

..... moves to amend S.F. No. 3656, the second engrossment, the Article 29 State-operated Services; Chemical and Mental Health delete everything amendment (A18-0935), in conference committee, as follows:

Page 466, delete article 29 and insert:

## **"ARTICLE 29**

### **STATE-OPERATED SERVICES; CHEMICAL AND MENTAL HEALTH**

Section 1. Minnesota Statutes 2016, section 13.851, is amended by adding a subdivision to read:

Subd. 11. **Mental health screening.** The treatment of data collected by a sheriff or local corrections agency related to individuals who may have a mental illness is governed by section 641.15, subdivision 3a.

Sec. 2. Minnesota Statutes 2016, section 245A.04, subdivision 7, is amended to read:

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

(1) the name of the license holder;

(2) the address of the program;

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

(4) the type of license;

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

and

2.1 (6) any special conditions of licensure.

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

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

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

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

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

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

2.16 ~~(e)~~ (d) Except as provided in paragraphs ~~(g)~~ (f) and ~~(h)~~ (g), the commissioner shall not  
2.17 issue or reissue a license if the applicant, license holder, or controlling individual has:

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

2.20 (2) been denied a license within the past two years;

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

2.22 (4) an outstanding debt related to a license fee, licensing fine, or settlement agreement  
2.23 for which payment is delinquent; or

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

2.26 When a license issued under this chapter is revoked under clause (1) or (3), the license  
2.27 holder and controlling individual may not hold any license under chapter 245A or 245D for  
2.28 five years following the revocation, and other licenses held by the applicant, license holder,  
2.29 or controlling individual shall also be revoked.

2.30 ~~(f)~~ (e) The commissioner shall not issue or reissue a license under this chapter if an  
2.31 individual living in the household where the ~~licensed~~ services will be provided as specified

3.1 under section 245C.03, subdivision 1, has been disqualified and the disqualification has not  
3.2 been set aside and no variance has been granted.

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

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

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

3.26 ~~(j)~~ (i) Unless otherwise specified by statute, all licenses issued under this chapter expire  
3.27 at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must  
3.28 apply for and be granted a new license to operate the program or the program must not be  
3.29 operated after the expiration date.

3.30 ~~(k)~~ (j) The commissioner shall not issue or reissue a license under this chapter if it has  
3.31 been determined that a tribal licensing authority has established jurisdiction to license the  
3.32 program or service.

Sec. 3. Minnesota Statutes 2016, section 245A.04, is amended by adding a subdivision to read:

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

(b) At least 30 days before the effective date of a change, the license holder must notify the commissioner in writing of any change:

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

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

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

(4) in the federal or state tax identification number associated with the license holder.

(c) When a license holder notifies the commissioner of a change to the business structure governing the licensed program or services but is not selling the business, the license holder must provide amended articles of incorporation and other documentation of the change and any other information requested by the commissioner.

**EFFECTIVE DATE.** This section is effective August 1, 2018.

Sec. 4. **[245A.043] LICENSE APPLICATION AFTER CHANGE OF OWNERSHIP.**

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

Subd. 2. **Change of ownership.** If the commissioner determines that there will be a change of ownership, the commissioner shall require submission of a new license application. A change of ownership occurs when:

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

(2) the license holder merges with another organization;

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

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

5.1 (5) there is a turnover of each controlling individual associated with the license within  
5.2 a 12-month period. A change to the license holder's controlling individuals, including a  
5.3 change due to a transfer of stock, is not a change of ownership if at least one controlling  
5.4 individual who was listed on the license for at least 12 consecutive months continues to be  
5.5 a controlling individual after the reported change.

5.6 Subd. 3. **Change of ownership requirements.** (a) A license holder who intends to  
5.7 change the ownership of the program or service under subdivision 2 to a party that intends  
5.8 to assume operation without an interruption in service longer than 60 days after acquiring  
5.9 the program or service must provide the commissioner with written notice of the proposed  
5.10 sale or change, on a form provided by the commissioner, at least 60 days before the  
5.11 anticipated date of the change in ownership. For purposes of this subdivision and subdivision  
5.12 4, "party" means the party that intends to operate the service or program.

5.13 (b) The party must submit a license application under this chapter on a form and in the  
5.14 manner prescribed by the commissioner at least 30 days before the change of ownership is  
5.15 complete and must include documentation to support the upcoming change. The form and  
5.16 manner of the application prescribed by the commissioner shall require only information  
5.17 which is specifically required by statute or rule. The party must comply with background  
5.18 study requirements under chapter 245C and shall pay the application fee required in section  
5.19 245A.10. A party that intends to assume operation without an interruption in service longer  
5.20 than 60 days after acquiring the program or service is exempt from the requirements of  
5.21 Minnesota Rules, part 9530.6800.

5.22 (c) The commissioner may develop streamlined application procedures when the party  
5.23 is an existing license holder under this chapter and is acquiring a program licensed under  
5.24 this chapter or service in the same service class as one or more licensed programs or services  
5.25 the party operates and those licenses are in substantial compliance according to the licensing  
5.26 standards in this chapter and applicable rules. For purposes of this subdivision, "substantial  
5.27 compliance" means within the past 12 months the commissioner did not: (i) issue a sanction  
5.28 under section 245A.07 against a license held by the party or (ii) make a license held by the  
5.29 party conditional according to section 245A.06.

5.30 (d) Except when a temporary change of ownership license is issued pursuant to  
5.31 subdivision 4, the existing license holder is solely responsible for operating the program  
5.32 according to applicable rules and statutes until a license under this chapter is issued to the  
5.33 party.

6.1 (e) If a licensing inspection of the program or service was conducted within the previous  
6.2 12 months and the existing license holder's license record demonstrates substantial  
6.3 compliance with the applicable licensing requirements, the commissioner may waive the  
6.4 party's inspection required by section 245A.04, subdivision 4. The party must submit to the  
6.5 commissioner proof that the premises was inspected by a fire marshal or that the fire marshal  
6.6 deemed that an inspection was not warranted and proof that the premises was inspected for  
6.7 compliance with the building code or that no inspection was deemed warranted.

6.8 (f) If the party is seeking a license for a program or service that has an outstanding  
6.9 correction order, the party must submit a letter with the license application identifying how  
6.10 and within what length of time the party shall resolve the outstanding correction order and  
6.11 come into full compliance with the licensing requirements.

6.12 (g) Any action taken under section 245A.06 or 245A.07 against the existing license  
6.13 holder's license at the time the party is applying for a license, including when the existing  
6.14 license holder is operating under a conditional license or is subject to a revocation, shall  
6.15 remain in effect until the commissioner determines that the grounds for the action are  
6.16 corrected or no longer exist.

6.17 (h) The commissioner shall evaluate the application of the party according to section  
6.18 245A.04, subdivision 6. Pursuant to section 245A.04, subdivision 7, if the commissioner  
6.19 determines that the party complies with applicable laws and rules, the commissioner may  
6.20 issue a license or a temporary change of ownership license.

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

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

6.26 Subd. 4. **Temporary change of ownership license.** (a) After receiving the party's  
6.27 application and upon the written request of the existing license holder and the party, the  
6.28 commissioner may issue a temporary change of ownership license to the party while the  
6.29 commissioner evaluates the party's application. Until a decision is made to grant or deny a  
6.30 license under this chapter, the existing license holder and the party shall both be responsible  
6.31 for operating the program or service according to applicable laws and rules, and the sale or  
6.32 transfer of the license holder's ownership interest in the licensed program or service does  
6.33 not terminate the existing license.

(b) The commissioner may establish criteria to issue a temporary change of ownership license, if a license holder's death, divorce, or other event affects the ownership of the program, when an applicant seeks to assume operation of the program or service to ensure continuity of the program or service while a license application is evaluated. This subdivision applies to any program or service licensed under this chapter.

**EFFECTIVE DATE.** This section is effective August 1, 2018.

Sec. 5. Minnesota Statutes 2016, section 245C.22, subdivision 4, is amended to read:

Subd. 4. **Risk of harm; set aside.** (a) The commissioner may set aside the disqualification if the commissioner finds that the individual has submitted sufficient information to demonstrate that the individual does not pose a risk of harm to any person served by the applicant, license holder, or other entities as provided in this chapter.

(b) In determining whether the individual has met the burden of proof by demonstrating the individual does not pose a risk of harm, the commissioner shall consider:

(1) the nature, severity, and consequences of the event or events that led to the disqualification;

(2) whether there is more than one disqualifying event;

(3) the age and vulnerability of the victim at the time of the event;

(4) the harm suffered by the victim;

(5) vulnerability of persons served by the program;

(6) the similarity between the victim and persons served by the program;

(7) the time elapsed without a repeat of the same or similar event;

(8) documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event; and

(9) any other information relevant to reconsideration.

(c) If the individual requested reconsideration on the basis that the information relied upon to disqualify the individual was incorrect or inaccurate and the commissioner determines that the information relied upon to disqualify the individual is correct, the commissioner must also determine if the individual poses a risk of harm to persons receiving services in accordance with paragraph (b).

(d) For an individual in the chemical dependency field, the commissioner must set aside the disqualification if the following criteria are met:

(1) the individual submits sufficient documentation to demonstrate that the individual is a nonviolent controlled substance offender under section 244.0513, subdivision 2, clauses (1), (2), and (6);

(2) the individual is disqualified exclusively for one or more offenses listed under section 152.021, subdivision 2 or 2a; 152.022, subdivision 2; 152.023, subdivision 2; 152.024; or 152.025;

(3) the individual provided documentation of successful completion of treatment, at least one year prior to the date of the request for reconsideration, at a program licensed under chapter 245G;

(4) the individual provided documentation demonstrating abstinence from controlled substances, as defined in section 152.01, subdivision 4, for the period one year prior to the date of the request for reconsideration; and

(5) the individual is seeking employment in the chemical dependency field.

Sec. 6. Minnesota Statutes 2017 Supplement, section 245C.22, subdivision 5, is amended to read:

Subd. 5. **Scope of set-aside.** (a) If the commissioner sets aside a disqualification under this section, the disqualified individual remains disqualified, but may hold a license and have direct contact with or access to persons receiving services. Except as provided in paragraph (b), the commissioner's set-aside of a disqualification is limited solely to the licensed program, applicant, or agency specified in the set aside notice under section 245C.23. For personal care provider organizations, the commissioner's set-aside may further be limited to a specific individual who is receiving services. For new background studies required under section 245C.04, subdivision 1, paragraph (h), if an individual's disqualification was previously set aside for the license holder's program and the new background study results in no new information that indicates the individual may pose a risk of harm to persons receiving services from the license holder, the previous set-aside shall remain in effect.

(b) If the commissioner has previously set aside an individual's disqualification for one or more programs or agencies, and the individual is the subject of a subsequent background study for a different program or agency, the commissioner shall determine whether the disqualification is set aside for the program or agency that initiated the subsequent background study. A notice of a set-aside under paragraph (c) shall be issued within 15 working days if all of the following criteria are met:



(1) the subsequent background study was initiated in connection with a program licensed or regulated under the same provisions of law and rule for at least one program for which the individual's disqualification was previously set aside by the commissioner;

(2) the individual is not disqualified for an offense specified in section 245C.15, subdivision 1 ~~or 2~~;

(3) the individual is not disqualified for an offense specified in section 245C.15, subdivision 2, unless the individual is employed in the chemical dependency field;

(4) the commissioner has received no new information to indicate that the individual may pose a risk of harm to any person served by the program; and

~~(4)~~ (5) the previous set-aside was not limited to a specific person receiving services.

(c) When a disqualification is set aside under paragraph (b), the notice of background study results issued under section 245C.17, in addition to the requirements under section 245C.17, shall state that the disqualification is set aside for the program or agency that initiated the subsequent background study. The notice must inform the individual that the individual may request reconsideration of the disqualification under section 245C.21 on the basis that the information used to disqualify the individual is incorrect.

Sec. 7. Minnesota Statutes 2016, section 254B.02, subdivision 1, is amended to read:

Subdivision 1. **Chemical dependency treatment allocation.** The chemical dependency treatment appropriation shall be placed in a special revenue account. ~~The commissioner shall annually transfer funds from the chemical dependency fund to pay for operation of the drug and alcohol abuse normative evaluation system and to pay for all costs incurred by adding two positions for licensing of chemical dependency treatment and rehabilitation programs located in hospitals for which funds are not otherwise appropriated. The remainder of the money in the special revenue account must be used according to the requirements in this chapter.~~

**EFFECTIVE DATE.** This section is effective July 1, 2018.

Sec. 8. Minnesota Statutes 2017 Supplement, section 254B.03, subdivision 2, is amended to read:

Subd. 2. **Chemical dependency fund payment.** (a) Payment from the chemical dependency fund is limited to payments for services other than detoxification licensed under Minnesota Rules, parts 9530.6510 to 9530.6590, that, if located outside of federally recognized tribal lands, would be required to be licensed by the commissioner as a chemical

dependency treatment or rehabilitation program under sections 245A.01 to 245A.16, and services other than detoxification provided in another state that would be required to be licensed as a chemical dependency program if the program were in the state. Out of state vendors must also provide the commissioner with assurances that the program complies substantially with state licensing requirements and possesses all licenses and certifications required by the host state to provide chemical dependency treatment. Vendors receiving payments from the chemical dependency fund must not require co-payment from a recipient of benefits for services provided under this subdivision. The vendor is prohibited from using the client's public benefits to offset the cost of services paid under this section. The vendor shall not require the client to use public benefits for room or board costs. This includes but is not limited to cash assistance benefits under chapters 119B, 256D, and 256J, or SNAP benefits. Retention of SNAP benefits is a right of a client receiving services through the consolidated chemical dependency treatment fund or through state contracted managed care entities. Payment from the chemical dependency fund shall be made for necessary room and board costs provided by vendors certified according to section 254B.05, or in a community hospital licensed by the commissioner of health according to sections 144.50 to 144.56 to a client who is:

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

(2) concurrently receiving a chemical dependency treatment service in a program licensed by the commissioner and reimbursed by the chemical dependency fund.

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

(c) The commissioner shall coordinate chemical dependency services and determine whether there is a need for any proposed expansion of chemical dependency treatment services. ~~The commissioner shall deny vendor certification to any provider that has not received prior approval from the commissioner for the creation of new programs or the~~

11.1 ~~expansion of existing program capacity. The commissioner shall consider the provider's~~  
11.2 ~~capacity to obtain clients from outside the state based on plans, agreements, and previous~~  
11.3 ~~utilization history, when determining the need for new treatment services~~ The commissioner  
11.4 may deny vendor certification to a provider if the commissioner determines that the services  
11.5 currently available in the local area are sufficient to meet local need and that the addition  
11.6 of new services would be detrimental to individuals seeking these services.

11.7 Sec. 9. Minnesota Statutes 2016, section 254B.06, subdivision 1, is amended to read:

11.8 Subdivision 1. **State collections.** The commissioner is responsible for all collections  
11.9 from persons determined to be partially responsible for the cost of care of an eligible person  
11.10 receiving services under Laws 1986, chapter 394, sections 8 to 20. The commissioner may  
11.11 initiate, or request the attorney general to initiate, necessary civil action to recover the unpaid  
11.12 cost of care. The commissioner may collect all third-party payments for chemical dependency  
11.13 services provided under Laws 1986, chapter 394, sections 8 to 20, including private insurance  
11.14 and federal Medicaid and Medicare financial participation. ~~The commissioner shall deposit~~  
11.15 ~~in a dedicated account a percentage of collections to pay for the cost of operating the chemical~~  
11.16 ~~dependency consolidated treatment fund invoice processing and vendor payment system,~~  
11.17 ~~billing, and collections.~~ The remaining receipts must be deposited in the chemical dependency  
11.18 fund.

11.19 **EFFECTIVE DATE.** This section is effective July 1, 2018.

11.20 Sec. 10. Minnesota Statutes 2017 Supplement, section 256.045, subdivision 3, is amended  
11.21 to read:

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

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

11.28 (2) any patient or relative aggrieved by an order of the commissioner under section  
11.29 252.27;

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

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

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

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

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

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

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

12.16 (10) except as provided under chapter 245C, an individual disqualified under sections  
12.17 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23,  
12.18 on the basis of serious or recurring maltreatment; a preponderance of the evidence that the  
12.19 individual has committed an act or acts that meet the definition of any of the crimes listed  
12.20 in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section  
12.21 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment  
12.22 determination under clause (4) or (9) and a disqualification under this clause in which the  
12.23 basis for a disqualification is serious or recurring maltreatment, shall be consolidated into  
12.24 a single fair hearing. In such cases, the scope of review by the human services judge shall  
12.25 include both the maltreatment determination and the disqualification. The failure to exercise  
12.26 the right to an administrative reconsideration shall not be a bar to a hearing under this section  
12.27 if federal law provides an individual the right to a hearing to dispute a finding of  
12.28 maltreatment;

12.29 (11) any person with an outstanding debt resulting from receipt of public assistance,  
12.30 medical care, or the federal Food Stamp Act who is contesting a setoff claim by the  
12.31 Department of Human Services or a county agency. The scope of the appeal is the validity  
12.32 of the claimant agency's intention to request a setoff of a refund under chapter 270A against  
12.33 the debt;

(12) a person issued a notice of service termination under section 245D.10, subdivision 3a, from residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), that is not otherwise subject to appeal under subdivision 4a;

(13) an individual disability waiver recipient based on a denial of a request for a rate exception under section 256B.4914; ~~or~~

(14) a person issued a notice of service termination under section 245A.11, subdivision 11, that is not otherwise subject to appeal under subdivision 4a; or

(15) a county disputes cost of care under section 246.54 based on administrative or other delay of a client's discharge from a state-operated facility after notification to a county that the client no longer meets medical criteria for the state-operated facility, when the county has developed a viable discharge plan.

(b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10), is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under paragraph (a), clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only available when there is no district court action pending. If such action is filed in district court while an administrative review is pending that arises out of some or all of the events or circumstances on which the appeal is based, the administrative review must be suspended until the judicial actions are completed. If the district court proceedings are completed, dismissed, or overturned, the matter may be considered in an administrative hearing.

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

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

(e) The scope of hearings under paragraph (a), clauses (12) and (14), shall be limited to whether the proposed termination of services is authorized under section 245D.10,

subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements of section 245D.10, subdivision 3a, paragraphs (c) to (e), or 245A.11, subdivision 2a, paragraphs (d) to (f), were met. If the appeal includes a request for a temporary stay of termination of services, the scope of the hearing shall also include whether the case management provider has finalized arrangements for a residential facility, a program, or services that will meet the assessed needs of the recipient by the effective date of the service termination.

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

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

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

(i) Unless federal or Minnesota law specifies a different time frame in which to file an appeal, an individual or organization specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision 13, why the request was not submitted within the 30-day time limit. The individual filing the appeal has the burden of proving good cause by a preponderance of the evidence.

Sec. 11. Minnesota Statutes 2017 Supplement, section 256B.0625, subdivision 56a, is amended to read:

Subd. 56a. ~~Post-arrest~~ Officer-involved community-based ~~service care~~ care coordination.

(a) Medical assistance covers ~~post-arrest~~ officer-involved community-based ~~service care~~ care coordination for an individual who:

(1) ~~has been identified as having~~ screened positive for benefiting from treatment for a mental illness or substance use disorder using a ~~screening~~ tool approved by the commissioner;

15.1 (2) does not require the security of a public detention facility and is not considered an  
15.2 inmate of a public institution as defined in Code of Federal Regulations, title 42, section  
15.3 435.1010;

15.4 (3) meets the eligibility requirements in section 256B.056; and

15.5 (4) has agreed to participate in ~~post-arrest~~ officer-involved community-based ~~service~~  
15.6 care coordination through a diversion contract in lieu of incarceration.

15.7 (b) ~~Post-arrest~~ Officer-involved community-based ~~service~~ care coordination means  
15.8 navigating services to address a client's mental health, chemical health, social, economic,  
15.9 and housing needs, or any other activity targeted at reducing the incidence of jail utilization  
15.10 and connecting individuals with existing covered services available to them, including, but  
15.11 not limited to, targeted case management, waiver case management, or care coordination.

15.12 (c) ~~Post-arrest~~ Officer-involved community-based ~~service~~ care coordination must be  
15.13 provided by an individual who is an employee of ~~a county~~ or is under contract with a county,  
15.14 or is an employee of or under contract with an Indian health service facility or facility owned  
15.15 and operated by a tribe or a tribal organization operating under Public Law 93-638 as a 638  
15.16 facility to provide ~~post-arrest~~ officer-involved community-based care coordination and is  
15.17 qualified under one of the following criteria:

15.18 (1) a licensed mental health professional as defined in section 245.462, subdivision 18,  
15.19 clauses (1) to (6);

15.20 (2) a mental health practitioner as defined in section 245.462, subdivision 17, working  
15.21 under the clinical supervision of a mental health professional; ~~or~~

15.22 (3) a certified peer specialist under section 256B.0615, working under the clinical  
15.23 supervision of a mental health professional;

15.24 (4) an individual qualified as an alcohol and drug counselor under section 254G.11,  
15.25 subdivision 5; or

15.26 (5) a recovery peer qualified under section 245G.11, subdivision 8, working under the  
15.27 supervision of an individual qualified as an alcohol and drug counselor under section  
15.28 245G.11, subdivision 5.

15.29 (d) Reimbursement is allowed for up to 60 days following the initial determination of  
15.30 eligibility.

15.31 (e) Providers of ~~post-arrest~~ officer-involved community-based ~~service~~ care coordination  
15.32 shall annually report to the commissioner on the number of individuals served, and number

of the community-based services that were accessed by recipients. The commissioner shall ensure that services and payments provided under ~~post-arrest~~ officer-involved community-based ~~service~~ care coordination do not duplicate services or payments provided under section 256B.0625, subdivision 20, 256B.0753, 256B.0755, or 256B.0757.

(f) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of cost for post-arrest community-based service coordination services shall be provided by the county providing the services, from sources other than federal funds or funds used to match other federal funds.

Sec. 12. Minnesota Statutes 2017 Supplement, section 256B.0941, subdivision 3, is amended to read:

Subd. 3. **Per diem rate.** (a) The commissioner shall establish a statewide per diem rate for psychiatric residential treatment facility services for individuals 21 years of age or younger. The rate for a provider must not exceed the rate charged by that provider for the same service to other payers. Payment must not be made to more than one entity for each individual for services provided under this section on a given day. The commissioner shall set rates prospectively for the annual rate period. The commissioner shall require providers to submit annual cost reports on a uniform cost reporting form and shall use submitted cost reports to inform the rate-setting process. The cost reporting shall be done according to federal requirements for Medicare cost reports.

(b) The following are included in the rate:

(1) costs necessary for licensure and accreditation, meeting all staffing standards for participation, meeting all service standards for participation, meeting all requirements for active treatment, maintaining medical records, conducting utilization review, meeting inspection of care, and discharge planning. The direct services costs must be determined using the actual cost of salaries, benefits, payroll taxes, and training of direct services staff and service-related transportation; and

(2) payment for room and board provided by facilities meeting all accreditation and licensing requirements for participation.

(c) A facility may submit a claim for payment outside of the per diem for professional services arranged by and provided at the facility by an appropriately licensed professional who is enrolled as a provider with Minnesota health care programs. Arranged services ~~must be billed by the facility on a separate claim, and the facility shall be responsible for payment to the provider~~ may be billed by either the facility or the licensed professional. These services



17.1 must be included in the individual plan of care and are subject to prior authorization by the  
17.2 state's medical review agent.

17.3 (d) Medicaid shall reimburse for concurrent services as approved by the commissioner  
17.4 to support continuity of care and successful discharge from the facility. "Concurrent services"  
17.5 means services provided by another entity or provider while the individual is admitted to a  
17.6 psychiatric residential treatment facility. Payment for concurrent services may be limited  
17.7 and these services are subject to prior authorization by the state's medical review agent.  
17.8 Concurrent services may include targeted case management, assertive community treatment,  
17.9 clinical care consultation, team consultation, and treatment planning.

17.10 (e) Payment rates under this subdivision shall not include the costs of providing the  
17.11 following services:

17.12 (1) educational services;

17.13 (2) acute medical care or specialty services for other medical conditions;

17.14 (3) dental services; and

17.15 (4) pharmacy drug costs.

17.16 (f) For purposes of this section, "actual cost" means costs that are allowable, allocable,  
17.17 reasonable, and consistent with federal reimbursement requirements in Code of Federal  
17.18 Regulations, title 48, chapter 1, part 31, relating to for-profit entities, and the Office of  
17.19 Management and Budget Circular Number A-122, relating to nonprofit entities.

17.20 Sec. 13. Minnesota Statutes 2016, section 641.15, subdivision 3a, is amended to read:

17.21 Subd. 3a. **Intake procedure; approved mental health screening.** As part of its intake  
17.22 procedure for new ~~prisoners~~ inmates, the sheriff or local corrections shall use a mental health  
17.23 screening tool approved by the commissioner of corrections in consultation with the  
17.24 commissioner of human services and local corrections staff to identify persons who may  
17.25 have mental illness. Names of persons who have screened positive or may have a mental  
17.26 illness may be shared with the local county social services agency. The jail may refer an  
17.27 offender to county personnel of the welfare system, as defined in section 13.46, subdivision  
17.28 1, paragraph (c), in order to arrange for services upon discharge and may share private data  
17.29 as necessary to carry out the following:

17.30 (1) providing assistance in filling out an application for medical assistance or  
17.31 MinnesotaCare;

- 18.1 (2) making a referral for case management as outlined under section 245.467, subdivision  
18.2 4;
- 18.3 (3) providing assistance in obtaining a state photo identification;
- 18.4 (4) securing a timely appointment with a psychiatrist or other appropriate community  
18.5 mental health provider;
- 18.6 (5) providing prescriptions for a 30-day supply of all necessary medications; or
- 18.7 (6) behavioral health service coordination.

18.8 Sec. 14. Laws 2017, First Special Session chapter 6, article 8, section 71, the effective  
18.9 date, is amended to read:

18.10 **EFFECTIVE DATE.** This section is effective for services provided on July 1, 2017,  
18.11 through ~~April 30, 2019, and expires May 1, 2019~~ June 30, 2019, and expires July 1, 2019.

18.12 Sec. 15. Laws 2017, First Special Session chapter 6, article 8, section 72, the effective  
18.13 date, is amended to read:

18.14 **EFFECTIVE DATE.** This section is effective for services provided on July 1, 2017,  
18.15 through ~~April 30, 2019, and expires May 1, 2019~~ June 30, 2019, and expires July 1, 2019.

18.16 Sec. 16. Laws 2017, First Special Session chapter 6, article 8, section 74, is amended to  
18.17 read:

18.18 Sec. 74. **CHILDREN'S MENTAL HEALTH REPORT AND**  
18.19 **RECOMMENDATIONS.**

18.20 The commissioner of human services shall conduct a comprehensive analysis of  
18.21 Minnesota's continuum of intensive mental health services and shall develop  
18.22 recommendations for a sustainable and community-driven continuum of care for children  
18.23 with serious mental health needs, including children currently being served in residential  
18.24 treatment. The commissioner's analysis shall include, but not be limited to:

- 18.25 (1) data related to access, utilization, efficacy, and outcomes for Minnesota's current  
18.26 system of residential mental health treatment for a child with a severe emotional disturbance;
- 18.27 (2) potential expansion of the state's psychiatric residential treatment facility (PRTF)  
18.28 capacity, including increasing the number of PRTF beds and conversion of existing children's  
18.29 mental health residential treatment programs into PRTFs;

(3) the capacity need for PRTF and other group settings within the state if adequate community-based alternatives are accessible, equitable, and effective statewide;

(4) recommendations for expanding alternative community-based service models to meet the needs of a child with a serious mental health disorder who would otherwise require residential treatment and potential service models that could be utilized, including data related to access, utilization, efficacy, and outcomes;

(5) models of care used in other states; and

(6) analysis and specific recommendations for the design and implementation of new service models, including analysis to inform rate setting as necessary.

The analysis shall be supported and informed by extensive stakeholder engagement. Stakeholders include individuals who receive services, family members of individuals who receive services, providers, counties, health plans, advocates, and others. Stakeholder engagement shall include interviews with key stakeholders, intentional outreach to individuals who receive services and the individual's family members, and regional listening sessions.

The commissioner shall provide a report with specific recommendations and timelines for implementation to the legislative committees with jurisdiction over children's mental health policy and finance by ~~November 15, 2018~~ January 15, 2019.

Sec. 17. **STUDENT HEALTH INITIATIVE TO LIMIT OPIOID HARM.**

Subdivision 1. **Grant awards.** The commissioner of human services, in consultation with the commissioner of education, the Board of Trustees of the Minnesota State Colleges and Universities, the Board of Directors of the Minnesota Private College Council, and the regents of the University of Minnesota, shall develop and administer a program to award grants to secondary school students in grades 7 through 12 and undergraduate students attending a Minnesota postsecondary educational institution, and their community partner or partners, to conduct opioid awareness and opioid abuse prevention activities. If a grant proposal includes more than one community partner, the proposal must designate a primary community partner. Grant applications must be submitted by the primary community partner and any grant award must be managed by the primary community partner on behalf of secondary school and undergraduate student applicants and grantees. Grants are onetime and available to the grantee through June 30, 2021.

Subd. 2. **Grant criteria.** (a) Grant dollars may be used for opioid awareness campaigns and events, education related to opioid addiction and abuse prevention, initiatives to limit inappropriate opioid prescriptions, peer education programs targeted to students at high risk

20.1 of opioid addiction and abuse, and other related initiatives as approved by the commissioner.  
20.2 Grant projects must include one or more of the following components as they relate to opioid  
20.3 abuse and prevention and the role of the community partner: high-risk populations, law  
20.4 enforcement, education, clinical services, or social services.

20.5 (b) The commissioner of human services shall seek to provide grant funding for at least  
20.6 one proposal that addresses opioid abuse in the American Indian community.

20.7 Subd. 3. **Community partners.** For purposes of the grant program, community partners  
20.8 may include but are not limited to public health agencies; local law enforcement; community  
20.9 health centers; medical clinics; emergency medical service professionals; schools and  
20.10 postsecondary educational institutions; opioid addiction, advocacy, and recovery  
20.11 organizations; tribal governments; local chambers of commerce; and city councils and  
20.12 county boards.

20.13 Subd. 4. **Report.** The commissioner of human services shall report to the chairs and  
20.14 ranking minority members of the legislative committees with jurisdiction over health and  
20.15 human services policy and finance, K-12 education policy and finance, and higher education  
20.16 policy and finance by September 1, 2019, on the implementation of the grant program and  
20.17 the grants awarded under this section.

20.18 Subd. 5. **Federal grants.** (a) The commissioner of human services shall apply for any  
20.19 federal grant funding that aligns with the purposes of this section. The commissioner shall  
20.20 submit to the legislature any changes to the program established under this section that are  
20.21 necessary to comply with the terms of the federal grant.

20.22 (b) The commissioner shall notify the chairs and ranking minority members of the  
20.23 legislative committees with jurisdiction over health and human services policy and finance,  
20.24 K-12 education policy and finance, and higher education policy and finance of any grant  
20.25 applications submitted and any federal actions taken related to the grant applications.

20.26 **Sec. 18. REPEALER.**

20.27 Minnesota Rules, parts 9530.6800; and 9530.6810, are repealed."

20.28 Renumber the sections in sequence and correct the internal references

20.29 Amend the title accordingly