnesota Statutes 2022, section 256B.492, is amended to read:

74.16 **256B.492 HOME AND COMMUNITY-BASED SETTINGS FOR PEOPLE WITH**  
 74.17 **DISABILITIES.**

74.18 Subdivision 1. **Definitions.** (a) For the purposes of this section the following terms have  
 74.19 the meanings given.

74.20 (b) "Community-living setting" means a single-family home or multifamily dwelling  
 74.21 unit where a service recipient or a service recipient's family owns or rents and maintains  
 74.22 control over the individual unit as demonstrated by a lease agreement. Community-living  
 74.23 setting does not include a home or dwelling unit that the service provider owns, operates,  
 74.24 or leases or in which the service provider has a direct or indirect financial interest.

74.25 (c) "Controlling individual" has the meaning given in section 245A.02, subdivision 5a.

74.26 (d) "License holder" has the meaning given in section 245A.02, subdivision 9.

74.27 Subd. 2. **Home and community-based waiver settings.** (a) Individuals receiving services  
 74.28 under a home and community-based waiver under section 256B.092 or 256B.49 may receive  
 74.29 services in the following settings:

74.30 (1) home and community-based settings that comply with all requirements identified by  
 74.31 the federal Centers for Medicare and Medicaid Services in the Code of Federal Regulations,

75.1 title 42, section 441.301(c), and with the requirements of the federally approved transition  
75.2 plan and waiver plans for each home and community-based services waiver; and

75.3 (2) settings required by the Housing Opportunities for Persons with AIDS Program.

75.4 (b) The settings in paragraph (a) must not have the qualities of an institution which  
75.5 include, but are not limited to: regimented meal and sleep times, limitations on visitors, and  
75.6 lack of privacy. Restrictions agreed to and documented in the person's individual service  
75.7 plan shall not result in a residence having the qualities of an institution as long as the  
75.8 restrictions for the person are not imposed upon others in the same residence and are the  
75.9 least restrictive alternative, imposed for the shortest possible time to meet the person's needs.

75.10 Subd. 3. Community-living settings. (a) Individuals receiving services under a home  
75.11 and community-based waiver under section 256B.092 or 256B.49 may receive services in  
75.12 community-living settings. Community-living settings must meet the requirements of  
75.13 subdivision 2, paragraph (a), clause (1).

75.14 (b) For the purposes of this section, direct financial interest exists if payment passes  
75.15 between the license holder or any controlling individual of a licensed program and the  
75.16 service recipient or an entity acting on the service recipient's behalf for the purpose of  
75.17 obtaining or maintaining a dwelling. For the purposes of this section, indirect financial  
75.18 interest exists if the license holder or any controlling individual of a licensed program has  
75.19 an ownership or investment interest in the entity that owns, operates, leases, or otherwise  
75.20 receives payment from the service recipient or an entity acting on the service recipient's  
75.21 behalf for the purpose of obtaining or maintaining a dwelling.

75.22 (c) To ensure a service recipient or the service recipient's family maintains control over  
75.23 the home or dwelling unit, community-living settings are subject to the following  
75.24 requirements:

75.25 (1) service recipients must not be required to receive services or share services;

75.26 (2) service recipients must not be required to have a disability or specific diagnosis to  
75.27 live in the community-living setting;

75.28 (3) service recipients may hire service providers of their choice;

75.29 (4) service recipients may choose whether to share their household and with whom;

75.30 (5) the home or multifamily dwelling unit must include living, sleeping, bathing, and  
75.31 cooking areas;

75.32 (6) service recipients must have lockable access and egress;

76.1 (7) service recipients must be free to receive visitors and leave the settings at times and  
76.2 for durations of their own choosing;

76.3 (8) leases must comply with chapter 504B;

76.4 (9) landlords must not charge different rents to tenants who are receiving home and  
76.5 community-based services; and

76.6 (10) access to the greater community must be easily facilitated based on the service  
76.7 recipient's needs and preferences.

76.8 (d) Nothing in this section prohibits a service recipient from having another person or  
76.9 entity not affiliated with the service provider cosign a lease. Nothing in this section prohibits  
76.10 a service recipient, during any period in which a service provider has cosigned the service  
76.11 recipient's lease, from modifying services with an existing cosigning service provider and,  
76.12 subject to the approval of the landlord, maintaining a lease cosigned by the service provider.  
76.13 Nothing in this section prohibits a service recipient, during any period in which a service  
76.14 provider has cosigned the service recipient's lease, from terminating services with the  
76.15 cosigning service provider, receiving services from a new service provider, or, subject to  
76.16 the approval of the landlord, maintaining a lease cosigned by the new service provider.

76.17 (e) A lease cosigned by a service provider meets the requirements of paragraph (b) if  
76.18 the service recipient and service provider develop and implement a transition plan which  
76.19 must provide that, within two years of cosigning the initial lease, the service provider shall  
76.20 transfer the lease to the service recipient and other cosigners, if any.

76.21 (f) In the event the landlord has not approved the transfer of the lease within two years  
76.22 of the service provider cosigning the initial lease, the service provider must submit a  
76.23 time-limited extension request to the commissioner of human services to continue the  
76.24 cosigned lease arrangement. The extension request must include:

76.25 (1) the reason the landlord denied the transfer;

76.26 (2) the plan to overcome the denial to transfer the lease;

76.27 (3) the length of time needed to successfully transfer the lease, not to exceed an additional  
76.28 two years;

76.29 (4) a description of how the transition plan was followed, what occurred that led to the  
76.30 landlord denying the transfer, and what changes in circumstances or condition, if any, the  
76.31 service recipient experienced; and

77.1 (5) a revised transition plan to transfer the cosigned lease between the service provider  
 77.2 and the service recipient to the service recipient.

77.3 (g) The commissioner must approve an extension under paragraph (f) within sufficient  
 77.4 time to ensure the continued occupancy by the service recipient.

77.5 **EFFECTIVE DATE.** This section is effective upon federal approval. The commissioner  
 77.6 of human services shall notify the revisor of statutes when federal approval is obtained.

77.7 Sec. 30. Minnesota Statutes 2022, section 256B.493, subdivision 2a, is amended to read:

77.8 Subd. 2a. **Closure process.** (a) The commissioner shall work with stakeholders to  
 77.9 establish a process for the application, review, approval, and implementation of setting  
 77.10 closures. Voluntary proposals from license holders for consolidation and closure of adult  
 77.11 foster care or community residential settings are encouraged. Whether voluntary or  
 77.12 involuntary, all closure plans must include:

77.13 (1) a description of the proposed closure plan, identifying the home or homes and  
 77.14 occupied beds;

77.15 (2) the proposed timetable for the proposed closure, including the proposed dates for  
 77.16 notification to people living there and the affected lead agencies, commencement of closure,  
 77.17 and completion of closure;

77.18 (3) the proposed relocation plan jointly developed by the counties of financial  
 77.19 responsibility, the people living there and their legal representatives, if any, who wish to  
 77.20 continue to receive services from the provider, and the providers for current residents of  
 77.21 any adult foster care home designated for closure; and

77.22 (4) documentation from the provider in a format approved by the commissioner that all  
 77.23 the adult foster care homes or community residential settings receiving a planned closure  
 77.24 rate adjustment under the plan have accepted joint and severable for recovery of  
 77.25 overpayments under section 256B.0641, subdivision 2, for the facilities designated for  
 77.26 closure under this plan.

77.27 (b) The commissioner shall give first priority to closure plans which:

77.28 (1) target counties and geographic areas which have:

77.29 (i) need for other types of services;

77.30 (ii) need for specialized services;

78.1 (iii) higher than average per capita use of licensed corporate foster care or community  
78.2 residential settings; or

78.3 (iv) residents not living in the geographic area of their choice;

78.4 (2) demonstrate savings of medical assistance expenditures; and

78.5 (3) demonstrate that alternative services are based on the recipient's choice of provider  
78.6 and are consistent with federal law, state law, and federally approved waiver plans.

78.7 The commissioner shall also consider any information provided by people using services,  
78.8 their legal representatives, family members, or the lead agency on the impact of the planned  
78.9 closure on people and the services they need.

78.10 ~~(e) For each closure plan approved by the commissioner, a contract must be established~~  
78.11 ~~between the commissioner, the counties of financial responsibility, and the participating~~  
78.12 ~~license holder.~~

78.13 Sec. 31. Minnesota Statutes 2022, section 256B.493, subdivision 4, is amended to read:

78.14 Subd. 4. **Review and approval process.** (a) To be considered for approval, an application  
78.15 must include:

78.16 (1) a description of the proposed closure plan, which must identify the home or homes  
78.17 and occupied beds for which a planned closure rate adjustment is requested;

78.18 (2) the proposed timetable for any proposed closure, including the proposed dates for  
78.19 notification to residents and the affected lead agencies, commencement of closure, and  
78.20 completion of closure;

78.21 (3) the proposed relocation plan jointly developed by the counties of financial  
78.22 responsibility, the residents and their legal representatives, if any, who wish to continue to  
78.23 receive services from the provider, and the providers for current residents of any adult foster  
78.24 care home designated for closure; and

78.25 (4) documentation in a format approved by the commissioner that all the adult foster  
78.26 care homes receiving a planned closure rate adjustment under the plan have accepted joint  
78.27 and several liability for recovery of overpayments under section 256B.0641, subdivision 2,  
78.28 for the facilities designated for closure under this plan.

78.29 (b) In reviewing and approving closure proposals, the commissioner shall give first  
78.30 priority to proposals that:

78.31 (1) target counties and geographic areas which have:

79.1 (i) need for other types of services;

79.2 (ii) need for specialized services;

79.3 (iii) higher than average per capita use of foster care settings where the license holder  
79.4 does not reside; or

79.5 (iv) residents not living in the geographic area of their choice;

79.6 (2) demonstrate savings of medical assistance expenditures; and

79.7 (3) demonstrate that alternative services are based on the recipient's choice of provider  
79.8 and are consistent with federal law, state law, and federally approved waiver plans.

79.9 The commissioner shall also consider any information provided by service recipients,  
79.10 their legal representatives, family members, or the lead agency on the impact of the planned  
79.11 closure on the recipients and the services they need.

79.12 (c) The commissioner shall select proposals that best meet the criteria established in this  
79.13 subdivision for planned closure of adult foster care settings. The commissioner shall notify  
79.14 license holders of the selections approved by the commissioner.

79.15 ~~(d) For each proposal approved by the commissioner, a contract must be established~~  
79.16 ~~between the commissioner, the counties of financial responsibility, and the participating~~  
79.17 ~~license holder.~~

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

79.19 Sec. 32. Minnesota Statutes 2022, section 256S.202, subdivision 1, is amended to read:

79.20 Subdivision 1. **Customized living monthly service rate limits.** (a) Except for a  
79.21 participant assigned to case mix classification L, as described in section 256S.18, subdivision  
79.22 1, paragraph (b), the customized living monthly service rate limit shall not exceed 50 percent  
79.23 of the monthly case mix budget cap, ~~less the maintenance needs allowance,~~ adjusted at least  
79.24 annually in the manner described under section 256S.18, subdivisions 5 and 6.

79.25 (b) The customized living monthly service rate limit for participants assigned to case  
79.26 mix classification L must be the monthly service rate limit for participants assigned to case  
79.27 mix classification A, reduced by 25 percent.

80.1 Sec. 33. Minnesota Statutes 2022, section 524.5-104, is amended to read:

80.2 **524.5-104 FACILITY OF TRANSFER.**

80.3 (a) A person who may transfer money or personal property to a minor may do so, as to  
80.4 an amount or value not exceeding the amount allowable as a tax exclusion gift under section  
80.5 2503(b) of the Internal Revenue Code or a different amount that is approved by the court,  
80.6 by transferring it to:

80.7 (1) a person who has the care and custody of the minor and with whom the minor resides;

80.8 (2) a guardian of the minor;

80.9 (3) a custodian under the Uniform Transfers To Minors Act or custodial trustee under  
80.10 the Uniform Custodial Trust Act;

80.11 (4) a financial institution as a deposit in an interest-bearing account or certificate in the  
80.12 sole name of the minor and giving notice of the deposit to the minor; or

80.13 (5) an ABLE account. A guardian only has the authority to establish an ABLE account.  
80.14 The guardian may not administer the ABLE account in the guardian's capacity as guardian.  
80.15 The guardian may appoint or name a person to exercise signature authority over an ABLE  
80.16 account, including the individual selected by the eligible individual or the eligible individual's  
80.17 agent under a power of attorney, conservator, spouse, parent, sibling, grandparent, or  
80.18 representative payee, whether an individual or organization, appointed by the Social Security  
80.19 Administration, in that order.

80.20 (b) This section does not apply if the person making payment or delivery knows that a  
80.21 conservator has been appointed or that a proceeding for appointment of a conservator of  
80.22 the minor is pending.

80.23 (c) A person who transfers money or property in compliance with this section is not  
80.24 responsible for its proper application.

80.25 (d) A guardian or other person who receives money or property for a minor under  
80.26 paragraph (a), clause (1) or (2), may only apply it to the support, care, education, health,  
80.27 and welfare of the minor, and may not derive a personal financial benefit except for  
80.28 reimbursement for necessary expenses. Any excess must be preserved for the future support,  
80.29 care, education, health, and welfare of the minor and any balance must be transferred to the  
80.30 minor upon emancipation or attaining majority.

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



81.1 Sec. 34. Minnesota Statutes 2022, section 524.5-313, is amended to read:

81.2 **524.5-313 POWERS AND DUTIES OF GUARDIAN.**

81.3 (a) A guardian shall be subject to the control and direction of the court at all times and  
81.4 in all things.

81.5 (b) The court shall grant to a guardian only those powers necessary to provide for the  
81.6 demonstrated needs of the person subject to guardianship.

81.7 (c) The court may appoint a guardian if it determines that all the powers and duties listed  
81.8 in this section are needed to provide for the needs of the incapacitated person. The court  
81.9 may also appoint a guardian if it determines that a guardian is needed to provide for the  
81.10 needs of the incapacitated person through the exercise of some, but not all, of the powers  
81.11 and duties listed in this section. The duties and powers of a guardian or those which the  
81.12 court may grant to a guardian include, but are not limited to:

81.13 (1) the power to have custody of the person subject to guardianship and the power to  
81.14 establish a place of abode within or outside the state, except as otherwise provided in this  
81.15 clause. The person subject to guardianship or any interested person may petition the court  
81.16 to prevent or to initiate a change in abode. A person subject to guardianship may not be  
81.17 admitted to a regional treatment center by the guardian except:

81.18 (i) after a hearing under chapter 253B;

81.19 (ii) for outpatient services; or

81.20 (iii) for the purpose of receiving temporary care for a specific period of time not to  
81.21 exceed 90 days in any calendar year;

81.22 (2) the duty to provide for the care, comfort, and maintenance needs of the person subject  
81.23 to guardianship, including food, clothing, shelter, health care, social and recreational  
81.24 requirements, and, whenever appropriate, training, education, and habilitation or  
81.25 rehabilitation. The guardian has no duty to pay for these requirements out of personal funds.  
81.26 Whenever possible and appropriate, the guardian should meet these requirements through  
81.27 governmental benefits or services to which the person subject to guardianship is entitled,  
81.28 rather than from the estate of the person subject to guardianship. Failure to satisfy the needs  
81.29 and requirements of this clause shall be grounds for removal of a private guardian, but the  
81.30 guardian shall have no personal or monetary liability;

81.31 (3) the duty to take reasonable care of the clothing, furniture, vehicles, and other personal  
81.32 effects of the person subject to guardianship, and, if other property requires protection, the  
81.33 power to seek appointment of a conservator of the estate. The guardian must give notice by

82.1 mail to interested persons prior to the disposition of the clothing, furniture, vehicles, or  
82.2 other personal effects of the person subject to guardianship. The notice must inform the  
82.3 person of the right to object to the disposition of the property within ten days of the date of  
82.4 mailing and to petition the court for a review of the guardian's proposed actions. Notice of  
82.5 the objection must be served by mail or personal service on the guardian and the person  
82.6 subject to guardianship unless the person subject to guardianship is the objector. The guardian  
82.7 served with notice of an objection to the disposition of the property may not dispose of the  
82.8 property unless the court approves the disposition after a hearing;

82.9 (4)(i) the power to give any necessary consent to enable the person subject to guardianship  
82.10 to receive necessary medical or other professional care, counsel, treatment, or service, except  
82.11 that no guardian may give consent for psychosurgery, electroshock, sterilization, or  
82.12 experimental treatment of any kind unless the procedure is first approved by order of the  
82.13 court as provided in this clause. The guardian shall not consent to any medical care for the  
82.14 person subject to guardianship which violates the known conscientious, religious, or moral  
82.15 belief of the person subject to guardianship;

82.16 (ii) a guardian who believes a procedure described in item (i) requiring prior court  
82.17 approval to be necessary for the proper care of the person subject to guardianship, shall  
82.18 petition the court for an order and, in the case of a public guardianship under chapter 252A,  
82.19 obtain the written recommendation of the commissioner of human services. The court shall  
82.20 fix the time and place for the hearing and shall give notice to the person subject to  
82.21 guardianship in such manner as specified in section 524.5-308 and to interested persons.  
82.22 The court shall appoint an attorney to represent the person subject to guardianship who is  
82.23 not represented by counsel, provided that such appointment shall expire upon the expiration  
82.24 of the appeal time for the order issued by the court under this section or the order dismissing  
82.25 a petition, or upon such other time or event as the court may direct. In every case the court  
82.26 shall determine if the procedure is in the best interest of the person subject to guardianship.  
82.27 In making its determination, the court shall consider a written medical report which  
82.28 specifically considers the medical risks of the procedure, whether alternative, less restrictive  
82.29 methods of treatment could be used to protect the best interest of the person subject to  
82.30 guardianship, and any recommendation of the commissioner of human services for a public  
82.31 person subject to guardianship. The standard of proof is that of clear and convincing evidence;

82.32 (iii) in the case of a petition for sterilization of a person with developmental disabilities  
82.33 subject to guardianship, the court shall appoint a licensed physician, a psychologist who is  
82.34 qualified in the diagnosis and treatment of developmental disability, and a social worker  
82.35 who is familiar with the social history and adjustment of the person subject to guardianship

83.1 or the case manager for the person subject to guardianship to examine or evaluate the person  
83.2 subject to guardianship and to provide written reports to the court. The reports shall indicate  
83.3 why sterilization is being proposed, whether sterilization is necessary and is the least intrusive  
83.4 method for alleviating the problem presented, and whether it is in the best interest of the  
83.5 person subject to guardianship. The medical report shall specifically consider the medical  
83.6 risks of sterilization, the consequences of not performing the sterilization, and whether  
83.7 alternative methods of contraception could be used to protect the best interest of the person  
83.8 subject to guardianship;

83.9 (iv) any person subject to guardianship whose right to consent to a sterilization has not  
83.10 been restricted under this section or section 252A.101 may be sterilized only if the person  
83.11 subject to guardianship consents in writing or there is a sworn acknowledgment by an  
83.12 interested person of a nonwritten consent by the person subject to guardianship. The consent  
83.13 must certify that the person subject to guardianship has received a full explanation from a  
83.14 physician or registered nurse of the nature and irreversible consequences of the sterilization;

83.15 (v) a guardian or the public guardian's designee who acts within the scope of authority  
83.16 conferred by letters of guardianship under section 252A.101, subdivision 7, and according  
83.17 to the standards established in this chapter or in chapter 252A shall not be civilly or criminally  
83.18 liable for the provision of any necessary medical care, including, but not limited to, the  
83.19 administration of psychotropic medication or the implementation of aversive and deprivation  
83.20 procedures to which the guardian or the public guardian's designee has consented;

83.21 (5) in the event there is no duly appointed conservator of the estate of the person subject  
83.22 to guardianship, the guardian shall have the power to approve or withhold approval of any  
83.23 contract, except for necessities, which the person subject to guardianship may make or wish  
83.24 to make;

83.25 (6) the duty and power to exercise supervisory authority over the person subject to  
83.26 guardianship in a manner which limits civil rights and restricts personal freedom only to  
83.27 the extent necessary to provide needed care and services. A guardian may not restrict the  
83.28 ability of the person subject to guardianship to communicate, visit, or interact with others,  
83.29 including receiving visitors or making or receiving telephone calls, personal mail, or  
83.30 electronic communications including through social media, or participating in social activities,  
83.31 unless the guardian has good cause to believe restriction is necessary because interaction  
83.32 with the person poses a risk of significant physical, psychological, or financial harm to the  
83.33 person subject to guardianship, and there is no other means to avoid such significant harm.  
83.34 In all cases, the guardian shall provide written notice of the restrictions imposed to the court,  
83.35 to the person subject to guardianship, and to the person subject to restrictions. The person

84.1 subject to guardianship or the person subject to restrictions may petition the court to remove  
84.2 or modify the restrictions;

84.3 (7) if there is no acting conservator of the estate for the person subject to guardianship,  
84.4 the guardian has the power to apply on behalf of the person subject to guardianship for any  
84.5 assistance, services, or benefits available to the person subject to guardianship through any  
84.6 unit of government;

84.7 (8) unless otherwise ordered by the court, the person subject to guardianship retains the  
84.8 right to vote;

84.9 (9) the power to establish an ABLE account for a person subject to guardianship or  
84.10 conservatorship. By this provision a guardian only has the authority to establish an ABLE  
84.11 account, but may not administer the ABLE account in the guardian's capacity as guardian.  
84.12 The guardian may appoint or name a person to exercise signature authority over an ABLE  
84.13 account, including the individual selected by the eligible individual or the eligible individual's  
84.14 agent under a power of attorney; conservator; spouse; parent; sibling; grandparent; or  
84.15 representative payee, whether an individual or organization, appointed by the SSA, in that  
84.16 order; and

84.17 (10) if there is no conservator appointed for the person subject to guardianship, the  
84.18 guardian has the duty and power to institute suit on behalf of the person subject to  
84.19 guardianship and represent the person subject to guardianship in expungement proceedings,  
84.20 harassment proceedings, and all civil court proceedings, including but not limited to  
84.21 restraining orders, orders for protection, name changes, conciliation court, housing court,  
84.22 family court, probate court, and juvenile court, provided that a guardian may not settle or  
84.23 compromise any claim or debt owed to the estate without court approval.

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

84.25 Sec. 35. Laws 2021, First Special Session chapter 7, article 2, section 17, the effective  
84.26 date, is amended to read:

84.27 **EFFECTIVE DATE.** This section is effective July 1, 2021, except ~~subdivision 6,~~  
84.28 ~~paragraph (b), is effective upon federal approval and~~ subdivision 15 is effective the day  
84.29 following final enactment. ~~The commissioner of human services shall notify the revisor of~~  
84.30 ~~statutes when federal approval is obtained.~~

85.1 Sec. 36. Laws 2021, First Special Session chapter 7, article 6, section 12, the effective  
85.2 date, is amended to read:

85.3 **EFFECTIVE DATE.** This section is effective July 1, 2021, ~~or upon federal approval,~~  
85.4 ~~whichever is later. The commissioner of human services shall notify the revisor of statutes~~  
85.5 ~~when federal approval is obtained.~~

85.6 Sec. 37. Laws 2021, First Special Session chapter 7, article 11, section 18, the effective  
85.7 date, is amended to read:

85.8 **EFFECTIVE DATE.** This section is effective July 1, 2021, ~~or upon federal approval,~~  
85.9 ~~whichever is later,~~ except paragraph (f) is effective the day following final enactment. The  
85.10 ~~commissioner shall notify the revisor of statutes when federal approval is obtained.~~

85.11 Sec. 38. Laws 2021, First Special Session chapter 7, article 13, section 43, the effective  
85.12 date, is amended to read:

85.13 **EFFECTIVE DATE.** This section is effective January 1, 2022, ~~or upon federal approval,~~  
85.14 ~~whichever is later, except the fifth sentence in paragraph (d) is effective January 1, 2022.~~  
85.15 ~~The commissioner of human services shall notify the revisor of statutes when federal approval~~  
85.16 ~~is obtained.~~

85.17 Sec. 39. Laws 2022, chapter 98, article 4, section 37, the effective date, is amended to  
85.18 read:

85.19 **EFFECTIVE DATE.** This section is effective July 1, 2022, ~~or upon federal approval,~~  
85.20 ~~whichever is later. The commissioner of human services shall notify the revisor of statutes~~  
85.21 ~~when federal approval is obtained.~~

85.22 Sec. 40. **DIRECTION TO COMMISSIONER; BRAIN INJURY AND COMMUNITY**  
85.23 **ACCESS FOR DISABILITY INCLUSION WAIVER CUSTOMIZED LIVING**  
85.24 **SERVICES PROVIDERS LOCATED IN HENNEPIN AND ITASCA COUNTIES.**

85.25 The commissioner of human services shall determine the brain injury (BI) or community  
85.26 access for disability inclusion (CADI) waiver customized living and 24-hour customized  
85.27 living size limitation exception applies to:

85.28 (1) two United States Department of Housing and Urban Development-subsidized  
85.29 housing settings created on September 29, 1980, that are located in the city of Minneapolis,  
85.30 provide customized living and 24-hour customized living services for clients enrolled in

86.1 the BI and CADI waiver, and had a capacity to service six clients in the setting as of July  
 86.2 1, 2022; and

86.3 (2) one United States Department of Housing and Urban Development-subsidized housing  
 86.4 setting created on April 15, 1991, that is located in the city of Grand Rapids, provides  
 86.5 customized living and 24-hour customized living services for clients enrolled in the BI and  
 86.6 CADI waiver, and had a capacity to service eight clients in the setting as of July 1, 2022.

86.7 Sec. 41. **REPEALER.**

86.8 Minnesota Statutes 2022, sections 254B.13, subdivisions 1, 2, 2a, 4, 5, 6, 7, and 8;  
 86.9 254B.16; 256.041, subdivision 10; 256B.49, subdivision 23; and 260.835, subdivision 2,  
 86.10 are repealed.

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

## 86.12 **ARTICLE 4**

### 86.13 **MISCELLANEOUS**

86.14 Section 1. Minnesota Statutes 2022, section 148F.01, is amended by adding a subdivision  
 86.15 to read:

86.16 Subd. 14a. **Former student.** "Former student" means an individual who has completed  
 86.17 the educational requirements under section 148F.025, subdivision 2, or 148F.035, paragraph  
 86.18 (a).

86.19 Sec. 2. Minnesota Statutes 2022, section 148F.11, is amended by adding a subdivision to  
 86.20 read:

86.21 Subd. 2a. **Former students.** (a) A former student may practice alcohol and drug  
 86.22 counseling for 90 days from the former student's degree conferral date from an accredited  
 86.23 school or educational program or from the last date the former student received credit for  
 86.24 an alcohol and drug counseling course from an accredited school or educational program.  
 86.25 The former student's practice must be supervised by an alcohol and drug counselor or an  
 86.26 alcohol and drug counselor supervisor, as defined in section 245G.11. The former student's  
 86.27 practice is limited to the site where the student completed their internship or practicum. A  
 86.28 former student must be paid for work performed during the 90-day period.

86.29 (b) The former student's right to practice automatically expires after 90 days from the  
 86.30 former student's degree conferral date or date of last course credit for an alcohol and drug  
 86.31 counseling course, whichever occurs last.

87.1 Sec. 3. Minnesota Statutes 2022, section 245.50, subdivision 5, is amended to read:

87.2 Subd. 5. **Special contracts; bordering states.** (a) An individual who is detained,  
87.3 committed, or placed on an involuntary basis under chapter 253B may be confined or treated  
87.4 in a bordering state pursuant to a contract under this section. An individual who is detained,  
87.5 committed, or placed on an involuntary basis under the civil law of a bordering state may  
87.6 be confined or treated in Minnesota pursuant to a contract under this section. A peace or  
87.7 health officer who is acting under the authority of the sending state may transport an  
87.8 individual to a receiving agency that provides services pursuant to a contract under this  
87.9 section and may transport the individual back to the sending state under the laws of the  
87.10 sending state. Court orders valid under the law of the sending state are granted recognition  
87.11 and reciprocity in the receiving state for individuals covered by a contract under this section  
87.12 to the extent that the court orders relate to confinement for treatment or care of mental  
87.13 illness, chemical dependency, or detoxification. Such treatment or care may address other  
87.14 conditions that may be co-occurring with the mental illness or chemical dependency. These  
87.15 court orders are not subject to legal challenge in the courts of the receiving state. Individuals  
87.16 who are detained, committed, or placed under the law of a sending state and who are  
87.17 transferred to a receiving state under this section continue to be in the legal custody of the  
87.18 authority responsible for them under the law of the sending state. Except in emergencies,  
87.19 those individuals may not be transferred, removed, or furloughed from a receiving agency  
87.20 without the specific approval of the authority responsible for them under the law of the  
87.21 sending state.

87.22 (b) While in the receiving state pursuant to a contract under this section, an individual  
87.23 shall be subject to the sending state's laws and rules relating to length of confinement,  
87.24 reexaminations, and extensions of confinement. No individual may be sent to another state  
87.25 pursuant to a contract under this section until the receiving state has enacted a law recognizing  
87.26 the validity and applicability of this section.

87.27 (c) If an individual receiving services pursuant to a contract under this section leaves  
87.28 the receiving agency without permission and the individual is subject to involuntary  
87.29 confinement under the law of the sending state, the receiving agency shall use all reasonable  
87.30 means to return the individual to the receiving agency. The receiving agency shall  
87.31 immediately report the absence to the sending agency. The receiving state has the primary  
87.32 responsibility for, and the authority to direct, the return of these individuals within its borders  
87.33 and is liable for the cost of the action to the extent that it would be liable for costs of its  
87.34 own resident.

87.35 (d) Responsibility for payment for the cost of care remains with the sending agency.

88.1 (e) This subdivision also applies to county contracts under subdivision 2 which include  
 88.2 emergency care and treatment provided to a county resident in a bordering state.

88.3 (f) If a Minnesota resident is admitted to a facility in a bordering state under this chapter,  
 88.4 ~~a physician, a licensed psychologist who has a doctoral degree in psychology, or an advanced~~  
 88.5 ~~practice registered nurse certified in mental health,~~ an individual who is licensed in the  
 88.6 bordering state, may act as a court examiner under sections 253B.07, 253B.08, 253B.092,  
 88.7 253B.12, and 253B.17 subject to the same requirements and limitations in section 253B.02,  
 88.8 subdivision ~~7~~ 4d. An examiner under section 253B.02, subdivision 7, may initiate an  
 88.9 emergency hold under section 253B.051 on a Minnesota resident who is in a hospital that  
 88.10 is under contract with a Minnesota governmental entity under this section provided the  
 88.11 resident, in the opinion of the examiner, meets the criteria in section 253B.051.

88.12 (g) This section shall apply to detoxification services that are unrelated to treatment  
 88.13 whether the services are provided on a voluntary or involuntary basis.

88.14 Sec. 4. Minnesota Statutes 2022, section 245A.19, is amended to read:

88.15 **245A.19 HIV TRAINING IN SUBSTANCE USE DISORDER TREATMENT**  
 88.16 **PROGRAM.**

88.17 (a) Applicants and license holders for substance use disorder residential and nonresidential  
 88.18 programs must demonstrate compliance with HIV minimum standards ~~prior to~~ before their  
 88.19 application ~~being~~ is complete. The HIV minimum standards contained in the HIV-1  
 88.20 Guidelines for substance use disorder treatment and care programs in Minnesota are not  
 88.21 subject to rulemaking.

88.22 (b) ~~Ninety days after April 29, 1992,~~ The applicant or license holder shall orient all  
 88.23 substance use disorder treatment staff and clients to the HIV minimum standards. Thereafter,  
 88.24 orientation shall be provided to all staff and clients, within 72 hours of employment or  
 88.25 admission to the program. In-service training shall be provided to all staff on at least an  
 88.26 annual basis and the license holder shall maintain records of training and attendance.

88.27 (c) The license holder shall maintain a list of referral sources for the purpose of making  
 88.28 necessary referrals of clients to HIV-related services. The list of referral services shall be  
 88.29 updated at least annually.

88.30 (d) Written policies and procedures, consistent with HIV minimum standards, shall be  
 88.31 developed and followed by the license holder. All policies and procedures concerning HIV  
 88.32 minimum standards shall be approved by the commissioner. The commissioner ~~shall provide~~



89.1 ~~training on HIV minimum standards to applicants~~ must outline the content required in the  
 89.2 annual staff training under paragraph (b).

89.3 (e) The commissioner may permit variances from the requirements in this section. License  
 89.4 holders seeking variances must follow the procedures in section 245A.04, subdivision 9.

89.5 Sec. 5. Minnesota Statutes 2022, section 245F.04, subdivision 1, is amended to read:

89.6 Subdivision 1. **General application and license requirements.** An applicant for licensure  
 89.7 as a clinically managed withdrawal management program or medically monitored withdrawal  
 89.8 management program must meet the following requirements, except where otherwise noted.  
 89.9 All programs must comply with federal requirements and the general requirements in sections  
 89.10 626.557 and 626.5572 and chapters 245A, 245C, and 260E. A withdrawal management  
 89.11 program must be located in a hospital licensed under sections 144.50 to 144.581, or must  
 89.12 be a supervised living facility with a class A or B license from the Department of Health  
 89.13 under Minnesota Rules, parts 4665.0100 to 4665.9900.

89.14 Sec. 6. Minnesota Statutes 2022, section 245G.06, subdivision 2b, is amended to read:

89.15 Subd. 2b. **Client record documentation requirements.** (a) The license holder must  
 89.16 document in the client record any significant event that occurs at the program ~~on the day~~  
 89.17 within 24 hours of the event ~~occurs~~. A significant event is an event that impacts the client's  
 89.18 relationship with other clients, staff, or the client's family, or the client's treatment plan.

89.19 (b) A residential treatment program must document in the client record the following  
 89.20 items on the day that each occurs:

89.21 (1) medical and other appointments the client attended;

89.22 (2) concerns related to medications that are not documented in the medication  
 89.23 administration record; and

89.24 (3) concerns related to attendance for treatment services, including the reason for any  
 89.25 client absence from a treatment service.

89.26 (c) Each entry in a client's record must be accurate, legible, signed, dated, and include  
 89.27 the job title or position of the staff person that made the entry. A late entry must be clearly  
 89.28 labeled "late entry." A correction to an entry must be made in a way in which the original  
 89.29 entry can still be read.

90.1 Sec. 7. Minnesota Statutes 2022, section 245G.22, subdivision 15, is amended to read:

90.2 Subd. 15. **Nonmedication treatment services; documentation.** (a) The program must  
90.3 offer at least 50 consecutive minutes of individual or group therapy treatment services as  
90.4 defined in section 245G.07, subdivision 1, paragraph (a), clause (1), per week, for the first  
90.5 ten weeks following the day of service initiation, and at least 50 consecutive minutes per  
90.6 month thereafter. As clinically appropriate, the program may offer these services cumulatively  
90.7 and not consecutively in increments of no less than 15 minutes over the required time period,  
90.8 and for a total of 60 minutes of treatment services over the time period, and must document  
90.9 the reason for providing services cumulatively in the client's record. The program may offer  
90.10 additional levels of service when deemed clinically necessary.

90.11 (b) Notwithstanding the requirements of comprehensive assessments in section 245G.05,  
90.12 the assessment must be completed within 21 days from the day of service initiation.

90.13 (c) Notwithstanding the requirements of individual treatment plans set forth in section  
90.14 245G.06:

90.15 (1) treatment plan contents for a maintenance client are not required to include goals  
90.16 the client must reach to complete treatment and have services terminated;

90.17 (2) treatment plans for a client in a taper or detox status must include goals the client  
90.18 must reach to complete treatment and have services terminated; and

90.19 (3) for the ten weeks following the day of service initiation for all new admissions,  
90.20 readmissions, and transfers, a weekly treatment plan review must be documented once the  
90.21 treatment plan is completed. Subsequently, the counselor must document treatment plan  
90.22 reviews in the six dimensions at least once ~~monthly~~ every three months or, when clinical  
90.23 need warrants, more frequently.

90.24 Sec. 8. Minnesota Statutes 2022, section 245G.22, subdivision 17, is amended to read:

90.25 Subd. 17. **Policies and procedures.** (a) A license holder must develop and maintain the  
90.26 policies and procedures required in this subdivision.

90.27 (b) For a program that is not open every day of the year, the license holder must maintain  
90.28 a policy and procedure that covers requirements under section 245G.22, subdivisions 6 and  
90.29 7. Unsupervised use of medication used for the treatment of opioid use disorder for days  
90.30 that the program is closed for business, including but not limited to Sundays and state and  
90.31 federal holidays, must meet the requirements under section 245G.22, subdivisions 6 and 7.

91.1 (c) The license holder must maintain a policy and procedure that includes specific  
91.2 measures to reduce the possibility of diversion. The policy and procedure must:

91.3 (1) specifically identify and define the responsibilities of the medical and administrative  
91.4 staff for performing diversion control measures; and

91.5 (2) include a process for contacting no less than five percent of clients who have  
91.6 unsupervised use of medication, excluding clients approved solely under subdivision 6,  
91.7 paragraph (a), to require clients to physically return to the program each month. The system  
91.8 must require clients to return to the program within a stipulated time frame and turn in all  
91.9 unused medication containers related to opioid use disorder treatment. The license holder  
91.10 must document all related contacts on a central log and the outcome of the contact for each  
91.11 client in the client's record. The medical director must be informed of each outcome that  
91.12 results in a situation in which a possible diversion issue was identified.

91.13 (d) Medication used for the treatment of opioid use disorder must be ordered,  
91.14 administered, and dispensed according to applicable state and federal regulations and the  
91.15 standards set by applicable accreditation entities. If a medication order requires assessment  
91.16 by the person administering or dispensing the medication to determine the amount to be  
91.17 administered or dispensed, the assessment must be completed by an individual whose  
91.18 professional scope of practice permits an assessment. For the purposes of enforcement of  
91.19 this paragraph, the commissioner has the authority to monitor the person administering or  
91.20 dispensing the medication for compliance with state and federal regulations and the relevant  
91.21 standards of the license holder's accreditation agency and may issue licensing actions  
91.22 according to sections 245A.05, 245A.06, and 245A.07, based on the commissioner's  
91.23 determination of noncompliance.

91.24 (e) A counselor in an opioid treatment program must supervise clients at a level sufficient  
91.25 to ensure that patients have reasonable and prompt access to the counselor and receive  
91.26 counseling services at the required frequency and intensity but must not supervise more  
91.27 than ~~50~~ 75 clients.

91.28 Sec. 9. Minnesota Statutes 2022, section 253B.10, subdivision 1, is amended to read:

91.29 Subdivision 1. **Administrative requirements.** (a) When a person is committed, the  
91.30 court shall issue a warrant or an order committing the patient to the custody of the head of  
91.31 the treatment facility, state-operated treatment program, or community-based treatment  
91.32 program. The warrant or order shall state that the patient meets the statutory criteria for  
91.33 civil commitment.

92.1 (b) The commissioner shall prioritize patients being admitted from jail or a correctional  
92.2 institution who are:

92.3 (1) ordered confined in a state-operated treatment program for an examination under  
92.4 Minnesota Rules of Criminal Procedure, rules 20.01, subdivision 4, paragraph (a), and  
92.5 20.02, subdivision 2;

92.6 (2) under civil commitment for competency treatment and continuing supervision under  
92.7 Minnesota Rules of Criminal Procedure, rule 20.01, subdivision 7;

92.8 (3) found not guilty by reason of mental illness under Minnesota Rules of Criminal  
92.9 Procedure, rule 20.02, subdivision 8, and under civil commitment or are ordered to be  
92.10 detained in a state-operated treatment program pending completion of the civil commitment  
92.11 proceedings; or

92.12 (4) committed under this chapter to the commissioner after dismissal of the patient's  
92.13 criminal charges.

92.14 Patients described in this paragraph must be admitted to a state-operated treatment program  
92.15 within 48 hours of the filing of the warrant or order for commitment. The commitment must  
92.16 be ordered by the court as provided in section 253B.09, subdivision 1, paragraph (d).

92.17 (c) Upon the arrival of a patient at the designated treatment facility, state-operated  
92.18 treatment program, or community-based treatment program, the head of the facility or  
92.19 program shall retain the duplicate of the warrant and endorse receipt upon the original  
92.20 warrant or acknowledge receipt of the order. The endorsed receipt or acknowledgment must  
92.21 be filed in the court of commitment. After arrival, the patient shall be under the control and  
92.22 custody of the head of the facility or program.

92.23 (d) Copies of the petition for commitment, the court's findings of fact and conclusions  
92.24 of law, the court order committing the patient, the report of the court examiners, and the  
92.25 prepetition report, and any medical and behavioral information available shall be provided  
92.26 at the time of admission of a patient to the designated treatment facility or program to which  
92.27 the patient is committed. Upon a patient's referral to the commissioner of human services  
92.28 for admission pursuant to subdivision 1, paragraph (b), any inpatient hospital, treatment  
92.29 facility, jail, or correctional facility that has provided care or supervision to the patient in  
92.30 the previous two years shall, when requested by the treatment facility or commissioner,  
92.31 provide copies of the patient's medical and behavioral records to the Department of Human  
92.32 Services for purposes of preadmission planning. This information shall be provided by the  
92.33 head of the treatment facility to treatment facility staff in a consistent and timely manner  
92.34 and pursuant to all applicable laws.

93.1 Sec. 10. **[325F.725] SOBER HOME TITLE PROTECTION.**

93.2 No person or entity may use the phrase "sober home," whether alone or in combination  
 93.3 with other words and whether orally or in writing, to advertise, market, or otherwise describe,  
 93.4 offer, or promote itself, or any housing, service, service package, or program that it provides  
 93.5 within this state, unless the person or entity is a cooperative living residence, a room and  
 93.6 board residence, an apartment, or any other living accommodation that provides temporary  
 93.7 housing to persons with a substance use disorder, does not provide counseling or treatment  
 93.8 services to residents, promotes sustained recovery from substance use disorders, and follows  
 93.9 the sober living guidelines published by the federal Substance Abuse and Mental Health  
 93.10 Services Administration.

93.11 Sec. 11. Laws 2021, First Special Session chapter 7, article 17, section 20, is amended to  
 93.12 read:

93.13 Sec. 20. **HCBS WORKFORCE DEVELOPMENT GRANT.**

93.14 Subdivision 1. Appropriation. (a) This act includes \$0 in fiscal year 2022 and \$5,588,000  
 93.15 in fiscal year 2023 to address challenges related to attracting and maintaining direct care  
 93.16 workers who provide home and community-based services for people with disabilities and  
 93.17 older adults. The general fund base included in this act for this purpose is \$5,588,000 in  
 93.18 fiscal year 2024 and \$0 in fiscal year 2025.

93.19 (b) At least 90 percent of funding for this provision must be directed to workers who  
 93.20 earn ~~200~~ 300 percent or less of the most current federal poverty level issued by the United  
 93.21 States Department of Health and Human Services.

93.22 (c) The commissioner must consult with stakeholders to finalize a report detailing the  
 93.23 final plan for use of the funds. The commissioner must publish the report by March 1, 2022,  
 93.24 and notify the chairs and ranking minority members of the legislative committees with  
 93.25 jurisdiction over health and human services policy and finance.

93.26 Subd. 2. Public assistance eligibility. Notwithstanding any law to the contrary, workforce  
 93.27 development grant money received under this section is not income, assets, or personal  
 93.28 property for purposes of determining eligibility or recertifying eligibility for:

93.29 (1) child care assistance programs under Minnesota Statutes, chapter 119B;

93.30 (2) general assistance, Minnesota supplemental aid, and food support under Minnesota  
 93.31 Statutes, chapter 256D;

93.32 (3) housing support under Minnesota Statutes, chapter 256I;

94.1 (4) Minnesota family investment program and diversionary work program under  
94.2 Minnesota Statutes, chapter 256J; and

94.3 (5) economic assistance programs under Minnesota Statutes, chapter 256P.

94.4 Subd. 3. **Medical assistance eligibility.** Notwithstanding any law to the contrary,  
94.5 workforce development grant money received under this section is not income or assets for  
94.6 the purposes of determining eligibility for medical assistance under Minnesota Statutes,  
94.7 section 256B.056, subdivision 1a, paragraph (a); 3; or 3c; or 256B.057, subdivision 3, 3a,  
94.8 or 3b.

### **169A.70 ALCOHOL SAFETY PROGRAMS; CHEMICAL USE ASSESSMENTS.**

Subd. 6. **Method of assessment.** (a) As used in this subdivision, "collateral contact" means an oral or written communication initiated by an assessor for the purpose of gathering information from an individual or agency, other than the offender, to verify or supplement information provided by the offender during an assessment under this section. The term includes contacts with family members and criminal justice agencies.

(b) An assessment conducted under this section must include at least one personal interview with the offender designed to make a determination about the extent of the offender's past and present chemical and alcohol use or abuse. It must also include collateral contacts and a review of relevant records or reports regarding the offender including, but not limited to, police reports, arrest reports, driving records, chemical testing records, and test refusal records. If the offender has a probation officer, the officer must be the subject of a collateral contact under this subdivision. If an assessor is unable to make collateral contacts, the assessor shall specify why collateral contacts were not made.

### **245G.22 OPIOID TREATMENT PROGRAMS.**

Subd. 19. **Placing authorities.** A program must provide certain notification and client-specific updates to placing authorities for a client who is enrolled in Minnesota health care programs. At the request of the placing authority, the program must provide client-specific updates, including but not limited to informing the placing authority of positive drug testings and changes in medications used for the treatment of opioid use disorder ordered for the client.

### **254A.02 DEFINITIONS.**

Subd. 8a. **Placing authority.** "Placing authority" means a county, prepaid health plan, or tribal governing board governed by Minnesota Rules, parts 9530.6600 to 9530.6655.

### **254A.16 RESPONSIBILITIES OF THE COMMISSIONER.**

Subd. 6. **Monitoring.** The commissioner shall gather and placing authorities shall provide information to measure compliance with Minnesota Rules, parts 9530.6600 to 9530.6655. The commissioner shall specify the format for data collection to facilitate tracking, aggregating, and using the information.

### **254A.19 CHEMICAL USE ASSESSMENTS.**

Subd. 1a. **Emergency room patients.** A county may enter into a contract with a hospital to provide chemical use assessments under Minnesota Rules, parts 9530.6600 to 9530.6655, for patients admitted to an emergency room or inpatient hospital when:

- (1) an assessor is not available; and
- (2) detoxification services in the county are at full capacity.

Subd. 2. **Probation officer as contact.** When a chemical use assessment is required under Minnesota Rules, parts 9530.6600 to 9530.6655, for a person who is on probation or under other correctional supervision, the assessor, either orally or in writing, shall contact the person's probation officer to verify or supplement the information provided by the person.

Subd. 5. **Assessment via telehealth.** Notwithstanding Minnesota Rules, part 9530.6615, subpart 3, item A, a chemical use assessment may be conducted via telehealth as defined in section 256B.0625, subdivision 3b.

### **254B.04 ELIGIBILITY FOR BEHAVIORAL HEALTH FUND SERVICES.**

Subd. 2b. **Eligibility for placement in opioid treatment programs.** Prior to placement of an individual who is determined by the assessor to require treatment for opioid addiction, the assessor must provide educational information concerning treatment options for opioid addiction, including the use of a medication for the use of opioid addiction. The commissioner shall develop educational materials supported by research and updated periodically that must be used by assessors to comply with this requirement.

Subd. 2c. **Eligibility to receive peer recovery support and treatment service coordination.** Notwithstanding Minnesota Rules, part 9530.6620, subpart 6, a placing authority may authorize peer recovery support and treatment service coordination for a person who scores a severity of one or more in dimension 4, 5, or 6, under Minnesota Rules, part 9530.6622. Authorization for peer recovery support and treatment service coordination under this subdivision does not need

to be provided in conjunction with treatment services under Minnesota Rules, part 9530.6622, subpart 4, 5, or 6.

**254B.041 SUBSTANCE USE DISORDER RULES.**

Subd. 2. **Vendor collections; rule amendment.** The commissioner may amend Minnesota Rules, parts 9530.7000 to 9530.7025, to require a vendor of substance use disorder transitional and extended care rehabilitation services to collect the cost of care received under a program from an eligible person who has been determined to be partially responsible for treatment costs, and to remit the collections to the commissioner. The commissioner shall pay to a vendor, for the collections, an amount equal to five percent of the collections remitted to the commissioner by the vendor.

**254B.13 PILOT PROJECTS; CHEMICAL HEALTH CARE.**

Subdivision 1. **Authorization for navigator pilot projects.** The commissioner may approve and implement navigator pilot projects developed under the planning process required under Laws 2009, chapter 79, article 7, section 26, to provide alternatives to and enhance coordination of the delivery of chemical health services required under section 254B.03.

Subd. 2. **Program design and implementation.** (a) The commissioner and counties participating in the navigator pilot projects shall continue to work in partnership to refine and implement the navigator pilot projects initiated under Laws 2009, chapter 79, article 7, section 26.

(b) The commissioner and counties participating in the navigator pilot projects shall complete the planning phase and, if approved by the commissioner for implementation, enter into agreements governing the operation of the navigator pilot projects.

Subd. 2a. **Eligibility for navigator pilot program.** (a) To be considered for participation in a navigator pilot program, an individual must:

(1) be a resident of a county with an approved navigator program;

(2) be eligible for behavioral health fund services;

(3) be a voluntary participant in the navigator program;

(4) satisfy one of the following items:

(i) have at least one severity rating of three or above in dimension four, five, or six in a comprehensive assessment under section 245G.05, subdivision 2, paragraph (c), clauses (4) to (6); or

(ii) have at least one severity rating of two or above in dimension four, five, or six in a comprehensive assessment under section 245G.05, subdivision 2, paragraph (c), clauses (4) to (6), and be currently participating in a Rule 31 treatment program under chapter 245G or be within 60 days following discharge after participation in a Rule 31 treatment program; and

(5) have had at least two treatment episodes in the past two years, not limited to episodes reimbursed by the behavioral health fund. An admission to an emergency room, a detoxification program, or a hospital may be substituted for one treatment episode if it resulted from the individual's substance use disorder.

(b) New eligibility criteria may be added as mutually agreed upon by the commissioner and participating navigator programs.

Subd. 4. **Notice of navigator pilot project discontinuation.** Each county's participation in the navigator pilot project may be discontinued for any reason by the county or the commissioner of human services after 30 days' written notice to the other party.

Subd. 5. **Duties of commissioner.** (a) Notwithstanding any other provisions in this chapter, the commissioner may authorize navigator pilot projects to use the behavioral health fund to pay for nontreatment navigator pilot services:

(1) in addition to those authorized under section 254B.03, subdivision 2, paragraph (a); and

(2) by vendors in addition to those authorized under section 254B.05 when not providing substance use disorder treatment services.

(b) For purposes of this section, "nontreatment navigator pilot services" include navigator services, peer support, family engagement and support, housing support, rent subsidies, supported employment, and independent living skills.



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(c) State expenditures for substance use disorder services and nontreatment navigator pilot services provided by or through the navigator pilot projects must not be greater than the behavioral health fund expected share of forecasted expenditures in the absence of the navigator pilot projects. The commissioner may restructure the schedule of payments between the state and participating counties under the local agency share and division of cost provisions under section 254B.03, subdivisions 3 and 4, as necessary to facilitate the operation of the navigator pilot projects.

(d) The commissioner may waive administrative rule requirements that are incompatible with the implementation of the navigator pilot project, except that any substance use disorder treatment funded under this section must continue to be provided by a licensed treatment provider.

(e) The commissioner shall not approve or enter into any agreement related to navigator pilot projects authorized under this section that puts current or future federal funding at risk.

(f) The commissioner shall provide participating navigator pilot projects with transactional data, reports, provider data, and other data generated by county activity to assess and measure outcomes. This information must be transmitted or made available in an acceptable form to participating navigator pilot projects at least once every six months or within a reasonable time following the commissioner's receipt of information from the counties needed to comply with this paragraph.

**Subd. 6. Duties of county board.** The county board, or other county entity that is approved to administer a navigator pilot project, shall:

(1) administer the navigator pilot project in a manner consistent with the objectives described in subdivision 2 and the planning process in subdivision 5;

(2) ensure that no one is denied substance use disorder treatment services for which they would otherwise be eligible under section 254A.03, subdivision 3; and

(3) provide the commissioner with timely and pertinent information as negotiated in agreements governing operation of the navigator pilot projects.

**Subd. 7. Managed care.** An individual who is eligible for the navigator pilot program under subdivision 2a is excluded from mandatory enrollment in managed care until these services are included in the health plan's benefit set.

**Subd. 8. Authorization for continuation of navigator pilots.** The navigator pilot projects implemented pursuant to subdivision 1 are authorized to continue operation after July 1, 2013, under existing agreements governing operation of the pilot projects.

**254B.16 PILOT PROJECTS; TREATMENT FOR PREGNANT AND POSTPARTUM WOMEN WITH SUBSTANCE USE DISORDER.**

**Subdivision 1. Pilot projects established.** (a) Within the limits of federal funds available specifically for this purpose, the commissioner of human services shall establish pilot projects to provide substance use disorder treatment and services to pregnant and postpartum women with a primary diagnosis of substance use disorder, including opioid use disorder. Pilot projects funded under this section must:

(1) promote flexible uses of funds to provide treatment and services to pregnant and postpartum women with substance use disorders;

(2) fund family-based treatment and services for pregnant and postpartum women with substance use disorders;

(3) identify gaps in services along the continuum of care that are provided to pregnant and postpartum women with substance use disorders; and

(4) encourage new approaches to service delivery and service delivery models.

(b) A pilot project funded under this section must provide at least a portion of its treatment and services to women who receive services on an outpatient basis.

**Subd. 2. Federal funds.** The commissioner shall apply for any available grant funds from the federal Center for Substance Abuse Treatment for these pilot projects.

**256.041 CULTURAL AND ETHNIC COMMUNITIES LEADERSHIP COUNCIL.**

**Subd. 10. Expiration.** The council expires on June 30, 2025.

**256B.49 HOME AND COMMUNITY-BASED SERVICE WAIVERS FOR PERSONS WITH DISABILITIES.**

Subd. 23. **Community-living settings.** (a) For the purposes of this chapter, "community-living settings" means a single-family home or multifamily dwelling unit where a service recipient or a service recipient's family owns or rents, and maintains control over the individual unit as demonstrated by a lease agreement. Community-living settings does not include a home or dwelling unit that the service provider owns, operates, or leases or in which the service provider has a direct or indirect financial interest.

(b) To ensure a service recipient or the service recipient's family maintains control over the home or dwelling unit, community-living settings are subject to the following requirements:

- (1) service recipients must not be required to receive services or share services;
- (2) service recipients must not be required to have a disability or specific diagnosis to live in the community-living setting;
- (3) service recipients may hire service providers of their choice;
- (4) service recipients may choose whether to share their household and with whom;
- (5) the home or multifamily dwelling unit must include living, sleeping, bathing, and cooking areas;
- (6) service recipients must have lockable access and egress;
- (7) service recipients must be free to receive visitors and leave the settings at times and for durations of their own choosing;
- (8) leases must comply with chapter 504B;
- (9) landlords must not charge different rents to tenants who are receiving home and community-based services; and
- (10) access to the greater community must be easily facilitated based on the service recipient's needs and preferences.

(c) Nothing in this section prohibits a service recipient from having another person or entity not affiliated with the service provider cosign a lease. Nothing in this section prohibits a service recipient, during any period in which a service provider has cosigned the service recipient's lease, from modifying services with an existing cosigning service provider and, subject to the approval of the landlord, maintaining a lease cosigned by the service provider. Nothing in this section prohibits a service recipient, during any period in which a service provider has cosigned the service recipient's lease, from terminating services with the cosigning service provider, receiving services from a new service provider, and, subject to the approval of the landlord, maintaining a lease cosigned by the new service provider.

(d) A lease cosigned by a service provider meets the requirements of paragraph (a) if the service recipient and service provider develop and implement a transition plan which must provide that, within two years of cosigning the initial lease, the service provider shall transfer the lease to the service recipient and other cosigners, if any.

(e) In the event the landlord has not approved the transfer of the lease within two years of the service provider cosigning the initial lease, the service provider must submit a time-limited extension request to the commissioner of human services to continue the cosigned lease arrangement. The extension request must include:

- (1) the reason the landlord denied the transfer;
- (2) the plan to overcome the denial to transfer the lease;
- (3) the length of time needed to successfully transfer the lease, not to exceed an additional two years;
- (4) a description of how the transition plan was followed, what occurred that led to the landlord denying the transfer, and what changes in circumstances or condition, if any, the service recipient experienced; and
- (5) a revised transition plan to transfer the cosigned lease between the service provider and the service recipient to the service recipient.

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The commissioner must approve an extension within sufficient time to ensure the continued occupancy by the service recipient.

**260.835 AMERICAN INDIAN CHILD WELFARE ADVISORY COUNCIL.**

Subd. 2. **Expiration.** The American Indian Child Welfare Advisory Council expires June 30, 2023.

**9530.7000 DEFINITIONS.**

Subpart 1. **Scope.** For the purposes of parts 9530.7000 to 9530.7030, the following terms have the meanings given them.

Subp. 2. **Chemical.** "Chemical" means alcohol, solvents, and other mood altering substances, including controlled substances as defined in Minnesota Statutes, chapter 152.

Subp. 5. **Chemical dependency treatment services.** "Chemical dependency treatment services" means services provided by chemical dependency treatment programs licensed according to Minnesota Statutes, chapter 245G, or certified according to parts 2960.0450 to 2960.0490.

Subp. 6. **Client.** "Client" means an individual who has requested chemical abuse or dependency services, or for whom chemical abuse or dependency services have been requested, from a local agency.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

Subp. 8. **Behavioral health fund.** "Behavioral health fund" means money appropriated for payment of chemical dependency treatment services under Minnesota Statutes, chapter 254B.

Subp. 9. **Copayment.** "Copayment" means the amount an insured person is obligated to pay before the person's third-party payment source is obligated to make a payment, or the amount an insured person is obligated to pay in addition to the amount the person's third-party payment source is obligated to pay.

Subp. 10. **Drug and Alcohol Abuse Normative Evaluation System or DAANES.** "Drug and Alcohol Abuse Normative Evaluation System" or "DAANES" means the client information system operated by the department's Chemical Dependency Program Division.

Subp. 11. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 13. **Income.** "Income" means the total amount of cash received by an individual from the following sources:

- A. cash payments for wages or salaries;
- B. cash receipts from nonfarm or farm self-employment, minus deductions allowed by the federal Internal Revenue Service for business or farm expenses;
- C. regular cash payments from social security, railroad retirement, unemployment compensation, workers' union funds, veterans' benefits, the Minnesota family investment program, Supplemental Security Income, General Assistance, training stipends, alimony, child support, and military family allotments;
- D. cash payments from private pensions, government employee pensions, and regular insurance or annuity payments;
- E. cash payments for dividends, interest, rents, or royalties; and
- F. periodic cash receipts from estates or trusts.

Income does not include capital gains; any cash assets drawn down as withdrawals from a bank, the sale of property, a house, or a car; tax refunds, gifts, lump sum inheritances, one time insurance payments, or compensation for injury; court-ordered child support or health insurance premium payments made by the client or responsible relative; and noncash benefits such as health insurance, food or rent received in lieu of wages, and noncash benefits from programs such as Medicare, Medical Assistance, the Supplemental Nutrition Assistance Program, school lunches, and housing assistance. Annual income is the amount reported and verified by an individual as current income calculated prospectively to cover one year.

Subp. 14. **Local agency.** "Local agency" means the county or multicounty agency authorized under Minnesota Statutes, sections 254B.01, subdivision 5, and 254B.03, subdivision 1, to make placements under the behavioral health fund.

Subp. 15. **Minor child.** "Minor child" means an individual under the age of 18 years.

Subp. 17a. **Policyholder.** "Policyholder" means a person who has a third-party payment policy under which a third-party payment source has an obligation to pay all or part of a client's treatment costs.

Subp. 19. **Responsible relative.** "Responsible relative" means a person who is a member of the client's household and is a client's spouse or the parent of a minor child who is a client.

Subp. 20. **Third-party payment source.** "Third-party payment source" means a person, entity, or public or private agency other than medical assistance or general assistance medical care that has a probable obligation to pay all or part of the costs of a client's chemical dependency treatment.

Subp. 21. **Vendor.** "Vendor" means a licensed provider of chemical dependency treatment services that meets the criteria established in Minnesota Statutes, section 254B.05, and that has applied according to part 9505.0195 to participate as a provider in the medical assistance program.

#### **9530.7005 SCOPE AND APPLICABILITY.**

Parts 9530.7000 to 9530.7030 govern the administration of the behavioral health fund, establish the criteria to be applied by local agencies to determine a client's eligibility under the behavioral health fund, and establish a client's obligation to pay for chemical dependency treatment services.

These parts must be read in conjunction with Minnesota Statutes, chapter 254B, and parts 9530.6600 to 9530.6655.

#### **9530.7010 COUNTY RESPONSIBILITY TO PROVIDE SERVICES.**

The local agency shall provide chemical dependency treatment services to eligible clients who have been assessed and placed by the county according to parts 9530.6600 to 9530.6655 and Minnesota Statutes, chapter 256G.

#### **9530.7012 VENDOR AGREEMENTS.**

When a local agency enters into an agreement with a vendor of chemical dependency treatment services, the agreement must distinguish client per unit room and board costs from per unit chemical dependency treatment services costs.

For purposes of this part, "chemical dependency treatment services costs" are costs, including related administrative costs, of services that meet the criteria in items A to C:

A. The services are provided within a program licensed according to Minnesota Statutes, chapter 245G, or certified according to parts 2960.0430 to 2960.0490.

B. The services meet the definition of chemical dependency services in Minnesota Statutes, section 254B.01, subdivision 3.

C. The services meet the applicable service standards for licensed chemical dependency treatment programs in item A, but are not under the jurisdiction of the commissioner.

This part also applies to vendors of room and board services that are provided concurrently with chemical dependency treatment services according to Minnesota Statutes, sections 254B.03, subdivision 2, and 254B.05, subdivision 1.

This part does not apply when a county contracts for chemical dependency services in an acute care inpatient hospital licensed by the Department of Health under chapter 4640.

**9530.7015 CLIENT ELIGIBILITY; BEHAVIORAL HEALTH FUND.**

Subpart 1. **Client eligibility to have treatment totally paid under the behavioral health fund.** A client who meets the criteria established in item A, B, C, or D shall be eligible to have chemical dependency treatment paid for totally with funds from the behavioral health fund.

A. The client is eligible for MFIP as determined under Minnesota Statutes, chapter 256J.

B. The client is eligible for medical assistance as determined under parts 9505.0010 to 9505.0140.

C. The client is eligible for general assistance, general assistance medical care, or work readiness as determined under parts 9500.1200 to 9500.1272.

D. The client's income is within current household size and income guidelines for entitled persons, as defined in Minnesota Statutes, section 254B.04, subdivision 1, and as determined by the local agency under part 9530.7020, subpart 1.

Subp. 2a. **Third-party payment source and client eligibility for the behavioral health fund.** Clients who meet the financial eligibility requirement in subpart 1 and who have a third-party payment source are eligible for the behavioral health fund if the third party payment source pays less than 100 percent of the treatment services determined according to parts 9530.6600 to 9530.6655.

Subp. 4. **Client ineligible to have treatment paid for from the behavioral health fund.** A client who meets the criteria in item A or B shall be ineligible to have chemical dependency treatment services paid for with behavioral health funds.

A. The client has an income that exceeds current household size and income guidelines for entitled persons as defined in Minnesota Statutes, section 254B.04, subdivision 1, and as determined by the local agency under part 9530.7020, subpart 1.

B. The client has an available third-party payment source that will pay the total cost of the client's treatment.

Subp. 5. **Eligibility of clients disenrolled from prepaid health plans.** A client who is disenrolled from a state prepaid health plan during a treatment episode is eligible for continued treatment service that is paid for by the behavioral health fund, until the treatment episode is completed or the client is re-enrolled in a state prepaid health plan if the client meets the criteria in item A or B. The client must:

A. continue to be enrolled in MinnesotaCare, medical assistance, or general assistance medical care; or

B. be eligible according to subparts 1 and 2a and be determined eligible by a local agency under part 9530.7020.

Subp. 6. **County responsibility.** When a county commits a client under Minnesota Statutes, chapter 253B, to a regional treatment center for chemical dependency treatment services and the client is ineligible for the behavioral health fund, the county is responsible for the payment to the regional treatment center according to Minnesota Statutes, section 254B.05, subdivision 4.

**9530.7020 LOCAL AGENCY TO DETERMINE CLIENT ELIGIBILITY.**

Subpart 1. **Local agency duty to determine client eligibility.** The local agency shall determine a client's eligibility for the behavioral health fund at the time the client is assessed under parts 9530.6600 to 9530.6655. Client eligibility must be determined using forms

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prescribed by the department. To determine a client's eligibility, the local agency must determine the client's income, the size of the client's household, the availability of a third-party payment source, and a responsible relative's ability to pay for the client's chemical dependency treatment, as specified in items A to C.

A. The local agency must determine the client's income. A client who is a minor child shall not be deemed to have income available to pay for chemical dependency treatment, unless the minor child is responsible for payment under Minnesota Statutes, section 144.347, for chemical dependency treatment services sought under Minnesota Statutes, section 144.343, subdivision 1.

B. The local agency must determine the client's household size according to subitems (1), (2), and (3).

(1) If the client is a minor child, the household size includes the following persons living in the same dwelling unit:

- (a) the client;
- (b) the client's birth or adoptive parents; and
- (c) the client's siblings who are minors.

(2) If the client is an adult, the household size includes the following persons living in the same dwelling unit:

- (a) the client;
- (b) the client's spouse;
- (c) the client's minor children; and
- (d) the client's spouse's minor children.

(3) For purposes of this item, household size includes a person listed in subitems (1) and (2) who is in out-of-home placement if a person listed in subitem (1) or (2) is contributing to the cost of care of the person in out-of-home placement.

C. The local agency must determine the client's current prepaid health plan enrollment, the availability of a third-party payment source, including the availability of total payment, partial payment, and amount of copayment.

D. The local agency must provide the required eligibility information to the department in the manner specified by the department.

E. The local agency shall require the client and policyholder to conditionally assign to the department the client and policyholder's rights and the rights of minor children to benefits or services provided to the client if the department is required to collect from a third-party pay source.

Subp. 1a. **Redetermination of client eligibility.** The local agency shall redetermine a client's eligibility for CCDTF every six months after the initial eligibility determination, if the client has continued to receive uninterrupted chemical dependency treatment services for that six months. For purposes of this subpart, placement of a client into more than one chemical dependency treatment program in less than ten working days, or placement of a client into a residential chemical dependency treatment program followed by nonresidential chemical dependency treatment services shall be treated as a single placement.

Subp. 2. **Client, responsible relative, and policyholder obligation to cooperate.** A client, responsible relative, and policyholder shall provide income or wage verification, household size verification, and shall make an assignment of third-party payment rights under subpart 1, item C. If a client, responsible relative, or policyholder does not comply with the provisions of this subpart, the client shall be deemed to be ineligible to have the behavioral health fund pay for his or her chemical dependency treatment, and the client and

responsible relative shall be obligated to pay for the full cost of chemical dependency treatment services provided to the client.

**9530.7021 PAYMENT AGREEMENTS.**

When the local agency, the client, and the vendor agree that the vendor will accept payment from a third-party payment source for an eligible client's treatment, the local agency, the client, and the vendor shall enter into a third-party payment agreement. The agreement must stipulate that the vendor will accept, as payment in full for services provided to the client, the amount the third-party payor is obligated to pay for services provided to the client. The agreement must be executed in a form prescribed by the commissioner and is not effective unless an authorized representative of each of the three parties has signed it. The local agency shall maintain a record of third-party payment agreements into which the local agency has entered.

The vendor shall notify the local agency as soon as possible and not less than one business day before discharging a client whose treatment is covered by a payment agreement under this part if the discharge is caused by disruption of the third-party payment.

**9530.7022 CLIENT FEES.**

Subpart 1. **Income and household size criteria.** A client whose household income is within current household size and income guidelines for entitled persons as defined in Minnesota Statutes, section 254B.04, subdivision 1, shall pay no fee.

**9530.7025 DENIAL OF PAYMENT.**

Subpart 1. **Denial of payment when required assessment not completed.** The department shall deny payments from the behavioral health fund to vendors for chemical dependency treatment services provided to clients who have not been assessed and placed by the county in accordance with parts 9530.6600 to 9530.6655.

Subp. 2. **Denial of state participation in behavioral health fund payments when client found not eligible.** The department shall pay vendors from the behavioral health fund for chemical dependency treatment services provided to clients and shall bill the county for 100 percent of the costs of chemical dependency treatment services as follows:

A. The department shall bill the county for 100 percent of the costs of a client's chemical dependency treatment services when the department determines that the client was not placed in accordance with parts 9530.6600 to 9530.6655.

B. When a county's allocation under Minnesota Statutes, section 254B.02, subdivisions 1 and 2, has been exhausted, and the county's maintenance of effort has been met as required under Minnesota Statutes, section 254B.02, subdivision 3, and the local agency has been notified by the department that the only clients who are eligible to have their treatment paid for from the behavioral health fund are clients who are eligible under part 9530.7015, subpart 1, the department shall bill the county for 100 percent of the costs of a client's chemical dependency treatment services when the department determines that the client was not eligible under part 9530.7015, subpart 1.

**9530.7030 VENDOR MUST PARTICIPATE IN DAANES SYSTEM.**

Subpart 1. **Participation a condition of eligibility.** To be eligible for payment under the behavioral health fund, a vendor must participate in the Drug and Alcohol Normative Evaluation System (DAANES) or submit to the commissioner the information required in DAANES in the format specified by the commissioner.