

**Chapter:** 201 - VETOED

**Session:** 2018 Regular Session

**Topic:** Omnibus Supplemental Appropriations Bill – HHS Articles Only

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**Article 34: Health Care**

**Overview**

This article contains provisions related to the administration of the medical assistance and MinnesotaCare programs. The article also establishes the Minnesota Health Policy Commission to make recommendations to the legislature on health care policy and financing.

- 1 **Request contents.** Amends § 3.3005, subd. 8. Requires state agencies, when making a request to the Legislative Advisory Commission to spend federal funds, to provide with the request a narrative description of the commitments required that includes whether continuation of any FTE positions will be a condition of receiving the federal funds.
- 2 **Classifications.** Amends § 13.69, subd. 1. Requires the Department of Public Safety to provide the last four digits of drivers' Social Security numbers to DHS for purposes of recovery of Minnesota health care program benefits paid. Provides a July 1, 2018 effective date.
- 3 **Minnesota health policy commission.** Adds § 62J.90. Establishes the Minnesota Health Policy Commission to make recommendations to the legislature on changes in health care policy and financing. The commission is required to: (1) compare private market health care costs and public health care program spending to that of other states; (2) compare the private health care market care costs and public health care program spending in any given year to its costs and spending in previous years; (3) identify factors that influence and contribute to Minnesota's ranking for private market health care costs and public health care program spending; (4) monitor efforts to reform the health care delivery and payment system to understand emerging trends in the health insurance market; and (5) make recommendations for health care reform. This commission expires June 15, 2024.
- 4 **Eligibility verification.** Adds § 256.0113.
  - Subd. 1. Verification required; vendor contract.** (a) Requires the commissioner to ensure that MA, MinnesotaCare, child care assistance programs under chapter 119B, and Supplemental Nutrition Assistance Program (SNAP) eligibility determinations include the verification of income, residency, identity, and when applicable, assets and compliance with SNAP work requirements.
  - (b) Requires the commissioner to contract with a vendor to verify the eligibility of MA, MinnesotaCare, child care assistance program, and SNAP enrollees during a specified audit period.
  - (c) Specifies the vendor to comply with data privacy requirements and to use encryption. Requires penalties for noncompliance.
  - (d) Requires the contract to include a data sharing agreement, under which vendor compensation is limited to a portion of the savings.

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(e) Requires the commissioner to use existing resources to fund agency administrative and technology-related costs.

(f) Requires state savings, after vendor payment, to be deposited into the health care access fund.

**Subd. 2. Verification process; vendor duties.** (a) Specifies requirements for the verification process, which includes data matches against federal and state data sources.

(b) Requires the vendor, upon preliminary determination that an enrollee is eligible or ineligible, to notify the commissioner. Requires the commissioner to accept or reject this determination within 20 days. States that the commissioner retains final authority over eligibility determinations. Requires the vendor to keep a record of all preliminary determinations.

(c) Requires the vendor to recommend to the commissioner a process that allows ongoing verification of enrollee eligibility under MNsure and other agency eligibility determination systems.

(d) Requires the commissioner and the vendor to jointly submit an eligibility verification audit report to legislative committees. Specifies requirements for the report.

(e) Requires the vendor contract to be awarded for a one-year period, beginning January 1, 2019. Allows renewal for up to three years and additional verification audits, if the commissioner or legislative auditor determines that state eligibility determination systems cannot effectively verify MA, MinnesotaCare, child care assistance program, and SNAP enrollee eligibility.

**5**      **Disproportionate numbers of low-income patients served.** Amends § 256.969, subd. 9. Requires the commissioner, for discharges between January 1, 2019 through June 30, 2019, to provide an additional payment adjustment for hospitals with high levels of administering high-cost drugs to MA fee-for-service enrollees. Requires the commissioner to consider factors such as fee-for-service utilization and payments for 340B drugs. Limits payments above the disproportionate share hospital (DSH) limit to the nonfederal share. Limits the nonfederal share to \$1.5 million.

**6**      **Competitive bidding.** Amends § 256B.04, subd. 14. Prohibits the commissioner from utilizing volume purchasing through competitive bidding for incontinence products and related supplies.

**7**      **Provider enrollment.** Amends § 256B.04, subd. 21. Exempts a rehabilitation agency from termination or denial as an MA provider, if the agency is unable to retain Medicare certification and enrollment solely due to a lack of Medicare billing, and other criteria are met.

**8**      **Telemedicine services.** Amends § 256B.0625, subd. 3b. Provides an exception to the MA limit on telemedicine services of three services per enrollee per calendar week, if the telemedicine services are: (1) provided by the licensed health care provider for the treatment and control of tuberculosis; and (2) provided in a manner consistent with the

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recommendations and best practices specified by the Centers for Disease Control and Prevention and the commissioner of health. Adds community paramedics to the list of licensed health care providers eligible to provide telemedicine services under MA.

- 9** **Drugs.** Amends § 256B.0625, subd. 13. Strikes language relating to the quantity of over-the-counter medications that may be dispensed (conforming change to the amendment to § 256B.0625, subd. 13e).
- 10** **Payment rates.** Amends § 256B.0625, subd. 13e. Makes a variety of changes to MA payment methods for outpatient prescription drugs. These changes include:
- setting payment based on the ingredient cost of the drugs plus a professional dispensing fee
  - defining usual and customary price
  - setting the dispensing fee for drugs meeting the federal definition of “covered outpatient drugs” at \$10.48 and specifying dispensing fees for other types of drugs
  - requiring dispensing fees to be pro-rated based upon the quantity of a drug dispensed
  - requiring the National Average Drug Acquisition Cost (NADAC) to be used to determine the ingredient cost of a drug
  - directing the commissioner to estimate the ingredient cost at wholesale acquisition cost (WAC) minus two percent, for drugs for which a NADAC is not reported
  - setting the ingredient cost for 340B drugs at the 340B pricing program maximum allowable cost, instead of WAC minus 40 percent as under current law
  - modifying the method used to calculate the maximum allowable cost of multisource drugs
  - eliminating add-ons to the dispensing fee for certain drugs dispensed to long-term care facility residents using a unit dose blister card system
  - making additional changes related to payment for drugs
- 11** **Prior authorization.** Amends § 256B.0625, subd. 13f. Eliminates the prohibition on use of prior authorization for certain antihemophilic factor drugs.
- 12** **Transportation services oversight.** Amends § 256B.0625, by adding subd. 17d. Requires the commissioner to contract with a vendor or dedicate staff for the oversight of providers of nonemergency medical transportation services.
- 13** **Transportation provider termination.** Amends § 256B.0625, by adding subd. 17e. (a) States that a terminated NEMT provider, including related individuals and affiliates, is not eligible to enroll as a NEMT provider for five years following termination.
- (b) Requires terminated providers who reenroll to be placed on a one-year probation period, during which the commissioner shall complete unannounced site visits and request documentation to review compliance with program requirements.
- Provides that the section is effective July 1, 2018.
- 14** **Transportation provider funding.** Amends § 256B.0625, by adding subd. 17f. Requires the commissioner to provide training materials to NEMT providers and drivers.

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- 15 Reimbursement for doula services.** Adds § 256B.758. Increases the MA reimbursement rate for doula services to \$47 per prenatal or postpartum visit up to a total of six visits; and \$488 for attending and providing doula services at a birth, beginning July 1, 2018.
- 16 Covered outpatient drug rule.** Requires the commissioner of human services, in collaboration with specified entities, to assess the impact of implementing the federal Covered Outpatient Drug Rule and develop a proposal to minimize negative impacts on providers and enrollees. Requires the commissioner to report the proposal to the legislature by February 15, 2019.
- 17 Pain Management.** Requires the Health Services Policy Committee, established by the Commissioner of Human Services, to evaluate and make recommendations on the integration of nonpharmacologic pain management. Requires the commissioner to consult with specified health practitioners and report final recommendations to the legislature by August 1, 2019. The final report to the legislature must include recommendations for a pilot program to assess integrated nonpharmacologic, multidisciplinary treatments for managing musculoskeletal pain.
- 18 Contract to recover third-party liability.** Requires the commissioner to contract with a vendor to implement a health insurance third-party liability recovery program for MA and MinnesotaCare. Provides that the vendor is to be reimbursed using a percentage of the money recovered. States that all money recovered, after reimbursement of the vendor and return of any federal funds, is for the operation of the MA and MinnesotaCare programs, and that the use of this money must be authorized in law by the legislature. Provides a July 1, 2018 effective date.
- 19 Minnesota Health Policy Commission; first appointments; first meeting.** Requires the Legislative Coordinating Commission shall make the first appointments to the Minnesota Health Policy Commission by January 15, 2019. Specifies related requirements.
- 20 Repealer.** Repeals § 256B.0625, subd. 31c (preferred incontinence product program for volume purchase of incontinence products and related supplies).

## Article 35: Health Department

### Overview

This article contains provisions relating to the Health Department and public health. It makes changes to a chapter governing wells and borings; establishes an advisory council on rare diseases; requires the commissioner to develop a strategic plan on congenital CMV; directs the commissioner to regulate security screening systems; modifies provisions governing home care providers; authorizes the commissioner to fund a suicidal crisis telephone counseling service; modifies supervision requirements for body artists; requires certification of unlicensed personnel performing cremations; requires a plan to reconstitute an autism

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spectrum disorder task force; and requires a study on the Minnesota Health Records Act.

- 1        **Boring.** Amends § 103I.005, subd. 2. Amends the definition of boring in chapter 103I (which covers wells, borings, and underground uses), to specify it includes temporary borings.
- 2        **Environmental well.** Amends 103I.005, subd. 8a. In the definition of environmental well, clarifies that an exploratory boring is not an environmental well.
- 3        **Temporary boring.** Amends § 103I.005, subd. 17a. Defines temporary boring for chapter 103I. This term will be used instead of temporary environmental well.
- 4        **Notification required.** Amends § 103I.205, subd. 1. Provides that a person is not required to notify the commissioner before constructing a temporary boring (instead of temporary environmental well as in current law).
- 5        **License required.** Amends § 103I.205, subd. 4. Allows a person who is a professional engineer, hydrologist or hydrogeologist, professional geoscientist, or geologist, or who meets qualifications in rule, to construct, repair, and seal a temporary boring. Removes language authorizing a licensed plumber who does not have a well or boring contractor's license under chapter 103I to repair submersible pumps or water pipes connected to well water systems if the repair location is in an area with no licensed well contractors within 50 miles, provided the plumber complies with the plumbing code.
- 6        **Report of work.** Amends § 103I.205, subd. 9. Modifies the deadline for submitting a report to the commissioner of health related to well or boring construction or sealing to within 60 days, rather than 30 days, of completing the work.
- 7        **Well notification fee.** Amends § 103I.208, subd. 1. Makes an existing \$75 fee apply to the sealing of borings, and exempts temporary borings less than 25 feet in depth from the notification and fee requirements in chapter 103I. Changes a term used, from temporary environmental well to temporary boring.
- 8        **Temporary boring and unsuccessful well exemption.** Amends § 103I.235, subd. 3. Exempts temporary borings that were sealed by a licensed contractor (rather than temporary environmental wells as in current law), from requirements to disclose to a buyer the location of wells on the property.
- 9        **Notification required.** Amends § 103I.301, subd. 6. Prohibits a person from sealing a boring until a notification is filed with the commissioner, except that temporary borings less than 25 feet in depth are exempt from this notification requirement.
- 10       **Notification and map of borings.** Amends § 103I.601, subd. 4. Provides that one site fee of \$275 must be submitted for all exploratory borings marked on the proposed boring map submitted to the commissioner of health, not \$275 per exploratory boring. Also requires maps of proposed borings to be submitted on an 8-1/2 x 11-inch sheet of paper.
- 11       **Advisory council on rare diseases.** Adds § 137.68. Requests the establishment of an advisory council on rare diseases at the University of Minnesota.

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**Subd. 1. Establishment.** Requests that the Board of Regents establish a Chloe Barnes Advisory Council on Rare Diseases at the University of Minnesota. Defines rare disease as any disease (1) that affects less than 200,000 people in the U.S., or (2) that affects more than 200,000 people in the U.S. and for which the cost of developing and making available a drug for that disease would not be recovered from the U.S. sales of that drug.

**Subd. 2. Membership.** Lists suggested advisory council membership.

**Subd. 3. Meetings.** Requests the first meeting of the advisory council to occur by September 1, 2018, and requires it to meet at the call of the chair or the request of a majority of the council members.

**Subd. 4. Duties.** Lists permitted duties for the advisory council. Directs the advisory council to collect additional topic areas for study and evaluation from the general public.

**Subd. 5. Conflicts of interest.** Makes advisory council members subject to the Board of Regents policy on conflicts of interest.

**Subd. 6. Annual report.** Requires the advisory council to annually report to certain legislative committees on the council's activities and other issues on which it chooses to report.

- 12 Fees for ionizing radiation-producing equipment.** Amends § 144.121, subd. 1a. Adds security screening systems to the types of ionizing radiation-producing equipment that must be registered with the commissioner of health, and establishes registration fees for these systems. Defines security screening system as radiation-producing equipment designed and used for security screening of humans in custody at a correctional or detention facility, and used to image and identify contraband items concealed within or on those persons. Defines correctional or detention facility as a facility licensed by the commissioner of corrections under section 241.021 and operated by the state or a political subdivision.
- 13 Exemption from examination requirements; operators of security screening systems.** Adds subd. 9 to § 144.121. Exempts an employee of a correctional or detention facility who operates a security screening system, and the correctional or detention facility, from the examination requirements that otherwise apply to persons who operate x-ray equipment and the inspection requirements that otherwise apply to facilities. Until the commissioner adopts rules governing security screening systems, these employees and facilities must meet the requirements to obtain a variance from the commissioner from the rules governing general use of ionizing radiation, shielding requirements, dose levels, and radiation safety.
- 14 Expansion grant program.** Amends § 144.1506, subd. 2. Under current law a primary care residency program is eligible for a training grant for a residency slot for a three-year period. If a residency program has a longer duration than three years, this allows training grants to be awarded for the duration of the residency, but prohibits training grants from exceeding an average of \$100,000 per residency slot per year.
- 15 Data about births.** Amends § 144.225, subd. 2. Amends a subdivision governing access to birth data, to allow:

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- a tribal health department to obtain (1) contact information for a mother who was not married to a child's father when the child was conceived and born and (2) the child's date of birth (current law allows this information to be disclosed to a county social services department or a public health member of a family services collaborative); and
- a tribal child support program to access birth records for child support enforcement purposes.

- 16 Health data associated with birth registration.** Amends § 144.225, subd. 2a. Allows the commissioner to disclose to a tribal health department, health data associated with a birth registration that identifies a mother or child at high risk for serious disease, disability, or delay (current law allows the commissioner to disclose this information to a community health board).
- 17 Certified birth or death record.** Amends § 144.225, subd. 7. Directs the state or local office of vital records to issue a certified birth or death record or statement of no vital record found to any tribal governmental agency upon request, if the certified vital record is needed for the governmental agency to perform its duties (current law allows local, state, and federal governmental agencies to obtain certified vital records needed to perform their duties).
- 18 Statewide tobacco cessation services.** Directs the commissioner of health to administer or contract for the administration of statewide tobacco cessation services to help Minnesotans quit using tobacco products. Also requires the commissioner to conduct statewide public awareness activities to inform the public about the services and encourage their use. Specifies services that may be provided, requires them to be evidence-based best practices, and requires coordination of services.
- 19 Medication administration.** Amends § 144A.43, subd. 11. Modifies the definition of medication administration in statutes governing home care providers.
- 20 Medication reconciliation.** Adds subd. 12a to § 144A.43. For statutes governing home care providers, defines medication reconciliation as the process of identifying the most accurate list of all medications a client is taking by comparing the client record to an external list of medications.
- 21 Service agreement.** Amends § 144A.43, subd. 27. Changes a term used in home care provider statutes, from service plan to service agreement. This term is changed throughout the home care provider statutes.
- 22 Standby assistance.** Amends § 144A.43, subd. 30. Modifies the definition of standby assistance in statutes governing home care providers.
- 23 Change in ownership.** Amends § 144A.472, subd. 5. Amendments to paragraph (a) clarify what constitutes a change of ownership for a home care provider business. New paragraphs (b) and (c) provide that when a change in ownership occurs, employees of the business under the old owner who continue employment with the business under the new owner are not required to undergo new training, except on policies of the new owner that differ from those of the old owner.

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- 24 Fees; application, change of ownership, and renewal.** Amends § 144A.472, subd. 7. Adds a penalty of \$1,000 for a home care provider with a temporary license that fails to notify the commissioner of health within five days after it begins providing services to clients.
- 25 Issuance of temporary license and license renewal.** Amends § 144A.473.
- Subd. 1. Temporary license and renewal of license.** Exempts temporary licenses from the requirement that home care provider licenses are valid for up to a year from the date of issuance, because temporary licenses can be extended in certain circumstances.
- Subd. 2. Temporary license.** Adds a reference that temporary licenses can be extended according to subdivision 3. Requires the commissioner to survey temporary licensees with 90 calendar days after the provider begins providing services. Also changes terminology from license year to license period.
- Subd. 3. Temporary licensee survey.** Modifies steps the commissioner may take if a temporary licensee is not in substantial compliance with a survey: in addition to not issuing a license as provided in current law, the commissioner may terminate the temporary license, or extend the temporary license and apply conditions. Establishes a deadline by which the commissioner must receive a reconsideration request and supporting documentation from a temporary licensee. Lists the circumstances under which a temporary licensee whose license is denied may continue operating.
- 26 Types of home care surveys.** Amends § 144A.474, subd. 2. In a subdivision governing home care provider surveys, defines change in ownership survey, and requires such surveys to be completed within six months after the commissioner issues a new license due to a change in ownership.
- 27 Conditions.** Amends § 144A.475, subd. 1. Permits the commissioner to refuse to grant a license as a result of a change in ownership, if a home care provider, owner, or managerial official engages in certain conduct.
- 28 Terms to suspension or conditional license.** Amends § 144A.475, subd. 2. Provides that a home care provider operating under a suspended or conditional license according to this subdivision may continue to operate while home care clients are being transferred to other providers.
- 29 Plan required.** Amends § 144A.475, subd. 5. Provides that a home care provider whose license is being suspended or revoked according to this subdivision may continue to operate while home care clients are being transferred to other providers.
- 30 Prior criminal convictions; owner and managerial officials.** Amends § 144A.476, subd. 1. Requires the commissioner to conduct a background study on owners and managerial officials of a home care provider before issuing a license due to a change in ownership.
- 31 Employee records.** Amends § 144A.479, subd. 7. Makes a technical change.
- 32 & 33** Amends § 144A.4791, subs. 1 and 3. Clarifies that a home care provider client must receive certain notices and statements before the date that services are first provided to clients, rather than before the initiation of services to clients.

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- 34**      **Initiation of services.** Amends § 144A.4791, subd. 6. Clarifies that if a client receives services before the client receives a review or assessment, a licensed health professional or registered nurse must complete a temporary plan and orient staff to deliver services.
- 35 & 36**      Amends § 144A.4791, subds. 7 and 8. Requires an initial review, initial assessment, and client monitoring and reassessment to be completed within specified periods after the dates that home care services are first provided, rather than after the initiation of home care services.
- 37**      **Service agreement, implementation, and revisions to service agreement.** Amends § 144A.4791, subd. 9. Changes a term used from service plan to service agreement, and requires a service agreement to be finalized within 14 days after the date home care services are first provided, rather than after the initiation of home care services. Modifies what the service agreement must include regarding staffing and supervision.
- 38**      **Medication management services; comprehensive home care license.** Amends § 144A.4792, subd. 1. Requires a comprehensive home care provider to have policies to ensure security and accountability for management, control, and disposition of controlled substances, if the provider manages, stores, and secures controlled substances.
- 39**      **Provision of medication management services.** Amends § 144A.4792, subd. 2. Requires an assessment conducted before a home care provider provides medication management services, to include providing instructions to the client or a representative on interventions to manage medications and prevent medication diversion.
- 40**      **Individualized medication management plan.** Amends § 144A.4792, subd. 5. Requires medication reconciliation to occur as part of medication management.
- 41**      **Medication management for clients who will be away from home.** Amends § 144A.4792, subd. 10. Modifies requirements for medication management for clients who will be away from home:
- for unplanned time away, limits the amount of medication a client may receive to the amount needed for seven calendar days (rather than 120 hours [five calendar days] as in current law); and
  - requires written procedures that apply during unplanned time away when a registered nurse is not available, to specify how unlicensed staff must document unused medications that are returned to the provider.
- 42**      **Treatment and therapy orders.** Amends § 144A.4793, subd. 6. Requires treatment and therapy orders to be renewed at least every 12 months, and requires these orders to include information on the duration of the treatment or therapy.
- 43**      **Content.** Amends § 144A.4796, subd. 2. Makes a technical change to a subdivision governing what must be covered in home care provider employee orientation.
- 44**      **Supervision of staff providing delegated nursing or therapy home care tasks.** Amends § 144A.4797, subd. 3. Clarifies when supervision must take place for staff performing delegated tasks.

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- 45**     **Disease prevention and infection control.** Amends § 144A.4798. Consolidates and updates disease prevention and infection control requirements for home care providers.
- 46**     **Membership.** Amends § 144A.4799, subd. 1. Allows persons who have received home care services within the past five years to be members of the home care and assisted living program advisory council.
- 47**     **Duties.** Amends § 144A.4799, subd. 3. Clarifies the topics on which the home care and assisted living program advisory council may provide advice to the commissioner.
- 48**     **Integrated licensing established.** Strikes an obsolete paragraph.
- 49**     **Community-based programs.** Amends § 145.56, subd. 2. As part of the commissioner of health's existing suicide prevention program, directs the commissioner to distribute a grant to a nonprofit organization to provide crisis telephone counseling services statewide to people in suicidal crisis or emotional distress.
- 50**     **Supervisors.** Adds subd. 7a to § 146B.03. Authorizes a body piercing technician who has been licensed for at least one year in Minnesota or a jurisdiction with reciprocity, to supervise a temporary body piercing technician. (Under current law, a body piercing technician must have been licensed for at least two years in order to supervise a temporary technician.) Also allows a body piercing technician to supervise up to four temporary technicians, rather than two temporary technicians as in current law, without providing the commissioner with a supervisory plan. The supervision requirements for tattoo technicians are existing law and are being moved from section 146B.02, subd. 7a, which is being repealed in this article.
- 51**     **Continuing education.** Amends § 149A.40, subd. 11. Amends continuing education requirements to renew a license to practice mortuary science, to require continuing education on cremations. Makes this requirement effective January 1, 2019, and applicable to mortuary science licenses renewed on or after that date.
- 52**     **Unlicensed personnel.** Amends § 149A.95, subd. 3. Establishes qualifications that unlicensed personnel must meet, in order to perform cremations at a licensed crematory: completion of a certified crematory operator course approved by the commissioner; obtaining crematory operator certification; public posting of the certification at the licensed crematory where cremations are performed; and maintenance of crematory operator certification. Makes this section effective January 1, 2019, and applicable to unlicensed personnel performing cremations on or after that date.
- 53**     **Autism spectrum disorder task force plan.** Directs the commissioner of health to submit a plan to the legislative committees with jurisdiction over health care, human services, and education, by January 15, 2019, to reconstitute the autism spectrum disorder task force originally established in 2011.
- 54**     **Variance to requirements for sanitary dumping station.** Requires the commissioner of health to provide a variance to the requirement in Minnesota Rules, part 4630.0900 that a resort must provide a sanitary dumping station, for a resort in Hubbard County that is located on an island and for which it is impractical to build a sanitary dumping station on the resort property.

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- 55**     **Direction to commissioner of health; strategic plan regarding CMV.** Directs the commissioner of health to develop a strategic state plan for providing information about human herpes virus cytomegalovirus (CMV) to health care practitioners, women who are pregnant or may become pregnant, and parents of infants, and to identify resources and follow-up for children born with congenital CMV and their families.
- 56**     **Legislative Commission on Data Practices; health records act study and recommendations.** Directs the Legislative Commission on Data Practices to study and make recommendations on amendments to the Minnesota Health Records Act to improve the provision of coordinated health care in Minnesota. Lists items the study and recommendations must address, and requires a report to the legislative committees with jurisdiction over data practices and health care by January 15, 2019.
- 57**     **Revisor’s instructions.** Directs the revisor of statutes to modify terms in specified statutes.
- 58**     **Repealer.** Paragraph (a) repeals obsolete provisions regarding tuberculosis prevention and control and the transition to a new licensing structure for home care providers.  
Paragraph (b) repeals requirements for body artists to supervise temporary artists; these requirements are being modified in part and moved to another statutory section.

## Article 36: Health Coverage

### Overview

This article contains provisions related to the regulation of private insurance coverage, establishes a prescription drug repository program, establishes requirements related to pharmacy contracts, requires a study of insurance rate disparities, and makes other changes.

- 1**     **Mammograms.** Amends § 62A.30, by adding subd. 4. (a) Provides that required insurance coverage of preventive mammogram screenings includes digital breast tomosynthesis if the enrollee is at risk for breast cancer. Requires this to be covered as a preventive item or service.
- (b) Digital breast tomosynthesis is a radiologic procedure that produces cross-sectional three-dimensional images of the breast. To be at risk for breast cancer means having a family history or relative with breast cancer, testing positive for BRCA1 or BRCA2 mutations, having dense breasts based on criteria established by the American College of Radiology, or having previously had breast cancer.
- (c) States that the subdivision does not apply to coverage provided through MA or MinnesotaCare.
- (d) States that the subdivision does not limit coverage of digital breast tomosynthesis in effect prior to January 1, 2019.

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(e) States that the subdivision does prohibit coverage of digital breast tomosynthesis for an enrollee not at risk of breast cancer.

**Effective date.** This section is effective January 1, 2019, and applies to health plans issued, sold, or renewed on or after that date.

**2 Facility fee disclosure.** Adds § 62J.824. (a) Requires a provider-based clinic that charges a facility fee to provide notice to a patient that states that the clinic is a part of a hospital and the patient might receive a separate charge or billing for the facility component which may result in a higher out-of-pocket expense.

(b) Requires a health care facility to prominently post a statement that the provider-based clinic is part of a hospital and the patient may receive a separate billing for the facility.

(c) Exempts laboratory services, imaging services, and other ancillary services that are provided by staff who are not employed by the health care facility or clinic.

(d) Defines “facility fee” and “provider-based clinic.”

**3 Point of sale allowable cost.** Adds § 62Q.48. (a) Prohibits a health plan company or a pharmacy benefits manager from requiring an enrollee to pay, for a covered prescription medication at the point of sale, an amount greater than the allowable cost to consumers as defined in paragraph (b).

(b) Defines “allowable cost to consumers” as the lowest of: (1) the applicable copayment; or (2) the cost of the medication if purchased without using a health plan benefit. Also defines “pharmacy benefit manager.”

**4 No prohibition on disclosure.** Amends § 151.214, subd. 2. States that no contract between a health plan company or a pharmacy benefits manager and a pharmacist may prohibit a pharmacist from informing a patient when the amount the patient may be required to pay under the patient’s health plan for a particular drug is greater than the amount the patient would be required to pay if purchased out-of-pocket at the pharmacy’s usual and customary price.

**5 Prescription drug repository program.** Adds § 151.555.

**Subd. 1. Definitions.** Defines the following terms: central repository, distribute, donor, drug, health care facility, local repository, medical supplies, and practitioner.

“Central repository” means a wholesale distributor that meets certain requirements and enters into a contract with the Board of Pharmacy.

“Donor” means a health care facility, skilled nursing facility, assisted living facility meeting certain requirements, pharmacy, drug wholesaler, or drug manufacturer.

“Health care facility” means a physician’s office or health care clinic, hospital, pharmacy, or nonprofit community clinic.

“Local repository” means a health care facility that elects to accept donated drugs and meets certain requirements.

**Subd. 2. Establishment.** Requires the Board of Pharmacy to establish, by January 1, 2019, a drug repository program through which donors may donate a drug or

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medical supply, to be used by eligible individuals. Requires the board to contract with a central repository to implement and administer the program.

**Subd. 3. Central repository requirements.** Requires the board to select a wholesale drug distributor to act as central repository using a request for proposal process. Specifies related requirements.

**Subd. 4. Local repository requirements.** In order to serve as a local repository, requires a health care facility to agree to comply with all federal and state requirements related to the drug repository program, drug storage, and dispensing, and maintain any required state license or registration. Specifies application requirements. Provides that participation as a drug repository is voluntary and specifies the process to be used to withdraw from participation.

**Subd. 5. Individual eligibility and application requirements.** (a) In order to participate in the program, requires an individual to submit an application form to the local repository that attests that the individual: (1) is a state resident; (2) is uninsured, has no prescription drug coverage, or is underinsured; (3) acknowledges that the drugs or medical supplies received may have been donated; and (4) consents to a waiver of child resistant packaging requirements. Requires the local repository to issue eligible individuals with an identification card that is valid for one year, can be used at any local repository, and may be reissued upon expiration. Requires the local repository to send a copy of the application form to the central repository. Requires the board to make available on its Web site an application form and the format for the identification card.

**Subd. 6. Standards and procedures for accepting donations of drugs and supplies.** (a) Allows a donor to donate to the central repository or a local repository prescription drugs and medical supplies that meet specified requirements.

(b) Specifies requirements for prescriptions drugs to be eligible for donation.

(c) Specifies requirements for medical supplies to be eligible for donation.

(d) Requires the board to develop a drug repository donor form, which must accompany each donation. Specifies requirements for the form and requires the form to be available on the board's Web site.

(e) Allows donated drugs and supplies to be shipped or delivered to the central repository or a local repository. Requires the drugs and supplies to be inspected by the pharmacist or other practitioner designated by the repository to accept donations. Prohibits the use of a drop box to deliver or accept donations.

(f) Requires the central repository and local repository to inventory all drugs and supplies that are donated, and specifies related requirements.

**Subd. 7. Standards and procedures for inspecting and storing donated prescription drugs and supplies.** (a) Specifies requirements for the pharmacist or authorized practitioner to follow when inspecting all donated drugs and supplies.

(b) Specifies storage requirements for donated drugs and supplies.

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- (c) Requires the central repository and local repositories to dispose of all drugs and supplies not suitable for donation in compliance with applicable federal and state requirements related to hazardous waste.
- (d) Requires shipments or deliveries of controlled substances or drugs that can only be dispensed to a patient registered with the drug's manufacturer to be documented by the central or local repository, and returned immediately to the donor or donor's representative that provided the drugs.
- (e) Requires each repository to develop drug and medical supply recall policies and procedures, and specifies related requirements.
- (f) Specifies record keeping requirements related to donated drugs and supplies that are destroyed.

**Subd. 8. Dispensing requirements.** (a) Allows donated drugs and supplies to be dispensed if they are prescribed by a practitioner for the eligible individual. Specifies a priority order for dispensing and other requirements.

(b) Requires the visual inspection of a drug or supply for adulteration, misbranding, tampering, and expiration, and prohibits dispensing or administering of drugs meeting these criteria.

(c) Requires individuals to sign a drug repository recipient form and specifies form requirements.

**Subd. 9. Handling fees.** (a) Allows a repository to charge an individual receiving a drug or supply a handling fee of no more than 250 percent of the MA dispensing fee.

(b) Prohibits a repository from receiving MA or MinnesotaCare reimbursement for a drug or supply provided through the program.

**Subd. 10. Distribution of donated drugs and supplies.** (a) Allows the central repository and local repositories to distribute donated drugs and supplies to other repositories.

(b) Requires a local repository that elects not to participate to transfer all donated drugs and supplies to the central repository, and provide copies of the donor forms at the time of the transfer.

**Subd. 11. Forms and record-keeping requirements.** (a) Specifies forms that must be available on the board's Web site.

(b) Requires all records to be maintained by a repository for at least five years, and maintained pursuant to all applicable practice acts.

(c) Requires data collected by the program from local repositories to be submitted quarterly or upon request of the central repository.

(d) Requires the central repository to submit reports to the board as required by contract or upon request.

**Subd. 12. Liability.** (a) Provides that manufacturers are not subject to criminal or civil liability for causes of action related to: (1) alteration of a drug or supply by a

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party not under the control of the manufacturer; or (2) failure of a party not under the control of the manufacturer to communicate product or consumer information or the expiration date of a donated drug or supply.

(b) Provides civil immunity for a health care facility, pharmacist, practitioner, or donor related to participation in the program and also prohibits a health-related licensing board from taking disciplinary action. States that immunity does not apply if the act or omission involves reckless, wanton, or intentional misconduct, or malpractice unrelated to the quality of the drug or supply.

**Subd. 13. Sunset.** Provides that this section expires July 1, 2022.

**6 Synchronization of refills.** Amends § 151.71, by adding subd. 3. Requires a contract between a pharmacy benefits manager and a pharmacy to permit for the synchronization of prescription drug refills for a patient on at least one occasion per year if the following conditions are met:

- (1) the drugs are covered under the patient's health plan or have been approved by a formulary exceptions process;
- (2) the drugs are maintenance medications and have one or more refills available at time of synchronization;
- (3) the drugs are not Schedule II, III or IV controlled substances;
- (4) the patient meets all utilization management criteria;
- (5) the drugs are of a formation that can be safely split into short fill periods; and
- (6) the drugs do not have special handling or sourcing needs that require a single designated pharmacy to fill or refill the prescription.

**7 Testimony on use of digital breast tomosynthesis by members of state employee group insurance program.** Directs the director of the state employee group insurance program to prepare and submit written testimony to legislative committees by March 1, 2020, on the impact of coverage of digital breast tomosynthesis, and specifies requirements for the testimony.

**8 Study and report on disparities between geographic rating areas in individual and small group market health insurance rates.**

**Subd. 1. Study and recommendations.** (a) Requests a study from the OLA to examine the differences between the geographic rating areas for individual and small group health insurance rates. The report should examine the factors that cause higher rates in certain geographic areas, the impact referral centers have on rates in southeastern Minnesota, and the extent that those located in a geographic area with higher rates have obtained health insurance from a lower-cost area. The report should also develop at least three options to redraw the geographic boundaries, at least one of which must reduce the number of rating areas. Specifies other requirements for these options.

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(b) Allows the OLA to secure de-identified data necessary to complete the study directly from health carriers. Defines “de-identified” and provides that data classified as nonpublic data or private data on individuals retains these classifications.

(c) Permits the OLA to recommend one or more proposals for redrawing the geographic boundaries, if the proposals will eliminate differences in rating areas and provide stability to the market.

**Subd. 2. Contract.** Allows the OLA to contract with another entity for technical assistance in conducting the study and developing recommendations.

**Subd. 3. Report.** Requests that the OLA complete the study and recommendations by January 1, 2019, and submit the report to the chairs and ranking minority members of the legislative committees with jurisdiction over health care and health insurance.

### 9 **Mental health and substance use disorder parity work group.**

**Subd. 1. Establishment; membership.** Establishes a mental health and substance use disorder parity work group and specifies membership and related requirements.

**Subd. 2. First appointments; first meeting; chair.** Requires appointments to be made by July 1, 2018. Requires the commissioner of commerce or a designee to convene the first meeting by August 1, 2018, and to act as chair.

**Subd. 3. Duties.** Requires the work group to develop recommendations on the most effective approach to determine and demonstrate mental health and substance use disorder parity, in accordance with state and federal law for individual and group plans, and report recommendations to the legislature.

**Subd. 4. Report.** Requires the work group to submit recommendations to the legislative committees with jurisdiction over health care policy and finance by February 15, 2019. Specifies requirements for the report.

**Subd. 5. Expiration.** States that the work group expires February 16, 2019, or the day after submitting the required report, whichever is earlier.

### 10 **Provider grants for administration of peripheral nerve blocks.** (a) Allows the commissioner of human services, within the limits of funding provided for the substance use disorder provider capacity grant program, to design and implement a grant program to assist providers in purchasing devices for administering continuous peripheral nerve blocks to treat, reduce, or prevent substance use disorder for MA enrollees.

(b) If the commissioner implements the program, requires grants to be distributed between July 1, 2018 and June 30, 2019. Requires the commissioner to conduct outreach to providers and provide technical assistance. Also requires the commissioner to report on the grant program to the legislature by September 1, 2019.

### 11 **Repealer.** Repeals § 151.55 (cancer drug repository program).

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### Article 37: Health-Related Licensing Boards

#### Overview

This article establishes the health services executive license, establishes birth month licensure renewal for allied health professions, modifies Board of Optometry and Board of Social Work fees, creates emeritus dental licenses, adds provisions modifying pharmacy practice and licensure, modifies temporary license suspensions and background checks for certain health-related professions, adds continuing education requirements for opioid prescribing best practices, and requires Emergency Medical Services Regulatory Board guidelines authorizing patient-assisted medication administration.

- 1** **Reciprocity with other states and equivalency of health services executive.** Adds subd. 2 to § 144A.26. Authorizes the Board of Examiners for Nursing Home Administrators to issue a health services executive license to a person who (1) is validated by the National Association of Long Term Care Administrator Boards as a health services executive; and (2) has met the education and practice requirements to be qualified as a nursing home administrator, assisted living administrator, and home and community-based services provider.
- 2 - 29 & 31** These sections convert the allied health professionals regulated by the Board of Medical Practice (physician assistants, acupuncture practitioners, respiratory care practitioners, traditional midwives, registered naturopathic doctors and genetic counselors) to a licensure renewal cycle that is based on birth month. These sections do the following for each occupation:
- Specify that a licensee whose license has lapsed before January 1, 2019, shall be treated as a first-time licensee for purposes of establishing a license renewal schedule, and not subject to the license cycle conversion provisions.
  - Require a licensee to maintain a correct mailing address with the board and specify what constitutes valid service. Specify that failure to receive renewal documents does not relieve a licensee of the obligation to comply with this section.
  - Specifies that a licensee that fails to comply with renewal requirements will be removed from the list of individuals authorized to practice during the renewal period, until reinstated.
  - Convert the license renewal cycle to an annual cycle where renewal is due on the last day of a licensee's month of birth beginning for licensees, beginning January 1, 2019, for licensees who are licensed before December 31, 2018. Specifies the conversion of license renewal cycle for current licenses and for noncurrent licenses. Specifies that after the conversion renewal cycle, subsequent renewal cycles are annual and begin on the last day of the month of the licensee's birth.
  - Establish and adjust licensing fees for the conversion license period.
- 30** **License renewal; license and registration fees.** Amends § 148.59. Increases annual licensure renewal fee for the Board of Optometry and adds fees for jurisprudence state examination,

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Optometric Education Continuing Education data bank registration, and data requests and labels.

- 32 Fee amounts.** Amends § 148E.180. Implements Board of Social Work fee increases for applications, licenses, and renewals, and specifies that all Board of Social Work fees are nonrefundable.
- 33 Faculty dentists.** Amends § 150A.06. Adds dental therapy lists of programs in schools, relating to faculty dentist requirements. Modifies circumstances under which the Board of Dentistry may issue a full faculty license to faculty members.
- 34 Emeritus inactive license.** Amends § 150A.06 by adding subd. 10. Establishes an emeritus inactive license for a licensed dental professional who retires from active practice. Specifies that the emeritus inactive licensee may not practice in a dental profession, and that the license is a formal recognition of the completion of the licensee's career in good standing.
- 35 Emeritus active license.** Amends § 150A.06 by adding subd. 11. Establishes an emeritus active license for a licensed dental professional who retires, to practice only on a pro bono or volunteer basis, or limited paid consulting or supervision practice. Specifies practice limitations and renewal requirements.
- 36 Emeritus inactive license.** Amends §150A.091 by adding subd. 19. Adds application fee for emeritus inactive dental license.
- 37 Emeritus active license.** Amends §150A.091 by adding subd. 20. Adds application fees for emeritus active licenses in dentistry, dental therapy, dental hygiene, and dental assisting.
- 38 Receipt of emergency prescription orders.** Amends § 151.15 by adding subd. 5. Adds subdivision allowing a pharmacist to accept a prescription drug order when not present in a pharmacy, in specified circumstances.
- 39 Processing of emergency prescription orders.** Amends § 151.15 by adding subd. 6. Adds subdivision outlining the required processes for accepting and filling a prescription under subdivision 5, in emergency circumstances.
- 40 Pharmacy licensure requirements.** Amends § 151.19, subd. 1. Specifies that pharmacy licensing requirements do not apply to manufacturers, wholesale drug distributors, and logistics providers who distribute home dialysis supplies and devices, if:
- the manufacturer leases or owns the licensed manufacturing or wholesaling facility from which the dialysate or devices will be delivered;
  - the dialysis supplies meet certain specifications;
  - the supplies are only delivered pursuant to physician's order by a Minnesota licensed pharmacy;
  - the entity keeps records for at least 3 years, available to the board upon request; and
  - the entity delivers the supplies directly to a patient with end-stage renal disease or the patient's designee, for dialysis, or to a health care provider or institution, for the same purpose.
- 41 Prohibited drug purchases or receipt.** Amends § 151.46. Provides exception to prohibition on licensed wholesale drug distributors that are not pharmacies directly dispensing or distributing drugs, for home dialysis supplies under section 3.

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- 42 Applications.** Amends § 214.075, subd. 1. (a) Requires the health-related licensing boards to conduct a state criminal records check and a national criminal history (FBI) check for:
- (1) applicants for initial licensure or licensure by endorsement, except for an applicant who has had the same check by the same board;
  - (2) applicants for reinstatement or relicensure, if the license has been expired for more than one year; or
  - (3) licensees applying to participate in an interstate licensure compact.
- (b) Specifies that the background check results are valid for one year after receipt.
- 43 Refusal to consent.** Amends § 214.075, subd. 4. Removes 90-day timeframe to submit fingerprints for a health-related licensing board background study.
- 44 Submission of fingerprints to the Bureau of Criminal Apprehension.** Amends § 214.075, subd. 5. Modifies terminology for health-related licensing board national criminal history record checks.
- 45 Alternatives to fingerprint-based criminal background checks.** Amends § 214.075, subd. 6. Allows a health-related licensing board to require an alternative background check for an applicant or licensee who has submitted at least two unreadable sets of fingerprints.
- 46 Temporary license suspension; imminent risk of serious harm.** Amends § 214.077. Modifies time requirements for a health-related licensing board final order on a temporary suspension after a contested case hearing.
- 47 Special requirements for health-related licensing boards.** Amends § 214.10, subd. 8. Specifies that the health-related licensing boards will not exchange criminal history record information.
- 48 Opioid and controlled substances prescribing.** Amends § 214.12 by adding subd. 6. Requires the Boards of Medical Practice, Nursing, Dentistry, Optometry, and Podiatric Medicine to require that licensees with prescribing authority obtain at least two hours of continuing education credit on best practices in prescribing opioids and controlled substances by the expiration date of the section, January 1, 2023. Specifies that licensees shall not be required to complete more than two credit hours before the subdivision expires.
- Makes the section effective January 1, 2019.
- 49 Exceptions.** Amends § 364.09. Provides that chapter 364, governing rehabilitation and employment of criminal offenders, does not apply to the licensing or registration process for health licensing boards.
- 50 Guidelines authorizing patient-assisted medication administration.** Adds subd. 9 to § 144E.16. Requires the Emergency Medical Services Regulatory Board (EMSRB) to propose guidelines authorizing EMTs, AEMTs, and paramedics to assist a patient in emergency situations with administering certain prescription medications. Requires the board to submit the proposed guidelines to the legislature by January 1, 2019.
- 51 Repealer.** Repeals § 214.075, subd. 8 (planning for health board criminal background checks) and Minnesota Rules, part 5600.0605, subparts 5 and 8 (obsolete rules associated with license renewal).

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### Article 38: Opioids and Prescription Drugs

#### Overview

This article contains provisions related to the prevention and treatment of opioid addiction and substance user disorders. The article sets time limits for filling controlled substance prescriptions, requires certain prescribers to access the prescription monitoring program database, increases payment rates for chemical dependency services, funds various opioid-related initiatives, establishes additional quantity limits for controlled substance prescriptions, and makes other related changes.

- 1 **Sheriff to maintain collection receptacle.** Amends § 152.105, subd. 2. Allows county sheriffs to implement a medicine disposal program as an alternative to maintaining a collection receptacle for the disposal of controlled substances and other drugs. Defines “medical disposal program” as providing educational information and making materials available for safely destroying unwanted drugs, including but not limited to drug destruction bags or drops. Also defines “collection receptacle.”
- 2 **Prescription requirements for Schedule III or IV controlled substances.** Amends § 152.11, subd. 2. Makes a conforming change related to § 152.11, subd. 5.
- 3 **Limitations on the dispensing of opioid prescription drug orders.** Amends § 152.11 by adding subd. 5.
  - (a) Prohibits a pharmacist or dispenser from filling a prescription drug order for an opioid drug listed in Schedule II more than 30 days after the date on which the prescription drug order was issued.
  - (b) Prohibits a pharmacist or dispenser from filling a prescription drug order for an opioid drug listed in Schedule III through V more than 30 days after the date on which the prescription drug order was issued and prohibits a pharmacist or dispenser from refilling the drug more than 45 days after the previous date on which it was dispensed.
  - (c) Provides a definition of “dispenser.”
- 4 **Prescription electronic reporting system.** Amends § 152.125, subd. 2. Requires the Board of Pharmacy, before entering into a new contract or renegotiating a contract with a vendor for the operation of the prescription monitoring program, to: (1) ensure that the vendor complies with the National Institute of Standards and Technology standards for interoperability, security, and support; and (2) provide at least 30 days’ notice to the Legislative Advisory Commission. Allows the board to enter into or renegotiate the contract only if the LAC provides a positive recommendation or no recommendation.
- 5 **Access to reporting system data.** Amends § 152.126, subd. 6. A new paragraph (d) requires, beginning January 1, 2020, prescribers in an emergency department, urgent care clinic, or walk-in health clinic to access the data of the prescription monitoring program

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(PMP) to the extent the data relates to the patient, before prescribing a Schedule II through IV opiate controlled substance to the patient.

A new paragraph (e) provides that paragraph (d) does not apply if: (1) it is not possible for the prescriber to review the data before issuing the prescription, due to a medical emergency; or (2) the prescriber is unable to access data due to operational or other technological failure of the PMP, as long as the failure is reported to the board.

The amendment to paragraph (l) requires the board to submit annual reports to the legislature on prescribing trends for opiates.

Also makes a technical change.

- 6 Funding.** Amends § 152.126, subd. 10. Authorizes the Board of Pharmacy to modify its contract with its vendor for the PMP to allow the vendor to provide a service to prescribers and pharmacies that allows them to access the PMP data from within the electronic health records system or pharmacy software used by those prescribers or pharmacies. Requires the board to ensure that integration of access does not modify the information that must be reported, who can access the database and for what purpose, the data classification of information, and does not require a prescriber to access the database, other than as provided under subdivision 6. Also requires the board to ensure that the vendor complies with data encryption requirements and the time limit on data retention. Also authorizes the board to collect an annual fee from each prescriber or pharmacist who accesses the PMP through the service offered by the vendor, not to exceed \$50 per user. This fee is to be deposited in the special government special revenue fund and is appropriated to the board.
- 7 Comprehensive assessment.** Amends § 245G.05, subd. 1. Allows a residential or other substance use disorder treatment program to permit a licensed staff person who is not qualified as an alcohol and drug counselor to interview a client in areas of the comprehensive assessment that are within the competencies and scope of practice of the licensed staff person. Requires the alcohol and drug counselor to review and confirm the information in the comprehensive assessment.
- 8 Rules for substance use disorder care.** Amends § 254A.03, subd. 3. Allows a Rule 25 assessor employed by a county on July 1, 2018, to qualify to perform a comprehensive assessment if:
- (1) the individual is exempt from licensure under current statute;
  - (2) the individual is qualified as a Rule 25 assessor under Minnesota Rules; and
  - (3) the individual has been an assessor for three years or is supervised by an alcohol and drug counselor supervisor.
- Requires that beginning July 1, 2020, an individual who is qualified to perform a comprehensive assessment under this paragraph complete specified coursework.
- 9 Chemical dependency provider rate increase.** Amends § 254B.12, subd. 3. Increases payments rates for chemical dependency services by 1.74 percent, effective for services provided on or after July 1, 2018.

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**10 Opiate epidemic response account.** Adds § 256.043.

**Subd. 1. Establishment.** Establishes the opiate epidemic response account in the special revenue fund in the state treasury.

**Subd. 2. Proposed grants.** Requires the commissioner of human services, in consultation with the commissioners of health, education, and public safety, to present to the legislature proposals for projects to address the opioid addiction and overdose epidemic, by February 15 or each year, beginning February 15, 2019.

**Subd. 3. Use of account funds.** (a) For FY 2019, appropriates \$213,000 from the account to the commissioner of management and budget for evaluation activities, and appropriates \$384,000 to the commissioner of public safety for Bureau of Criminal Apprehension drug scientists and lab supplies. Appropriates the remaining money to the commissioner of human services to be allocated as grants as specified by the legislature or as otherwise appropriated by the legislature.

**Subd. 4. Evaluations.** Requires the commissioner of human services, in consultation with the commissioner of management and budget and within available appropriations, to evaluate specific grant projects.

**11 Opioid abuse prevention pilot projects.** Amends Laws 2017, 1<sup>st</sup> Spec. Sess. ch. 6, art. 10, § 144. Extends opiate abuse prevention pilot project reporting requirements to future funding years.

**12 Limit on quantity of opiates prescribed.** Amends Laws 2017, 1<sup>st</sup> Spec. Sess. ch. 6, art. 12, § 2, subd. 4. Sets quantity limits on opioid prescriptions to treat acute pain. The limits are: (1) for practitioners in an emergency department, urgent care clinic, or walk-in clinic, a three-day supply; (2) for practitioners treating acute dental pain or acute pain associated with refractive surgery, a four-day supply (these are the limits that apply in current law to these situations); and (3) for other situations, a seven-day supply for adults and a five-day supply for minors under age 18. Allows a practitioner, using professional clinical judgment, to override these limits.

**13 Opioid overdose reduction pilot program.** Requires the commissioner of health to provide grants to ambulance services to connect community paramedic teams with patients who have been discharged from a hospital or emergency room following an opioid overdose episode, develop personalized care plans for those patients, and provide follow up services. Specifies priority areas and services. Requires the commissioner to develop evaluation measures and reporting timelines for ambulance services. Requires the commissioner to submit summary information to the legislature by December 1, 2019.

## Article 39: Eldercare and Vulnerable Adult Protections

### Overview

This article establishes protections for older adults and vulnerable adults, including:

- modifying provisions in the health care bill of rights;
- prohibiting deceptive marketing and business practices;
- amending the commissioner's enforcement authority regarding nursing facilities;
- modifying the home care bill of rights and regulatory requirements for home care providers;
- changing the powers and duties of the Office of Health Facility Complaints;
- modifying regulatory requirements for housing with services establishments and assisted living services;
- expanding a supplemental civil penalty for deceptive acts or fraud, to apply to deceptive acts or fraud committed against vulnerable adults;
- eliminating the demonstrable bodily harm requirement in the crime of fourth degree assault against a vulnerable adult;
- modifying requirements for reporting maltreatment of vulnerable adults;
- requiring the commissioner of health to submit reports;
- establishing task forces and a working group; and
- directing the commissioner of health to perform specific functions.

- 1 Citation.** Provides that sections 1 to 61 may be called the Eldercare and Vulnerable Adult Protection Act of 2018.
- 2 Contracts of admission.** Amends § 144.6501, subd. 3. Requires a contract for admission to a nursing facility to include the name, address, and contact information of the current owner, manager, and license holder; and the name and mailing address of a person authorized to accept service of process.
- 3 Changes to contracts of admission.** Adds subd. 3a to § 144.6501. Requires a nursing facility to provide nursing facility residents or their legal representatives with written notice of a change in the facility's ownership, management, license holder, or person authorized to accept service of process.
- 4 Authorized electronic monitoring in certain health care facilities.** Adds § 144.6502. Establishes procedures for residents of certain health care facilities to use electronic monitoring.

**Subd. 1. Definitions.** Defines terms: authorized electronic monitoring, commissioner, department, electronic monitoring device, facility, legal representative, and resident.

**Subd. 2. Authorized electronic monitoring.** Allows a resident or legal representative to conduct authorized electronic monitoring of a resident's room or private living space by using electronic monitoring devices.

**Subd. 3. Consent to electronic monitoring.** Requires a resident to consent in writing to electronic monitoring in the resident's room or private space, using a notification and consent form developed by the ombudsman for long-term care. Specifies circumstances and procedures for a resident's legal representative to consent for the resident. Requires a resident to obtain consent for electronic monitoring from the resident's roommate, and allows a resident or roommate to place conditions on the use of electronic monitoring.

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Prohibits a resident from implementing electronic monitoring if the roommate does not consent.

**Subd. 4. Withdrawal of consent; refusal of roommate to consent.** Allows a resident or roommate to withdraw consent to electronic monitoring at any time, and prohibits the use of electronic monitoring if consent is withdrawn. Requires a nursing home or boarding care home to make a reasonable attempt to accommodate a resident who wants to use electronic monitoring if the resident's roommate does not consent to electronic monitoring, by offering to move the resident who wants to use electronic monitoring to another available room.

**Subd. 5. Notice to facility; form requirement.** Requires a resident to complete a notification and consent form before electronic monitoring may begin, and requires a facility to maintain the form in the resident's record. Lists what the form must include. Requires a resident who is conducting electronic monitoring before the effective date of this section to comply with this section by January 1, 2019.

**Subd. 6. Cost and installation.** Requires a resident to pay the costs of conducting electronic monitoring, including contracting with an Internet service provider if necessary. Requires a facility to make reasonable attempts to accommodate installation.

**Subd. 7. Notice to visitors.** Requires a facility to post a sign at each entrance accessible to visitors stating that security cameras and audio devices may be in use.

**Subd. 8. Obstruction of electronic monitoring devices.** Prohibits a person from knowingly hampering or preventing the use of an electronic monitoring device.

**Subd. 9. Dissemination of recordings.** Prohibits a facility from accessing any audio or video recording created through electronic monitoring without written consent of the resident or the resident's representative. Allows recordings to be disseminated only to address health, safety, and welfare concerns.

**Subd. 10. Admissibility of evidence.** Allows any recording created through electronic monitoring to be admitted into evidence in a civil, criminal, or administrative proceeding if the contents have not been edited or artificially enhanced, and if the video recording includes the date and time.

**Subd. 11. Liability.** Provides that a facility is not civilly or criminally liable for inadvertent or intentional disclosure of a recording by a resident or representative; or violating a resident's right to privacy arising out of electronic monitoring conducted according to this section.

**Subd. 12. Resident protections.** Prohibits a facility from:

- refusing to admit a potential resident or removing a resident if the facility disagrees with the resident's decision regarding electronic monitoring;
- intentionally retaliating or discriminating against a resident for consenting or refusing to consent to electronic monitoring; or
- preventing the use or installation of an electronic monitoring device.

Makes this section effective January 1, 2019.

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- 5**        **Legislative intent.** Amends § 144.651, subd. 1. Amends the legislative intent section of the health care bill of rights, by moving a sentence, specifying that a health care facility cannot ask a patient to waive a right, and prohibiting waiver of a right at any time or for any reason.
- 6**        **Definitions.** Amends § 144.651, subd. 2. Amends definitions in the health care bill of rights. The amendments to paragraphs (b) and (c) are technical and intended to clarify the definitions of patient and resident. A new paragraph (d) defines health care facility.
- 7**        **Information about rights.** Amends § 144.651, subd. 4. In the health care bill of rights, provides that the statement of patient and resident rights provided to patients and residents must be written in plain language and terms patients and residents can understand, must be developed by the commissioner in consultation with stakeholders, and must include the name and contact information for the state or county agency the patient or resident may contact for additional information.
- 8**        **Appropriate health care.** Amends § 144.651, subd. 6. In the health care bill of rights, provides that patients and residents have the right to medical and personal care provided by persons who are properly trained and competent to perform their duties.
- 9**        **Freedom from maltreatment.** Amends § 144.651, subd. 14. In a subdivision in the health care bill of rights providing that patients and residents shall be free from maltreatment, provides that when the Department of Health is the lead investigative agency, patients and residents shall receive notification from the department regarding a report of maltreatment, disposition, and appeal rights, as provided in section 626.557, subd. 9c.
- 10**       **Confidentiality of records.** Amends § 144.651, subd. 16. In the health care bill of rights, provides that the financial records of patients and residents shall be treated confidentially, and states that patients and residents have a right to access their own records and written information from those records.
- 11**       **Disclosure of services available.** Amends § 144.651, subd. 17. Provides that a resident has the right to 30 days' advance notice of changes in charges that are unrelated to a resident's change in condition or change of care needs. Prohibits certain facilities from collecting nonrefundable deposits, and prohibits facilities and providers from charging fees because a resident refuses treatment or medication, or when a resident chooses health professionals other than the ones selected or preferred by the facility or provider.
- 12**       **Grievances.** Amends § 144.651, subd. 20. Amends a subdivision on grievances in the health care bill of rights, to authorize patients and residents to personally assert the rights granted under the health care bill of rights and to recommend changes in policies and services free from retaliation. A new paragraph (b) gives patients and residents the right to complain about services provided or not provided and a lack of courtesy or respect to the patient, resident, or property. Requires a facility to investigate and try to resolve complaints and grievances. A new paragraph (c), regarding posting of grievance procedures, contains language similar to language that was stricken in paragraph (a).
- 13**       **Communication privacy.** Amends § 144.651, subd. 21. Clarifies that patients and residents must obtain communication tools such as writing instruments and Internet service at their own expense, unless provided by the facility.
- 14**       **Retaliation prohibited.** Adds subd. 34 to § 144.651. Adds a subdivision to the health care bill of rights prohibiting a facility or person from retaliating against a patient, resident, employee, or interested person who in good faith files a complaint or grievance, asserts patient or resident

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rights, submits a maltreatment report, advocates on behalf of a patient or resident, or contracts to receive services from a service provider of the resident's choice. States that adverse action may be considered retaliation, and lists actions that are considered an adverse action.

- 15**     **Electronic monitoring.** Adds subd. 35 to § 144.651. Adds a subdivision to the health care bill of rights, providing that a resident has the right to install and use electronic monitoring.
- 16**     **Deceptive marketing and business practices.** Adds § 144.6511. Prohibits deceptive marketing and business practices by housing with services establishments, assisted living settings, home care providers, and certain health care facilities. Provides that the following are deceptive practices:
- making false, fraudulent, deceptive, or misleading statements in marketing, advertising, or written description or representation of care or services;
  - arranging for or providing services other than those contracted for;
  - failing to deliver care or services that were promised;
  - failing to inform a patient or resident in writing of limitations to care, before executing an admission contract;
  - discharging or terminating a lease or services of a patient or resident who converts from private pay to elderly waiver, if the facility has promised in writing to continue the same services after the conversion;
  - failing to disclose in writing the purpose of nonrefundable community fees or other fees before contracting for services;
  - advertising or representing in writing that the facility has a special care unit, without complying with training and disclosure requirements that apply to such units; or
  - defining the listed terms to mean anything other than the definitions in section 144.6501.
- 17**     **Fines.** Adds subd. 3 to § 144.652. Amends a section on enforcement of the health care bill of rights, to allow the commissioner of health to impose a fine if a facility retaliates against a patient, resident, employee, or interested person.
- 18**     **Enforcement authority.** Amends § 144A.10, subd. 1. In a subdivision specifying the commissioner of health's enforcement authority over nursing facilities, provides that the commissioner is authorized to issue correction orders and impose fines. Makes a facility's refusal to cooperate in providing lawfully requested information, grounds for a correction order, fine, or both.
- 19**     **Statement of rights.** Amends § 144A.44, subd. 1. Amends the home care bill of rights, to provide that a person receiving home care services has the right to recommend changes in policies and services free from retaliation; the right to notification from the Department of Health regarding a maltreatment report; the right to Internet service at the person's own expense unless provided by the provider, and the right to use electronic monitoring in compliance with other law. Also gives a person who receives home care services the right to receive written information in plain language about rights before receiving services, and requires the commissioner to develop and make available a standard form explaining rights in plain language.
- 20**     **Assisted living bill of rights addendum.** Amends § 144A.441. Modifies circumstances under which a home care provider is not required to provide reasonable, advance notice of changes in

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services or charges or termination of services, by requiring a home care provider to document that a service recipient has created an abusive or unsafe work environment, and requiring one of the listed health care professionals to document that an emergency or change in the recipient's condition resulted in service needs that exceed the current service agreement and cannot be met by the provider. Also requires a provider to notify a participant's case manager of a termination of services if the participant is receiving MA waiver services.

### **21 Arranged home care provider responsibilities; termination of services.** Amends § 144A.442.

**Subd. 1. Definition.** Defines coordinated transfer for this section.

**Subd. 2. Permissible reasons to terminate services; notice required.** Paragraphs (a) and (b) allow an arranged home care provider to terminate home care services provided to an assisted living client if the client:

- engages in conduct that significantly alters the terms of the service agreement and does not significantly alter that conduct within 30 days (30 days notice of terminating services must be provided if terminating services for this reason); or
- fails to pay the provider for services agreed to in the service agreement (ten days notice of terminating services must be provided if terminating services for this reason).

Paragraph (c) allows a home care provider to terminate services with no notice if the client creates an abusive or unsafe environment or if a change in the client's condition exceeds the current service agreement and cannot be met by the home care provider (service termination under this paragraph may occur only after the provider has assisted the client with a coordinated transfer).

Paragraph (d) requires a provider to notify a participant's case manager of a termination of services if the participant is receiving MA waiver services.

**Subd. 3. Contents of service termination notice.** Requires a service termination notice to include:

- a statement that a client has the right to avoid a termination of services by paying past due charges or curing the alteration of the terms of the service agreement before the effective date of the service termination;
- a statement that the recipient of the notice may contact the Office of Ombudsman for Long-Term Care for assistance; and
- a statement of the client's right to appeal the service termination.

**Subd. 4. Right to appeal service termination.** Allows a client to appeal a service termination by requesting a hearing with the Office of Administrative Hearings. Prohibits appealing a service termination if the client failed to pay for services. Allows appeals for service terminations caused by the client engaging in conduct that significantly alters the terms of the service agreement beginning July 1, 2018. Allows appeals for service terminations caused by the client creating an abusive or unsafe environment for the provider, or by a change in the client's condition that results in service needs that cannot be met by the provider, beginning January 1, 2020. Prohibits a provider from discontinuing services for a client who appeals the termination, until the Office of

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Administrative Hearings makes a final determination. Lists circumstances in which the commissioner of health may order the provider to rescind the service termination.

**Subd. 5. Assistance with coordinated transfer.** Requires a client's housing with services establishment and the client's arranged home care provider to assist the client with a coordinated transfer.

Makes this section effective for contracts entered into or renewed on or after July 1, 2018.

- 22 **Regulations.** Amends § 144A.45, subd. 1. In a subdivision authorizing the commissioner of health to regulate home care providers, authorizes the commissioner to issue penalties and fines to enforce home care statutes and the home care bill of rights.
- 23 **Regulatory functions.** Amends § 144A.45, subd. 2. Adds sections 144A.474 (surveys and investigations) and 144A.475 (enforcement) to the list of sections that authorize the commissioner of health to issue correction orders and assess civil penalties against home care providers.
- 24 **Correction orders.** Amends § 144A.474, subd. 8. Allows the commissioner to impose an immediate fine on a home care provider that is not in compliance with home care statutes. Requires a home care provider to keep on file the amount of any immediate fine issued and the provider's correction plan.
- 25 **Follow-up surveys.** Amends § 144A.474, subd. 9. Provides that if a surveyor of a home care provider identifies a new violation as part of a follow-up survey, the surveyor shall issue a correction order for the new violation and may impose an immediate fine (current law prohibits a surveyor from issuing a fine for a new violation identified in a follow-up survey, unless the new violation is not corrected by the next follow-up survey).
- 26 **Fines.** Amends § 144A.474, subd. 11. In a subdivision on fines that may be imposed on home care providers, clarifies that the commissioner may impose an additional fine for noncompliance with a correction order, and requires the notice of noncompliance to list any additional fines imposed. Also clarifies that the commissioner may issue late payment fines or additional fines for noncompliance with a notice of noncompliance with a correction order, or suspend a license until the license holder pays all outstanding fines, and clarifies procedures for the license holder to notify the commissioner when a violation is corrected.
- 27 **Deceptive marketing and business practices.** Adds subd. 2a to § 144A.479. Amends a section governing the business operations of home care providers, to prohibit a home care provider from engaging in deceptive marketing and business practices as listed in the new section 144.6511.
- 28 **Termination of service plan.** Amends § 144A.4791, subd. 10. In a subdivision governing a home care provider's termination of a client's service plan, provides that terminations of services by an arranged home care provider providing services to clients in assisted living settings, is governed by section 144A.442.
- 29 **Powers.** Amends § 144A.53, subd. 1. Amends a subdivision governing the powers of the director of the Office of Health Facility Complaints, to authorize the director to issue correction orders and assess civil fines for violations of the health care bill of rights, nursing home licensing statutes and rules, home care provider licensing statutes, hospice and supervised living facility rules, and the maltreatment of vulnerable adults act. Strikes references to residential care homes (a facility license that was repealed in 1997). Allows the director to use an existing home care provider statute to calculate fine amounts.

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- 30 Referral of complaints.** Amends § 144A.43, subd. 4. The amendment to paragraph (a) requires the Office of Health Facility Complaints to forward complaints to law enforcement if those complaints are in the jurisdiction of law enforcement. The amendment to paragraph (c) requires the Office of Health Facility Complaints to refer suspected criminal activity or action warranting disciplinary action by a client or resident to the appropriate authority or agency. Also strikes a reference to residential care home.
- 31 Safety and quality improvement technical panel.** Adds subd. 5 to § 144A.53. Directs the Office of Health Facility Complaints to establish a safety and quality improvement technical panel to examine and make recommendations on how to apply safety and quality improvement practices and infrastructure to long-term services and supports. Lists who the technical panel must include, and requires it to periodically provide recommendations to the legislature on changes needed to promote safety and quality improvement practices in long-term care settings and with long-term care providers.
- 32 Training and operations panel.** Adds subd. 6 to § 144A.53. Directs the Office of Health Facility Complaints to establish a training and operations panel to examine and make recommendations on how to improve office operations. Lists who the panel must include, and lists panel duties:
- developing training processes for investigators;
  - developing clear, consistent policies for conducting investigations;
  - developing quality control measures for the intake and triage processes;
  - developing systems and procedures to determine office jurisdiction;
  - developing procedures to audit investigations;
  - developing procedures to communicate appeal or review rights to all parties; and
  - upgrading information on the office’s Web site.
- 33 Posting maltreatment reports.** Adds subd. 7 to § 144.53. Paragraph (a) requires the director of the Office of Health Facility Complaints to post the following information for the past five years on the Department of Health Web site: the public portions of all substantiated maltreatment reports for which the Department of Health is the lead investigative agency; and whether the facility or provider has appealed the substantiated report.
- Paragraph (b) requires the posted information to be updated following an appeal.
- Paragraph (c) requires this information to be posted in a nonduplicative manner, in coordination with other divisions at MDH, and in a format that allows consumers to search for information by facility or provider name and by a facility’s physical address or a provider’s local business address.
- 34 Scope.** Amends § 144D.01, subd. 1. Makes a technical change to a subdivision specifying the scope of definitions in chapter 144D (a chapter governing housing with services establishments), to make them apply to the entire chapter.
- 35 Registration required.** Amends § 144D.02. Requires housing with services establishments to comply with all requirements in chapter 144D in order to operate as a housing with services establishment.

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- 36**     **Contents of contract.** Amends § 144D.04, subd. 2. In a subdivision listing the required content of a housing with services establishment contract, requires the contract to include the physical mailing address of a person authorized to accept service of process; a statement that the resident has the right to request reasonable accommodation; and a statement describing how the contract may be amended.
- 37**     **Changes to contract.** Adds subd. 2b to § 144D.04. Requires a housing with services establishment to provide prompt written notice to a resident or legal representative of a new owner, manager, or person authorized to accept service of process.
- 38**     **Deceptive marketing and business practices.** Adds § 144D.041. Adds a reference in the housing with services chapter to the section prohibiting deceptive marketing and business practices; that section also applies to housing with services establishments.
- 39**     **Information required to be posted.** Adds § 144D.044. Requires a housing with services establishment to post a notice with the following, in a public place:
- the name, mailing address, and contact information of the current owners;
  - the name, mailing address, and contact information of the managing agent;
  - the name and contact information of any on-site manager; and
  - the name and mailing address of a person authorized to accept service of process.
- 40**     **Termination of lease.** Amends § 144D.09. Modifies requirements for a housing with services establishment to terminate a lease.
- Subd. 1. Notice required.** If a housing with services establishment terminates a resident's lease, requires the establishment to give the resident notice of the termination. Lists what the notice must include.
- Subd. 2. Transfer of information to new residence.** Before a resident is involuntarily relocated because of lease termination, requires the housing with services establishment to provide the resident's new facility or establishment with the information needed to ensure continuity of care, if the resident consents to the transfer of information. Lists the information that must be transferred.
- 41**     **Termination of services.** Adds § 144D.095. Specifies that a termination of services initiated by an arranged home care provider is governed by section 144A.442.
- 42**     **Scope; other definitions.** Clarifies that the definitions in chapter 144G (a chapter governing assisted living) and the definitions in chapter 144D (a chapter governing housing with services establishments) apply to all of chapter 144G.
- 43**     **Termination of lease.** Adds § 144G.07. Specifies that a lease termination initiated by a housing with services establishment that uses the term assisted living, is governed by section 144D.09.
- 44**     **Termination of services.** Add § 144G.08. Specifies that a termination of services initiated by an arranged home care provider is governed by section 144A.442.
- 45**     **Senior citizens, vulnerable adults, and persons with disabilities; additional civil penalty for deceptive acts.** Amends § 325F.71.
- Subd. 1. Definitions.** Changes a term defined, from disabled person to person with a disability; and defines vulnerable adult.

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**Subd. 2. Supplemental civil penalty.** Expands the supplemental civil penalty that applies to deceptive trade practices, false advertising, or consumer fraud committed against a senior citizen or a person with a disability, to also apply to those acts if committed against a vulnerable adult.

- 46** **Vulnerable adults.** Amends § 609.2231, subd. 8. Amends the crime of fourth degree assault against a vulnerable adult, to eliminate the requirement that demonstrable bodily harm must have been inflicted on the vulnerable adult. Provides that a person who uses restraints on a vulnerable adult is not violating this subdivision, if the person complies with state and federal laws regarding the use of restraints and any force applied in imposing restraints is reasonable.
- 47** **Timing of report.** Amends § 626.557, subd. 3. Modifies the timeframe within which a mandated reporter must report maltreatment of a vulnerable adult to the common entry point, from immediately as in current law, to as soon as possible but in no event longer than 24 hours.
- 48** **Reporting.** Amends § 626.557, subd. 4. In a subdivision governing maltreatment reports made to the common entry point, requires the common entry point to provide a way to record that the reporter has electronic evidence to submit. Also requires all reports to be directed to the common entry point, including reports from federally licensed facilities. (Prior to this, a federally licensed facility had to submit two reports, one to the commissioner of health and one to the common entry point.)
- 49** **Evaluation and referral of reports made to common entry point.** Amends § 626.557, subd. 9a. Requires the common entry point to notify the appropriate law enforcement agency about a report that indicates an immediate need for response by law enforcement.
- 50** **Response to reports.** Amends § 626.557, subd. 9b. Requires a law enforcement agency to obtain the results of any investigation conducted by a lead investigative agency, to determine if criminal action is warranted.
- 51** **Lead investigative agency; notifications, dispositions, determinations.** Amends § 626.557, subd. 9c. A new paragraph (b) lists information the Department of Health, when it is the lead investigative agency, must provide to the vulnerable adult or a guardian or health care agent, within five days after initiation of an investigation.
- A new paragraph (c) requires the Department of Health, when it is the lead investigative agency, to provide maltreatment information, at the request of the vulnerable adult who is the subject of the maltreatment report, or that person's guardian or health care agent.
- A new paragraph (d) directs the lead investigative agency to seek to receive any electronic evidence the reporter has, before making a determination to investigate or not investigate.
- New paragraphs (e) and (f) permit the lead investigative agency to assign multiple reports of maltreatment related to the same vulnerable adult to the same investigator, and requires cross-referencing of reports related to the same vulnerable adult, the same incident, or the same alleged perpetrator, facility, or licensee.
- In paragraph (k), requires the lead investigative agency to provide the public investigation memorandum to law enforcement and the county attorney, as appropriate.
- 52** **Data management.** Amends § 626.557, subd. 12b. Modifies data classifications for data maintained by the common entry point. Allows investigation data (other than data on the reporter) to be shared with the vulnerable adult or a guardian or health care agent if the lead investigative agency determines such data sharing is necessary to protect the vulnerable adult.

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Directs the commissioner of health and commissioner of human services, on a biennial basis, to provide recommendations on preventing, addressing, and responding to substantiated maltreatment (current law requires such recommendations only if there are upward trends for types of substantiated maltreatment). Allows a lead investigative agency to share common entry point or investigative data and notify other affected parties, if the lead investigative agency believes such information sharing or notice is necessary to safeguard the wellbeing of affected parties or dispel rumors or unrest.

- 53 Abuse prevention plans.** Amends § 626.557, subd. 14. Requires the commissioner of health to issue a correction order, and allows imposition of an immediate fine, if the commissioner finds that a facility failed to establish and enforce an abuse prevention plan.
- 54 Retaliation prohibited.** Amends § 626.557, subd. 17. In a subdivision prohibiting retaliation against a person who reports suspected maltreatment or against a vulnerable adult who is a subject of a report, provides that any restriction of a right specified in the Home Care Bill of Rights or in the Assisted Living Addendum by a facility or provider against the reporter or vulnerable adult within 90 days after the report, is an adverse action and presumed to be retaliatory conduct.
- 55 Assisted living licensure and dementia care task force.** Establishes an assisted living licensure and dementia care task force of 15 members to consider and make recommendations on a new regulatory framework for assisted living establishments and dementia care.
- Subd. 1. Establishment; membership.** Establishes the task force and lists membership. Requires appointments to be made by July 1, 2018.
- Subd. 2. Duties; recommendations.** Requires the task force to consider and make recommendations on a new regulatory framework for assisted living and dementia care, and lists items the framework must address. Also directs the task force to develop standards for dementia care certification. Provides that facilities and providers licensed by the commissioner of human services are exempt from assisted living licensing requirements recommended by this group.
- Subd. 3. Meetings.** Establishes requirements for the first meeting and electing a chair. Provides that meetings are open to the public.
- Subd. 4. Compensation.** Provides that public members of the task force shall serve without compensation or reimbursement for expenses.
- Subd. 5. Administrative support.** Requires the commissioner of health to provide administrative support to the task force.
- Subd. 6. Report.** Requires the task force to submit an interim report by February 1, 2019, and a final report by January 15, 2020, with findings, recommendations, and draft legislation to health and human services policy and finance committees in the legislature.
- Subd. 7. Expiration.** Makes the task force expire January 16, 2020, or the day after submitting its final report, whichever is later.
- 56 Assisted living report card working group.** Establishes an assisted living report card working group to develop and make recommendations on an assisted living report card.
- Subd. 1. Establishment; membership.** Establishes the working group and lists membership. Requires appointments to be made by July 1, 2018.

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**Subd. 2. Duties.** Requires the working group to consider and make recommendations on the development of an assisted living report card, and lists quality metrics that must be considered.

**Subd. 3. Meetings.** Establishes requirements for the first meeting and electing a chair. Provides that meetings are open to the public.

**Subd. 4. Compensation.** Provides that members of the working group shall serve without compensation or reimbursement for expenses.

**Subd. 5. Administrative support.** Requires the commissioner of human services to provide administrative support to the working group.

**Subd. 6. Report.** By January 15, 2019, requires the working group to submit a report, recommendations, and draft legislation to the health and human services policy and finance committees in the legislature.

**Subd. 7. Expiration.** Makes the working group expire January 16, 2019, or the day after it submits its report, whichever is later.

57 **Crimes against vulnerable adults advisory task force.** Establishes a task force to evaluate laws relating to crimes against vulnerable adults

**Subd. 1. Task force established; membership.** Establishes the task force and lists its membership. Allows the task force to appoint additional members, and requires members to be appointed by July 1, 2018.

**Subd. 2. Duties; recommendations and report.** Directs the task force to review and evaluate laws relating to crimes against vulnerable adults. By December 1, 2018, directs the task force to submit a report to the legislative committees with jurisdiction over health and human services policy and criminal policy with findings, recommendations, and proposed changes.

**Subd. 3. Administrative provisions.** Directs the commissioner of human services to provide meeting space and administrative support, and requires the commissioner of human services, commissioner of health, and attorney general to provide technical assistance. Provides that task force members shall serve without compensation or reimbursement for expenses.

**Subd. 4. Expiration.** Makes the task force expire May 20, 2019.

58 **Direction to commissioner of health; progress in implementing recommendations of legislative auditor.** By March 1, 2019, requires the commissioner of health to submit a report to legislative committees regarding the commissioner's progress toward implementing the changes to the Office of Health Facility Complaints with which the commissioner agreed in a March 1, 2018, letter to the Office of the Legislative Auditor.

59 **Reports; Office of Health Facility Complaints' response to vulnerable adult maltreatment allegations.** On a quarterly basis until January 2021, and annually thereafter, requires the commissioner of health to publish on the Department of Health web site, a report on how the Office of Health Facility Complaints is responding to allegations of vulnerable adult maltreatment. Lists information each report must include, and requires the commissioner to maintain reports for the past three years on the department's Web site.

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- 60** **Report; safety and quality improvement practices.** By January 15, 2019, requires the safety and quality improvement technical panel to provide recommendations to the legislature on:
- implementing an adverse health events reporting system for long-term care settings; and
  - interim actions for analysis of reports and complaints submitted to the Office of Health Facility Complaints, to identify common themes and key prevention opportunities.
- 61** **Repealer.** Repeals a subdivision prohibiting home care providers from engaging in false or fraudulent advertising in the marketing of services (this subdivision is replaced by another section prohibiting deceptive marketing and business practices).

## Article 40: Children and Families; Licensing

### Overview

This article contains provisions related to child care assistance program federal compliance, child care and foster care licensing and operations, American Indian child welfare initiatives, stable housing and support services for vulnerable youth, child support, a homeless youth report, state agency operations, childhood trauma-informed policy and practices, and updating SNAP terminology.

- 1** **Homeless.** Amends § 119B.011, by adding subd. 13b. Defines “homeless” under the child care assistance program statutes. Makes this section effective August 12, 2019.
- 2** **Provider.** Amends § 119B.011, subd. 19. Modifies the definition of “provider” in the child care assistance program statutes. Makes this section effective September 24, 2018.
- 3** **Transition year families.** Amends § 119B.011, subd. 20. Modifies the definition of “transition year families” by modifying the eligibility of families who have received Diversionary Work Program (DWP) assistance for transition year assistance. Makes this section effective October 8, 2018.
- 4** **Child care market rate survey.** Amends § 119B.02, subd. 7. Changes the frequency in which the child care market rate survey must be conducted from once every two years to once every three years beginning in state fiscal year 2021.
- 5** **Applications.** Amends § 119B.025, subd. 1. Specifies the process counties must follow when handling applications of families who meet the definition of homeless. Makes this section effective August 12, 2019.
- 6** **Portability pool.** Amends § 119B.03, subd. 9. Modifies the portability pool by requiring families who are receiving basic sliding fee child care assistance and move from one county to another to notify the family’s previous county of residence of the move (under current law, families must notify the new county of residence within 60 days of moving and submit information to the new county of residence to verify eligibility for the basic sliding fee program). Removes the six-month time limit on receipt of portability pool assistance. Makes this section effective October 8, 2018.

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- 7 **Commissioner to administer block grant.** Amends § 119B.06, subd. 1. Requires the commissioner to ensure that certain federal discretionary funds that are reserved for quality activities are prioritized to increase the availability of training and business planning assistance for child care providers.
- 8 **Administration of additional funds.** Amends § 119B.06, by adding subd. 4. Specifies how the commissioner shall allocate additional federal child care development block grant funds in federal fiscal years 2018 and 2019. Requires the commissioner to administer funding for child care programs to ensure that the amount of general fund money allocated to child care programs does not increase to replace a reduction in federal child care development block grant funds if those funds are less than the amount received in federal fiscal year 2017.
- 9 **General eligibility requirements.** Amends § 119B.09, subd. 1. Specifies a family remains eligible for child care assistance until the redetermination if the child turns 13 years of age or the child has a disability and turns 15 years of age. Makes this section effective October 8, 2018.
- 10 **Maintain steady child care authorizations.** Amends § 119B.095, subd. 2. Specifies the amount of child care authorized for a family continues at the same number of hours or more hours until redetermination when a child reaches 13 years of age or a child with a disability reaches 15 years of age. Makes this section effective October 8, 2018.
- 11 **Assistance for persons who are experiencing homelessness.** Amends § 119B.095, by adding subd. 3. Makes homeless applicants for child care assistance eligible for 60 hours of child care assistance per service period for three months from the date the county receives the application. Allows additional hours to be authorized as needed based on the applicant's participation in employment, education, or MFIP or DWP employment plan. Requires the parent to verify that the parent meets eligibility and activity requirements for child care assistance to continue receiving assistance after the initial three months. Makes this section effective August 12, 2019.
- 12 **Subsidy restrictions.** Amends § 119B.13, subd. 1. Modifies the child care assistance program maximum rates to be based on the most recent child care provider rate survey. Gives the commissioner the authority to calculate maximum rates, not to exceed the 25<sup>th</sup> percentile of market rates. Makes this section effective for child care provider payments beginning February 22, 2019.
- 13 **Requirement to post conditional license.** Amends § 245A.06, subd. 8. Removes requirement for licensed child care providers and centers to post correction orders, and removes paragraphs (b) and (c), which apply to the posting of correction orders. Does not remove posting requirements for conditional licenses.
- 14 **Child foster care training requirement; mental health training; fetal alcohol spectrum disorders training.** Amends §245A.175. Modifies the child foster care licensing training requirements by requiring at least one hour of training on fetal alcohol spectrum disorders per year, which must be counted towards the 12 hours of annual training required.
- 15 **Training requirements for family and group family child care.** Amends § 245A.50, subd. 7. Modifies family and group family child care training requirements by allowing approved trainers who teach training courses through the Minnesota Center for Professional

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Development in the required topic areas to count the hours spent conducting training toward their annual child care training hour requirements. Makes the section effective July 1, 2018.

- 16 Membership terms, compensation, removal and expiration.** Amends § 254A.035, subd. 2. Extends the American Indian Advisory Council from June 30, 2018, to June 30, 2023.
- 17 American Indian child welfare projects.** Amends § 256.01, subd. 14b. Requires the commissioner and the Red Lake Nation, in consultation with Beltrami, Clearwater, and Lake of the Woods Counties, to develop a proposal, due by January 15, 2019, to transfer responsibility to the tribe for child protection services provided to tribal members.
- 18 Homeless youth report.** Amends § 256K.45, subd. 2. Exempts the commissioner from preparing the biennial homeless youth report in 2019 and requires the commissioner to update the 2007 report on homeless youth.
- 19 Stable housing and support services for vulnerable youth.** Proposes coding for § 256K.46.

**Subd. 1. Definitions.** Defines terms, for the purposes of this section.

**Subd. 2. Grants authorized.** Allows the commissioner of human services to award grants to programs licensed to provide transitional housing and supportive services to vulnerable youth, for two-year periods. Specifies that the commissioner shall determine the number of grants awarded and that the commissioner may reallocate underspending.

**Subd. 3. Program variance.** Specifies that the commissioner may grant a variance allowing a program licensed to provide transitional housing and support services to 16- and 17-year-olds, to serve 13- to 17-year-olds under this grant program.

**Subd. 4. Allocation of grants.** (a) Specifies the information that must be included in the grant applications.

(b) Specifies the purposes of the grants, including, but not limited to, the following:

(1) transitional housing, meals, and living essentials to vulnerable youth and their children;

(2) support services;

(3) mental health and substance use disorder counseling;

(4) staff training;

(5) case management and referral services;

(6) aftercare and follow-up services.

(c) Requires the commissioner to establish criteria for grants; specifies some criteria. Allows commissioner to request additional information.

**Subd. 5. Awarding of grants.** Establishes dates by which the commissioner must notify grantees and disburse funds.

**Subd. 6. Update.** Requires the commissioner to consult with providers serving vulnerable youth and older youth, to make recommendations to resolve conflicting

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licensing and program requirements and foster best practices. Specifies that recommendations may include the development of additional certifications. Requires the commissioner to provide an update on these tasks to the legislature by January 15, 2019.

**20 Expiration.** Amends § 260.835, subd. 2. Extends the American Indian Child Welfare Advisory Council from June 30, 2018, to June 30, 2023.

**21 Foster care sibling bill of rights.** Proposes coding for § 260C.008.

**Subd. 1. Statement of rights.** Lists the rights of siblings placed in foster care, and the right of adult siblings of children in foster care to be considered as foster care providers and relative custodians for their siblings.

**Subd. 2. Interpretation.** Specifies the interpretation of the rights in subdivision 1; provides that the rights do not replace or diminish other rights, liberties, and responsibilities that may exist for children in foster care.

**Subd. 3. Disclosure.** Requires child welfare agency staff to provide a copy of the rights in subdivision 1 to: a child with a sibling at the time the child enters foster care, any known adult siblings, and the foster care provider. Requires that the copy contain contact information for the Office of Ombudsman for Families and instructions on how to file a complaint.

Makes the section effective for children entering foster care on or after August 1, 2018, and makes subdivision 3 effective and apply to all children in foster care on August 1, 2018.

**22 Parent not considered voluntarily unemployed, underemployed, or employed on a less than full-time basis.** Amends § 518A.32, subd. 3. Modifies the circumstances in which a parent is not considered to be voluntarily unemployed, underemployed, or employed on a less than full-time basis for child support calculation purposes.

Makes this subdivision applicable to all incarcerated parents by removing the exception for parents incarcerated due to nonpayment of child support.

Makes this subdivision applicable to a parent who has been determined to be eligible for general assistance or Supplemental Security Income payments. Specifies that any income that is not from public assistance payments may be considered in calculating child support.

**23 Consumer reporting agency; reporting arrears.** Amends § 518A.685. Removes the requirement that the public authority inform the consumer reporting agency if an obligor is currently paying child support, if an obligor has paid the arrears in full or is making the obligated monthly payments with added arrearage payments.

**24 2018 Report to the legislature on homeless youth.**

**Subd. 1. Report development.** In lieu of the biennial homeless youth report under the Homeless Youth Act, requires the commissioner of human services to update the information in the 2007 legislative report on runaway and homeless youth. Allows the commissioner to use existing data, studies, and analysis provided by state, county, and other listed entities.

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**Subd. 2. Key elements; due date.** Paragraph (a) allows the commissioner to include in the report three key elements where significant learning has occurred in the state since the 2007 report.

Paragraph (b) lists information the report must include.

Paragraph (c) allows the commissioner of human services to consult with community-based providers of homeless youth services and other expert stakeholders to complete the report; and requires the commissioner to submit the report to the chairs and ranking minority members of the legislative committees with jurisdiction over youth homelessness by February 15, 2019.

**25 Department of investigation, compliance, and eligibility.** Requires the commissioners of human services and health to consider the benefits of consolidating licensing, background study, and oversight functions into a single agency. Requires the revisor to draft legislation consolidating these functions for the relevant legislative committees by July 1, 2019

**26 Commissioner of human services child care licensing rulemaking authority.** Prohibits the commissioner of human services from adopting rules under Minnesota Statutes, chapter 14, that modify Minnesota Rules, chapters 9502 and 9503, or from adopting additional rules relating to child care licensing, unless otherwise expressly authorized by law enacted on or after the effective date. Makes the section effective July 1, 2018.

**27 Task force on childhood trauma-informed policy and practices.**

**Subd. 1. Establishment.** Requires the commissioner of human services to establish and appoint a task force on trauma-informed policy and practice, and reduce children's exposure to ACEs. Lists the members of the task force.

**Subd. 2. Staff.** Requires the commissioner of human services to provide meeting space, support staff, and administrative services.

**Subd. 3. Duties.** Requires the task force to: (1) engage the human services, education, public health, and justice systems to create trauma-informed policy and practices, prevent and reduce ACEs, and support family health and well-being; and (2) identify social determinants of family health and well-being, and recommend solutions to eliminate racial and ethnic disparities in Minnesota.

**Subd. 4. Report.** Requires the task force to submit a report on its results and policy recommendations to the relevant legislative committees, by January 15, 2019.

**Subd. 5. Expiration.** Specifies that the task force expires when the report is submitted.

Makes this section effective the day following final enactment.

**28 Revisor's instruction.** Instructs the Revisor of Statutes, in consultation with the Department of Human Services, House Research Department, and Senate Counsel, Research and Fiscal Analysis to change the terms "food support" and "food stamps" to "Supplemental Nutrition Assistance Program" or "SNAP" in Minnesota Statutes and Rules when appropriate. Allows the revisor to make technical and other necessary changes to sentence structure to preserve the meaning of the text.

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**Article 41: State-Operated Services; Chemical and Mental Health**

**Overview**

This article establishes mental health screening and data procedures for inmates, modifies human services program licensing provisions, provides set-asides for disqualified individuals in the chemical dependency field, modifies chemical dependency fund transfer provisions, modifies provisions governing post-arrest community-based service coordination, modifies billing for psychiatric residential treatment facility services, changes effective dates for provisions governing state-only MA funding payments for services provided in children's residential facilities, and establishes a student health initiative to limit opioid harm.

- 1 **Mental health screening.** Amends § 13.851. Specifies that the treatment of data collected by a sheriff or corrections agency for individuals who may have a mental illness is governed by § 641.15, subd. 3a.
- 2 **Grant of license; license extension.** Amends § 245A.04, subd. 7. Allows the commissioner of human services to issue a temporary change of ownership license or provisional license. Prohibits commissioner from issuing or reissuing a license if the applicant had been denied a license, including a license following expiration of a provisional license, within the past two years.
- 3 **Notification required.** Amends § 245A.04, adding subd. 7a. Paragraph (a) requires a license holder to notify the commissioner and obtain approval before making any changes that would alter the license information.  
  
Paragraph (b) requires a license holder to notify the commissioner at least 30 days before the change is effective, in writing, of certain listed changes.  
  
Paragraph (c) requires a license holder to provide amended articles of incorporation or other documents reflecting a change to business structure or services. Makes this section effective August 1, 2018.
- 4 **License application after a change of ownership.** Proposes coding for § 245A.043.
  - Subd. 1. Transfer prohibited.** Specifies that a license is not transferable or assignable.
  - Subd. 2. Change of ownership.** Requires submission of a new license application when the commissioner determines that a change in ownership will occur. Specifies what constitutes a change in ownership.
  - Subd. 3. Change of ownership requirements.** Paragraph (a) requires written notice to the commissioner of any proposed sale or change of ownership at least 60 days prior to the anticipated change, when the new owner intends to assume operation without interruption.

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Paragraph (b) requires a prospective new owner or operator to submit a license application at least 30 days prior to the change, and comply with all statutory requirements.

Paragraph (c) allows the commissioner to develop application procedures for when the applicant is a current license holder, and the program is currently licensed by DHS and in substantial compliance.

Paragraph (d) specifies that the existing license holder is responsible for operating the program until a license is issued to the new owner or operator.

Paragraph (e) allows the commissioner to waive a new owner or operator's licensing inspection, under certain circumstances.

Paragraph (f) requires a new owner or operator to submit a letter identifying how and when they will resolve any outstanding correction orders, if applicable.

Paragraph (g) specifies that any licensing actions taken against the existing license holder when the new owner or operator is applying for a license will remain in effect until the grounds for the action are corrected or no longer exist.

Paragraph (h) requires the commissioner to evaluate a license application according to statute.

Paragraph (i) allows the commissioner to deny an application according to statute, and allows for appeals.

Paragraph (j) specifies that this subdivision does not apply to a home-based program or service.

**Subd. 4. Temporary change of ownership license.** Establishes a temporary change of ownership license for a new owner or operator while the commissioner evaluates the new owner or operator's license application. Allows commissioner to establish criteria for issuing such licenses.

Makes this section effective August 1, 2018.

- 5 Risk of harm; set aside.** Amends § 245C.22, subd. 4. Requires the commissioner to set aside a disqualification for an individual in the chemical dependency field if:
- (1) the individual is a nonviolent controlled substance offender;
  - (2) the individual is disqualified for one or more listed controlled substance offenses;
  - (3) the individual provides documentation of successful completion of treatment at least one year prior;
  - (4) the individual provides documentation of abstinence from controlled substances for at least one year prior; and
  - (5) the individual is seeking employment in the chemical dependency field.
- 6 Scope of set-aside.** Amends § 245C.22, subd. 5. Provides an exception for a set-aside for a person in the chemical dependency field, under subd. 4.

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- 7      **Chemical dependency treatment allocation.** Amends § 254B.02, subd. 1. Removes language allowing transfer of funds from the chemical dependency fund for administrative purposes. Makes this section effective July 1, 2018.
- 8      **Chemical dependency fund payment.** Amends § 254B.03, subd. 2. Removes provision requiring prior approval from the commissioner for chemical dependency services. Allows the commissioner to deny a license if the services in the local area are sufficient to meet local need, and the addition of new services would be detrimental.
- 9      **State collections.** Amends § 254B.06, subd. 1. Removes language allowing transfer of funds from the chemical dependency fund for administrative purposes. Makes this section effective July 1, 2018.
- 10     **State agency hearings.** Amends § 256.045, subd. 3. Permits a state agency hearing for a county that disputes the cost of care for a client in a state-operated facility, when discharge is delayed and the county has developed a viable discharge plan.
- 11     **Officer-involved community-based care coordination.** Amends § 256B.0625, subd. 56a. Updates terminology related to post-arrest community-based service coordination for individuals with mental illness or substance use disorder. Adds language including Indian health service facilities, and adds qualified alcohol and drug counselors and recovery peer specialists to those who may provide care coordination under this section. Strikes provision requiring counties to pay the nonfederal share of the cost for services under this section.
- 12     **Per diem rate.** Amends § 256B.0941, subd. 3. Modifies required billing procedures for psychiatric residential treatment facility services for persons under age 21.
- 13     **Intake procedure; approved mental health screening.** Amends § 641.15, subd. 3a. Allows a sheriff or local corrections staff to share certain mental health data and other private data on inmates, and to refer an offender to the local county social services agency in order to arrange services for the following services after the inmate is released:
- (1) assist the inmate in applying for medical assistance of MinnesotaCare;
  - (2) refer the inmate for case management by a county;
  - (3) assist the inmate in obtaining state photo identification;
  - (4) secure an appointment with a mental health provider;
  - (5) obtain necessary medications; or
  - (6) provide behavioral health service coordination.
- 14     **Effective date.** Amends Laws 2017, First Special Session chapter 6, article 8, § 71. Extends provision governing state-only MA funding payments for mental health services provided in children’s residential facilities that have been determined by the federal Centers for Medicare and Medicaid Services to be institutions for mental disease, until July 1, 2019.
- 15     **Effective date.** Amends Laws 2017, First Special Session chapter 6, article 8, § 72. Extends provision governing state-only MA funding payments for mental health services provided in children’s residential facilities that have been determined by the federal Centers for Medicare and Medicaid Services to be institutions for mental disease, until July 1, 2019.

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**16 Children’s mental health report and recommendations.** Amends Laws 2017, First Special Session chapter 6, article 8, § 74. Extends the deadline for the children’s mental health report until January 15, 2019.

**17 Student health initiative to limit opioid harm.**

**Subd. 1. Grant awards.** Directs the commissioner of human services, in consultation with the commissioner of education, the Board of Trustees of Minnesota State Colleges and Universities, the Board of Directors of the Minnesota Private College Council, and the regents of the University of Minnesota, to develop and administer a grant program for secondary school students in grades 7 to 12 and undergraduate students, to conduct opioid awareness and opioid abuse prevention activities. Requires grant proposals with more than one community partner to designate a primary community partner. Requires grant applications to be submitted by, and any grant awards managed by, the primary community partner. Provides that grants are for a fiscal year and are one-time.

**Subd. 2. Grant criteria.** (a) Allows grant dollars to be used for opioid awareness, education on addiction and abuse, initiatives to limit inappropriate prescriptions, peer education, and other initiatives as approved by the commissioner. Requires grant projects to include one or more of the following components: high-risk populations, law enforcement, education, clinical services, or social services.

(b) Directs the commissioner to seek to provide grant funding for at least one proposal that addresses opioid abuse in the American Indian community.

**Subd. 3. Community partners.** Provides a partial listing of the entities that may serve as community partners.

**Subd. 4. Report.** Requires the commissioner to report to the chairs and ranking minority members of specified legislative committees, by September 1, 2019, on implementation of the grant program and the grants awarded.

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

(b) Requires the commissioner to notify the chairs and ranking minority members of specified legislative committees of any grant applications submitted, and federal actions taken related to the applications.

**18 Repealer.** Repeals Minnesota Rules, parts 9530.6800 and 9530.6810.

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### Article 42: Community Supports and Continuing Care

#### Overview

This article modifies: the corporate foster care moratorium; adult foster care and community residential setting license capacity; service plan review and evaluation and various behavioral professional qualifications under the home and community-based services standards; long-term care consultation services assessments; the Disability Waiver Rate System (DWRS); terminology related to the home and community-based services (HCBS) innovation pool; housing support services; and the electronic visit verification system. This article also adds a new category of care to the PCA program, called enhanced PCA services; provides an ICF/DD rate increase for a facility located in Steele County; and directs the commissioner of human services to transfer service capacity of a housing with services establishment to no more than three new housing with services establishments located in Hennepin County.

- 1        **Licensing moratorium.** Amends § 245A.03, subd. 7. Extends the sunset date for an exception to the corporate foster care moratorium and adds a new exception to the moratorium. Makes this section effective June 29, 2018.
- 2        **Adult foster care and community residential setting license capacity.** Amends § 245A.11, subd. 2a. Paragraph (f) broadens the corporate adult foster care or community residential settings that may be issued a license for five beds (as opposed to four beds). Currently, in order to be eligible for a fifth bed, a facility must have been licensed for adult foster care before March 1, 2011. The bill allows facilities licensed before June 30, 2016, to be licensed for five beds.  
  
Paragraph (g) extends the sunset date on the commissioner's authority to issue licenses for five beds from June 30, 2019, to June 30, 2021.
- 3        **Applicability.** Amends § 245D.03, subd. 1. Corrects inconsistent terminology and broadens the applicability of certain basic support services and intensive support services under the home and community-based service standards to more of the home and community-based service waivers.
- 4        **Service plan review and evaluation.** Amends § 245D.071, subd. 5. Makes technical and conforming changes and adds paragraph (b). Paragraph (b) requires the license holder, in coordination with others, to meet with the person, the person's legal representative, and the case manager at least once per year to discuss how technology might be used to meet the person's desired outcomes. Requires the coordinated service and support plan or support plan addendum to include a summary of this discussion. Specifies the information that must be included in the summary. Specifies the use of technology is not required to be used for the provision of services.
- 5        **Positive support professional qualifications.** Amends § 245D.091, subd. 2. Modifies terminology (changes behavior support to positive support) and the requirements a positive support professional providing positive support services must meet.

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- 6 **Positive support analyst qualifications.** Amends § 245D.091, subd. 3. Modifies terminology and the requirements a positive support analyst providing positive support services must meet.
- 7 **Positive support specialist qualifications.** Amends § 245D.091, subd. 4. Modifies terminology and the requirements a positive support specialist providing positive support services must meet.
- 8 **Assessment; defined.** Amends § 256B.0659, subd. 3a. Allows a certified assessor to complete an in-person PCA assessment during the transition to MnCHOICES.
- 9 **Personal care assistant; requirements.** Amends § 256B.0659, subd. 11. Lists the qualifications a personal care assistant must meet to qualify for an enhanced rate for PCA services.
- 10 **Enhanced rate.** Amends § 256B.0659, by adding subd. 17a. Establishes an enhanced rate of 105 percent of the rate paid for PCA services to be paid for PCA services provided to persons who qualify for 12 or more hours of PCA service per day when provided by a PCA who meets certain requirements. Specifies this rate increase is inclusive of any rate increases implemented on July 1, 2018, for the self-directed workforce.
- 11 **Requirements for provider enrollment of personal care assistance provider agencies.** Amends § 256B.0659, subd. 21. Modifies the list of information and documentation a PCA provider agency must provide to the commissioner to include documentation that the agency staff meet the enhanced PCA services requirements if enhanced PCA services are provided and submitted for payment.
- 12 **Personal care assistance provider agency; general duties.** Amends § 256B.0659, subd. 24. Removes an obsolete date. Adds a new duty to PCA provider agencies related to documenting the use of any additional revenue due to the enhanced PCA rate.
- 13 **Personal care assistance provider agency; required documentation.** Amends § 256B.0659, subd. 28. Modifies the list of required documentation PCA agencies must keep to add a requirement related to the PCA enhanced rate.
- 14 **Definitions.** Amends § 256B.0911, subd. 1a. Modifies the definition of “long-term care consultation services” by removing from the MnCHOICES assessment process home care nursing, certain case management services, and eligibility determinations for family support grants.
- 15 **Assessment and support planning.** Amends § 256B.0911, subd. 3a. Makes conforming changes removing home care nursing from the MnCHOICES assessment process; removes obsolete language; requires the MnCHOICES assessment to be conversation-based; removes the requirements that the person’s legal representative be present at the assessment in order to provide input into the process; modifies timelines for the assessor to complete the community support plan and for the case manager to complete the coordinated service and support plan; modifies the list of information the lead agency must give the person receiving assessment or support planning, or the person’s legal representative, to include verbally communicating appeal rights and visually pointing out where in the document the right to

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appeal is stated; and allows a MnCHOICES assessment to be used to establish service eligibility for DD waiver services for up to 60 days from the date of the assessment.

- 16 Long-term care reassessments and community support plan updates.** Amends § 256B.0911, subd. 3f. Requires the assessor to review the person's most recent assessment prior to a face-to-face reassessment, requires the commissioner to establish timelines for assessors to complete the updated community support plan and for case managers to complete the updated coordinated service and support plan, and requires the commissioner to develop mechanisms for providers and case managers to share information with the assessor to facilitate a reassessment and support planning process.
- 17 Administrative activity.** Amends § 256B.0911, subd. 5. Adds paragraph (c), which requires the commissioner to: (1) work with lead agencies responsible for conducting long-term care consultation services to develop a set of measurable benchmarks to demonstrate quarterly improvement in the average time per assessment and other measures of efficiency; and (2) collect data on these benchmarks to provide lead agencies and the legislature with an annual trend analysis of the data in order to demonstrate the commissioner's compliance with creating a more efficient and streamlined assessment process.
- 18 Elderly waiver cost limits.** Amends § 256B.0915, subd. 3a. Requires the commissioner to approve an exception to the elderly waiver monthly case mix budget cap to pay for the PCA enhanced rate. Prohibits the exception from exceeding 105 percent of the budget otherwise available to the person. Makes this section effective July 1, 2018, or upon federal approval, whichever is later. Requires the commissioner of human services to notify the revisor when federal approval is obtained.
- 19 Implementation of coordinated service and support plan.** Amends § 256B.0915, subd. 6. Removes the ten day timeline for case managers to complete coordinated service and support plans under the elderly waiver program, requires the commissioner to establish a new timeline, but the total time for the assessor to complete a community support plan and the case manager to complete the coordinated service and support plan is 56 calendar days from the assessment date.
- 20 Coordinated service and support plan.** Amends § 256B.092, subd. 1b. Removes the ten day timeline for case managers to complete coordinated service and support plans under the DD waiver program, requires the commissioner to establish a new timeline, but the total time for the assessor to complete a community support plan and the case manager to complete the coordinated service and support plan is 56 calendar days from the assessment date.
- 21 Conditions not requiring development of coordinated service and support plan.** Amends § 256B.092, subd. 1g. Adds paragraph (b), which allows DD waiver recipients who are only receiving certain case management services to make an informed choice to decline a MnCHOICES assessment. Requires the case manager to develop a person-centered service plan based on the person's assessed needs and preferences and requires the person-centered plan to be reviewed annually.
- 22 Home and community-based services innovation pool.** Amends § 256B.0921. Modifies terminology.

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- 23 Case management.** Amends § 256B.49, subd. 13. Removes the ten-day timeline for case managers to complete coordinated service and support plans under certain home and community-based waiver programs, requires the commissioner to establish a new timeline, but the total time for the assessor to complete a community support plan and the case manager to complete the coordinated service and support plan is 56 calendar days from the assessment date.
- 24 Definitions.** Amends § 256B.4914, subd. 2. Defines “direct care staff” under the DWRS and makes technical and conforming changes.
- 25 Applicable services.** Amends § 256B.4914, subd. 3. Makes a conforming change to terminology and alphabetizes clauses in the list of services to which the disability waiver rate system applies.
- 26 Data collection for rate determination.** Amends § 256B.4914, subd. 4. Makes conforming changes.
- 27 Base wage index and standard component values.** Amends § 256B.4914, subd. 5. Paragraphs (h) and (i) modify the automatic inflationary adjustments to the base wage index and certain framework components that are included in the DWRS. The modifications include: (1) increasing the frequency of the adjustments from every five years to every two years; and (2) clarifying the manner in which the adjustments are calculated.
- Paragraph (k) requires the commissioner to update the base wage index with a competitive workforce factor. The competitive workforce factor is: (1) 8.35 percent beginning on January 1, 2019, or upon federal approval; (2) 4.55 percent beginning on July 1, 2019; and (3) 5.55 percent beginning on July 1, 2022. Specifies the manner in which lead agencies must implement the competitive workforce factor.
- Makes the amendments to paragraphs (h) and (i) effective July 1, 2022, or upon federal approval, whichever is later. Makes paragraph (k) effective January 1, 2019, or upon federal approval, whichever is later. Requires the commissioner of human services to notify the revisor of statutes when federal approval is obtained.
- 28 Payments for residential support services.** Amends § 256B.4914, subd. 6. Removes the regional variance factor from the DWRS rate calculations. Makes this section effective July 1, 2022.
- 29 Payments for day programs.** Amends § 256B.4914, subd. 7. Removes the regional variance factor from the DWRS rate calculations. Makes this section effective July 1, 2022.
- 30 Payments for unit-based services with programming.** Amends § 256B.4914, subd. 8. Removes the regional variance factor from the DWRS rate calculations. Makes this section effective July 1, 2022.
- 31 Payments for unit-based services without programming.** Amends § 256B.4914, subd. 9. Removes the regional variance factor from the DWRS rate calculations. Makes this section effective July 1, 2022.
- 32 Updating payment values and additional information.** Amends § 256B.4914, subd. 10. Adds direct care staff labor market measures to the list of items DHS must review and evaluate under the DWRS.

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- 33 Reporting and analysis of cost data.** Amends § 256B.4914, subd. 10a. Adds paragraph (f), which requires providers enrolled to provide services with rates determined under DWRS to submit labor market data to the commissioner annually beginning November 1, 2018. Lists data providers must submit to the commissioner.
- Adds paragraph (g), which requires the commissioner to publish annual reports on provider and state-level labor market data, beginning February 1, 2019. Lists data the commissioner must publish in the annual report.
- 34 ICF/DD rate increase effective July 1, 2018; Steele County.** Amends § 256B.5012, by adding subd. 18. Effective July 1, 2018, sets the daily rate for an ICF/DD located in Steele County that is classified as a class B facility and licensed for 16 beds at \$400. Specifies this increase is in addition to any other increase that is effective on July 1, 2018.
- 35 Supplementary services.** Amends § 256I.03, subd. 8. Modifies the definition of “supplementary services” in the housing support services statute by requiring providers to provide certain required services.
- 36 Housing support agreements.** Amends § 256I.04, subd. 2b. Modifies the list of minimum requirements housing support providers must verify in the housing support agreement to include confirmation that the provider will not limit or restrict the number of hours an applicant or recipient chooses to be employed.
- 37 Required supplementary services.** Amends § 256I.04, by adding subd. 2h. Requires housing support providers of supplementary services to ensure that recipients have assistance with services identified in the recipient’s professional statement of need. Requires providers of supplementary services to maintain case notes with the date and description of services provided to individual recipients.
- 38 Employment.** Amends § 256I.04, by adding subd. 5. Prohibits housing support services providers from limiting or restricting the number of hours an applicant or recipient is employed.
- 39 Limits on rates.** Amends § 256I.05, subd. 3. Allows housing support providers to charge a lower rate to individuals who do not qualify for housing support.
- 40 Nursing facilities in border cities.** Amends § 256R.53, subd. 2. Adds nonprofit nursing facilities in Moorhead to the nursing facility payment rate exemption that already exists for Breckenridge. Requires the commissioner to make a comparison of rates by November 1 of each year and apply it to the rates to be effective on the following January 1. Exempts facilities under this subdivision from rate limits if the adjustments under this subdivision result in a rate that exceeds the limits. Makes this section effective for rate increases for facilities in Moorhead for rate years beginning January 1, 2020, and annually thereafter.
- 41 Disability waiver reimbursement rate adjustments.** Amends Laws 2014, ch. 312, art. 27, § 76.

**Subd. 1. Historical rate.** Makes no changes.

**Subd. 2. Residential support services.** Removes this subdivision.

**Subd. 3. Day programs.** Removes this subdivision.

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**Subd. 4. Unit-based services with programming.** Removes this subdivision.

**Subd. 5. Unit-based services without programming.** Removes this subdivision.

**42 Electronic visit verification.** Amends Laws 2017, 1st Spec. Sess. ch. 6, art. 3, § 49.

**Subd. 1. Documentation; establishment.** Modifies terminology.

**Subd. 2. Definitions.** Modifies terminology and expands the definition of “service” to include home health services and other medical supplies and equipment or home and community-based services that are required to be electronically verified by the federal 21st Century Cures Act.

**Subd. 3. System requirements.** Modifies terminology, removes obsolete language, requires the commissioner to make a state-selected electronic visit verification system available to providers of services.

**Subd. 3a. Provider requirements.** Paragraphs (a) and (b) allow providers of services to select their own electronic visit verification system that meets the requirements established by the commissioner and require providers to provide data to the commissioner in a format and at a frequency to be established by the commissioner.

Paragraph (c) specifies the timeline for providers to implement the electronic visit verification systems required in this section and defines “personal care services” and “home health services” for purposes of this paragraph.

**Subd. 4. Legislative report.** Repeals this subdivision.

**43 Direction to commissioner; BI and CADI waiver customized living services provider located in Hennepin County.** Paragraph (a) directs the commissioner of human services to allow a BI and CADI waivers customized living services provider located in Minneapolis to transfer capacity to up to three new housing with services settings located in Hennepin County.

Paragraph (b) requires the commissioner to determine whether the new housing with services establishments meet the BI and CADI waiver customized living size limitation exception for clients receiving those services at the new establishments.

**44 Direction to commissioner.** Paragraph (a) requires the commissioner to ensure that the MnCHOICES 2.0 assessment and support planning tool incorporates a qualitative approach with open-ended questions and a conversational, culturally sensitive approach to interviewing that captures the assessor’s professional judgment based on the person’s responses.

Paragraph (b) requires the commissioner of human services to include certain persons if the commissioner convenes a working group or consults stakeholders for the purposes of modifying the assessment and support planning process or tool.

**45 Direction to the commissioner; DWRS.** Paragraph (a) requires the commissioner of human services to continue to reimburse CMS for the disallowed share of the seven percent rate increase between July 1, 2018 and December 31, 2018. Makes this section effective July 1, 2018.

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Paragraph (b) requires the commissioner to submit to CMS any HCBS waivers or plan amendments necessary to implement the DWRS changes no later than July 1, 2018. Lists priorities for submittal to CMS.

**46 Revisor’s instruction.** Paragraph (a) instructs the revisor of statutes to codify the electronic visit verification law, as amended in this act, in Minnesota Statutes, chapter 256B.

Paragraph (b) instructs the revisor of statutes to correct inconsistent terminology related to the DD waiver.

**47 Repealer.** Repeals Minnesota Statutes, section 256B.0705 (PCA mandated service verification). Makes this section effective January 1, 2019.

## Article 43: Miscellaneous

### Overview

This article makes changes to statutes governing MNsure operations, prohibits the commissioner of human services from bearing insurance risk for certain health coverage, and requires notice of a predatory offender’s status to home care providers.

- 1 Health carrier and health plan requirements; participation.** Amends § 62V.05, subd. 5. Provides that a health plan that meets the minimum requirements in state and federal law for certification as a qualified health plan, is deemed to be in the interests of qualified individuals and employers. Strikes language listing elements the MNsure board may consider when determining the interests of qualified individuals and employers for purposes of certifying qualified health plans, and prohibits the MNsure board from establishing additional requirements for certifying health carriers and health plans to be offered through MNsure. Also prohibits the board from establishing costs, cost-sharing elements, or benefits for health plans sold through MNsure. Updates references to federal law and strikes outdated language.
- 2 Limitations; risk-bearing.** Amends § 62V.05, subd. 10. Prohibits the commissioner of human services from bearing insurance risk or entering into any agreement to pay claims for health coverage for a state health care program available for purchase through the MNsure Web site, as an alternative to purchasing an individual health plan. Specifies that this subdivision does not prohibit the commissioner from administering MA or MinnesotaCare, as long as health coverage under MA or MinnesotaCare is not purchased by an individual through MNsure’s Web site. Also provides that this subdivision does not prohibit employees of DHS from obtaining insurance coverage through the state employee group insurance program.
- 3 Health care facility; notice of status.** Amends § 243.166, subd. 4b. Amends the predatory offender registration statute, to require that the predatory offender notice of status required in this subdivision be provided to licensed home care providers in the same manner that health care facilities receive notice. Home care providers will be required to distribute a fact sheet

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with a risk level classification to any individual who will provide direct services to the offender, before beginning to provide services.

**Article 44: Human Services Forecast Adjustments**

**Overview**

This article adjusts appropriations for fiscal years 2018 and 2019 for forecasted programs administered by the Department of Human Services.

**Article 45: Health and Human Services Appropriations**

**Overview**

This article appropriates money for fiscal year 2019 for the Department of Human Services, Department of Health, health-related licensing boards, and the Legislative Coordinating Commission. It also modifies certain 2018 appropriations.