

730.6

**ARTICLE 19**

730.7

**DHS LICENSING AND OPERATIONS POLICY**

730.8 Section 1. Minnesota Statutes 2020, section 245A.02, subdivision 5a, is amended to read:

730.9 Subd. 5a. **Controlling individual.** (a) "Controlling individual" means an owner of a  
730.10 program or service provider licensed under this chapter and the following individuals, if  
730.11 applicable:

730.12 (1) each officer of the organization, including the chief executive officer and chief  
730.13 financial officer;

730.14 (2) the individual designated as the authorized agent under section 245A.04, subdivision  
730.15 1, paragraph (b);

730.16 (3) the individual designated as the compliance officer under section 256B.04, subdivision  
730.17 21, paragraph (g); ~~and~~

730.18 (4) each managerial official whose responsibilities include the direction of the  
730.19 management or policies of a program; and

730.20 (5) the individual designated as the primary provider of care for a special family child  
730.21 care program under section 245A.14, subdivision 4, paragraph (i).

730.22 (b) Controlling individual does not include:

730.23 (1) a bank, savings bank, trust company, savings association, credit union, industrial  
730.24 loan and thrift company, investment banking firm, or insurance company unless the entity  
730.25 operates a program directly or through a subsidiary;

730.26 (2) an individual who is a state or federal official, or state or federal employee, or a  
730.27 member or employee of the governing body of a political subdivision of the state or federal  
730.28 government that operates one or more programs, unless the individual is also an officer,  
730.29 owner, or managerial official of the program, receives remuneration from the program, or  
730.30 owns any of the beneficial interests not excluded in this subdivision;

731.1 (3) an individual who owns less than five percent of the outstanding common shares of  
731.2 a corporation:

731.3 (i) whose securities are exempt under section 80A.45, clause (6); or

731.4 (ii) whose transactions are exempt under section 80A.46, clause (2);

731.5 (4) an individual who is a member of an organization exempt from taxation under section  
731.6 290.05, unless the individual is also an officer, owner, or managerial official of the program  
731.7 or owns any of the beneficial interests not excluded in this subdivision. This clause does  
731.8 not exclude from the definition of controlling individual an organization that is exempt from  
731.9 taxation; or

314.1

**ARTICLE 11**

314.2

**OPERATIONS AND LICENSING POLICY**

731.10 (5) an employee stock ownership plan trust, or a participant or board member of an  
731.11 employee stock ownership plan, unless the participant or board member is a controlling  
731.12 individual according to paragraph (a).

731.13 (c) For purposes of this subdivision, "managerial official" means an individual who has  
731.14 the decision-making authority related to the operation of the program, and the responsibility  
731.15 for the ongoing management of or direction of the policies, services, or employees of the  
731.16 program. A site director who has no ownership interest in the program is not considered to  
731.17 be a managerial official for purposes of this definition.

731.18 **EFFECTIVE DATE.** This section is effective July 1, 2022.

731.19 Sec. 2. Minnesota Statutes 2020, section 245A.04, subdivision 4, is amended to read:

731.20 Subd. 4. **Inspections; waiver.** (a) Before issuing a license under this chapter, the  
731.21 commissioner shall conduct an inspection of the program. The inspection must include but  
731.22 is not limited to:

731.23 (1) an inspection of the physical plant;

731.24 (2) an inspection of records and documents;

731.25 (3) observation of the program in operation; and

731.26 (4) an inspection for the health, safety, and fire standards in licensing requirements for  
731.27 a child care license holder.

731.28 (b) The observation in paragraph (a), clause (3), is not required prior to issuing a license  
731.29 under subdivision 7. If the commissioner issues a license under this chapter, these  
731.30 requirements must be completed within one year after the issuance of the license.

732.1 (c) Before completing a licensing inspection in a family child care program or child care  
732.2 center, the licensing agency must offer the license holder an exit interview to discuss  
732.3 violations or potential violations of law or rule observed during the inspection and offer  
732.4 technical assistance on how to comply with applicable laws and rules. The commissioner  
732.5 shall not issue a correction order or negative licensing action for violations of law or rule  
732.6 not discussed in an exit interview, unless a license holder chooses not to participate in an  
732.7 exit interview or not to complete the exit interview. If the license holder is unable to complete  
732.8 the exit interview, the licensing agency must offer an alternate time for the license holder  
732.9 to complete the exit interview.

732.10 (d) If a family child care license holder disputes a county licenser's interpretation of a  
732.11 licensing requirement during a licensing inspection or exit interview, the license holder  
732.12 may, within five business days after the exit interview or licensing inspection, request  
732.13 clarification from the commissioner, in writing, in a manner prescribed by the commissioner.  
732.14 The license holder's request must describe the county licenser's interpretation of the licensing  
732.15 requirement at issue, and explain why the license holder believes the county licenser's  
732.16 interpretation is inaccurate. The commissioner and the county must include the license

732.17 holder in all correspondence regarding the disputed interpretation, and must provide an  
732.18 opportunity for the license holder to contribute relevant information that may impact the  
732.19 commissioner's decision. The county licensor must not issue a correction order related to  
732.20 the disputed licensing requirement until the commissioner has provided clarification to the  
732.21 license holder about the licensing requirement.

732.22 (e) The commissioner or the county shall inspect at least ~~annually~~ once each calendar  
732.23 year a child care provider licensed under this chapter and Minnesota Rules, chapter 9502  
732.24 or 9503, for compliance with applicable licensing standards.

732.25 (f) No later than November 19, 2017, the commissioner shall make publicly available  
732.26 on the department's website the results of inspection reports of all child care providers  
732.27 licensed under this chapter and under Minnesota Rules, chapter 9502 or 9503, and the  
732.28 number of deaths, serious injuries, and instances of substantiated child maltreatment that  
732.29 occurred in licensed child care settings each year.

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

732.31 Sec. 3. Minnesota Statutes 2020, section 245A.07, subdivision 2a, is amended to read:

732.32 Subd. 2a. **Immediate suspension expedited hearing.** (a) Within five working days of  
732.33 receipt of the license holder's timely appeal, the commissioner shall request assignment of  
732.34 an administrative law judge. The request must include a proposed date, time, and place of  
733.1 a hearing. A hearing must be conducted by an administrative law judge within 30 calendar  
733.2 days of the request for assignment, unless an extension is requested by either party and  
733.3 granted by the administrative law judge for good cause. The commissioner shall issue a  
733.4 notice of hearing by certified mail or personal service at least ten working days before the  
733.5 hearing. The scope of the hearing shall be limited solely to the issue of whether the temporary  
733.6 immediate suspension should remain in effect pending the commissioner's final order under  
733.7 section 245A.08, regarding a licensing sanction issued under subdivision 3 following the  
733.8 immediate suspension. For suspensions under subdivision 2, paragraph (a), clause (1), the  
733.9 burden of proof in expedited hearings under this subdivision shall be limited to the  
733.10 commissioner's demonstration that reasonable cause exists to believe that the license holder's  
733.11 actions or failure to comply with applicable law or rule poses, or the actions of other  
733.12 individuals or conditions in the program poses an imminent risk of harm to the health, safety,  
733.13 or rights of persons served by the program. "Reasonable cause" means there exist specific  
733.14 articulable facts or circumstances which provide the commissioner with a reasonable  
733.15 suspicion that there is an imminent risk of harm to the health, safety, or rights of persons  
733.16 served by the program. When the commissioner has determined there is reasonable cause  
733.17 to order the temporary immediate suspension of a license based on a violation of safe sleep  
733.18 requirements, as defined in section 245A.1435, the commissioner is not required to  
733.19 demonstrate that an infant died or was injured as a result of the safe sleep violations. For  
733.20 suspensions under subdivision 2, paragraph (a), clause (2), the burden of proof in expedited  
733.21 hearings under this subdivision shall be limited to the commissioner's demonstration by a  
733.22 preponderance of the evidence that, since the license was revoked, the license holder

733.23 committed additional violations of law or rule which may adversely affect the health or  
733.24 safety of persons served by the program.

733.25 (b) The administrative law judge shall issue findings of fact, conclusions, and a  
733.26 recommendation within ten working days from the date of hearing. The parties shall have  
733.27 ten calendar days to submit exceptions to the administrative law judge's report. The record  
733.28 shall close at the end of the ten-day period for submission of exceptions. The commissioner's  
733.29 final order shall be issued within ten working days from the close of the record. When an  
733.30 appeal of a temporary immediate suspension is withdrawn or dismissed, the commissioner  
733.31 shall issue a final order affirming the temporary immediate suspension within ten calendar  
733.32 days of the commissioner's receipt of the withdrawal or dismissal. Within 90 calendar days  
733.33 after an immediate suspension has been issued and the license holder has not submitted a  
733.34 timely appeal under subdivision 2, paragraph (b), or within 90 calendar days after a final  
733.35 order affirming an immediate suspension, the commissioner shall ~~make a determination~~  
733.36 ~~regarding~~ determine:

734.1 (1) whether a final licensing sanction shall be issued under subdivision 3, paragraph (a),  
734.2 clauses (1) to (5). The license holder shall continue to be prohibited from operation of the  
734.3 program during this 90-day period; or

734.4 (2) whether the outcome of related, ongoing investigations or judicial proceedings are  
734.5 necessary to determine if a final licensing sanction under subdivision 3, paragraph (a),  
734.6 clauses (1) to (5), will be issued, and persons served by the program remain at an imminent  
734.7 risk of harm during the investigation period or proceedings. If so, the commissioner shall  
734.8 issue a suspension in accordance with subdivision 3.

734.9 (c) When the final order under paragraph (b) affirms an immediate suspension or the  
734.10 license holder does not submit a timely appeal of the immediate suspension, and a final  
734.11 licensing sanction is issued under subdivision 3 and the license holder appeals that sanction,  
734.12 the license holder continues to be prohibited from operation of the program pending a final  
734.13 commissioner's order under section 245A.08, subdivision 5, regarding the final licensing  
734.14 sanction.

734.15 (d) The license holder shall continue to be prohibited from operation of the program  
734.16 while a suspension order issued under paragraph (b), clause (2), remains in effect.

734.17 ~~(c)~~ (e) For suspensions under subdivision 2, paragraph (a), clause (3), the burden of  
734.18 proof in expedited hearings under this subdivision shall be limited to the commissioner's  
734.19 demonstration by a preponderance of the evidence that a criminal complaint and warrant  
734.20 or summons was issued for the license holder that was not dismissed, and that the criminal  
734.21 charge is an offense that involves fraud or theft against a program administered by the  
734.22 commissioner.

734.23 Sec. 4. Minnesota Statutes 2020, section 245A.07, subdivision 3, is amended to read:

734.24 Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may suspend  
734.25 or revoke a license, or impose a fine if:

734.26 (1) a license holder fails to comply fully with applicable laws or rules including but not  
734.27 limited to the requirements of this chapter and chapter 245C;

734.28 (2) a license holder, a controlling individual, or an individual living in the household  
734.29 where the licensed services are provided or is otherwise subject to a background study has  
734.30 been disqualified and the disqualification was not set aside and no variance has been granted;

734.31 (3) a license holder knowingly withholds relevant information from or gives false or  
734.32 misleading information to the commissioner in connection with an application for a license,  
735.1 in connection with the background study status of an individual, during an investigation,  
735.2 or regarding compliance with applicable laws or rules;

735.3 (4) a license holder is excluded from any program administered by the commissioner  
735.4 under section 245.095; ~~or~~

735.5 (5) revocation is required under section 245A.04, subdivision 7, paragraph (d); or

735.6 (6) suspension is necessary under subdivision 2a, paragraph (b), clause (2).

735.7 A license holder who has had a license issued under this chapter suspended, revoked,  
735.8 or has been ordered to pay a fine must be given notice of the action by certified mail or  
735.9 personal service. If mailed, the notice must be mailed to the address shown on the application  
735.10 or the last known address of the license holder. The notice must state in plain language the  
735.11 reasons the license was suspended or revoked, or a fine was ordered.

735.12 (b) If the license was suspended or revoked, the notice must inform the license holder  
735.13 of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts  
735.14 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking  
735.15 a license. The appeal of an order suspending or revoking a license must be made in writing  
735.16 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to  
735.17 the commissioner within ten calendar days after the license holder receives notice that the  
735.18 license has been suspended or revoked. If a request is made by personal service, it must be  
735.19 received by the commissioner within ten calendar days after the license holder received the  
735.20 order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a  
735.21 timely appeal of an order suspending or revoking a license, the license holder may continue  
735.22 to operate the program as provided in section 245A.04, subdivision 7, paragraphs (f) and  
735.23 (g), until the commissioner issues a final order on the suspension or revocation.

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

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

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

736.11 (4) Fines shall be assessed as follows:

736.12 (i) the license holder shall forfeit \$1,000 for each determination of maltreatment of a  
736.13 child under chapter 260E or the maltreatment of a vulnerable adult under section 626.557  
736.14 for which the license holder is determined responsible for the maltreatment under section  
736.15 260E.30, subdivision 4, paragraphs (a) and (b), or 626.557, subdivision 9c, paragraph (c);

736.16 (ii) if the commissioner determines that a determination of maltreatment for which the  
736.17 license holder is responsible is the result of maltreatment that meets the definition of serious  
736.18 maltreatment as defined in section 245C.02, subdivision 18, the license holder shall forfeit  
736.19 \$5,000;

736.20 (iii) for a program that operates out of the license holder's home and a program licensed  
736.21 under Minnesota Rules, parts 9502.0300 to 9502.0445, the fine assessed against the license  
736.22 holder shall not exceed \$1,000 for each determination of maltreatment;

736.23 (iv) the license holder shall forfeit \$200 for each occurrence of a violation of law or rule  
736.24 governing matters of health, safety, or supervision, including but not limited to the provision  
736.25 of adequate staff-to-child or adult ratios, and failure to comply with background study  
736.26 requirements under chapter 245C; and

736.27 (v) the license holder shall forfeit \$100 for each occurrence of a violation of law or rule  
736.28 other than those subject to a \$5,000, \$1,000, or \$200 fine in items (i) to (iv).

736.29 For purposes of this section, "occurrence" means each violation identified in the  
736.30 commissioner's fine order. Fines assessed against a license holder that holds a license to  
736.31 provide home and community-based services, as identified in section 245D.03, subdivision  
736.32 1, and a community residential setting or day services facility license under chapter 245D  
736.33 where the services are provided, may be assessed against both licenses for the same  
737.1 occurrence, but the combined amount of the fines shall not exceed the amount specified in  
737.2 this clause for that occurrence.

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

737.7 (d) Except for background study violations involving the failure to comply with an order  
737.8 to immediately remove an individual or an order to provide continuous, direct supervision,  
737.9 the commissioner shall not issue a fine under paragraph (c) relating to a background study  
737.10 violation to a license holder who self-corrects a background study violation before the  
737.11 commissioner discovers the violation. A license holder who has previously exercised the  
737.12 provisions of this paragraph to avoid a fine for a background study violation may not avoid  
737.13 a fine for a subsequent background study violation unless at least 365 days have passed  
737.14 since the license holder self-corrected the earlier background study violation.

737.15 Sec. 5. Minnesota Statutes 2021 Supplement, section 245A.14, subdivision 4, is amended  
737.16 to read:

737.17 Subd. 4. **Special family child care homes.** Nonresidential child care programs serving  
737.18 14 or fewer children that are conducted at a location other than the license holder's own  
737.19 residence shall be licensed under this section and the rules governing family child care or  
737.20 group family child care if:

737.21 (a) the license holder is the primary provider of care and the nonresidential child care  
737.22 program is conducted in a dwelling that is located on a residential lot;

737.23 (b) the license holder is an employer who may or may not be the primary provider of  
737.24 care, and the purpose for the child care program is to provide child care services to children  
737.25 of the license holder's employees;

737.26 (c) the license holder is a church or religious organization;

737.27 (d) the license holder is a community collaborative child care provider. For purposes of  
737.28 this subdivision, a community collaborative child care provider is a provider participating  
737.29 in a cooperative agreement with a community action agency as defined in section 256E.31;

737.30 (e) the license holder is a not-for-profit agency that provides child care in a dwelling  
737.31 located on a residential lot and the license holder maintains two or more contracts with  
737.32 community employers or other community organizations to provide child care services.  
737.33 The county licensing agency may grant a capacity variance to a license holder licensed  
738.1 under this paragraph to exceed the licensed capacity of 14 children by no more than five  
738.2 children during transition periods related to the work schedules of parents, if the license  
738.3 holder meets the following requirements:

738.4 (1) the program does not exceed a capacity of 14 children more than a cumulative total  
738.5 of four hours per day;

738.6 (2) the program meets a one to seven staff-to-child ratio during the variance period;

- 738.7 (3) all employees receive at least an extra four hours of training per year than required  
738.8 in the rules governing family child care each year;
- 738.9 (4) the facility has square footage required per child under Minnesota Rules, part  
738.10 9502.0425;
- 738.11 (5) the program is in compliance with local zoning regulations;
- 738.12 (6) the program is in compliance with the applicable fire code as follows:
- 738.13 (i) if the program serves more than five children older than 2-1/2 years of age, but no  
738.14 more than five children 2-1/2 years of age or less, the applicable fire code is educational  
738.15 occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2015,  
738.16 Section 202; or
- 738.17 (ii) if the program serves more than five children 2-1/2 years of age or less, the applicable  
738.18 fire code is Group I-4 Occupancies, as provided in the Minnesota State Fire Code 2015,  
738.19 Section 202, unless the rooms in which the children are cared for are located on a level of  
738.20 exit discharge and each of these child care rooms has an exit door directly to the exterior,  
738.21 then the applicable fire code is Group E occupancies, as provided in the Minnesota State  
738.22 Fire Code 2015, Section 202; and
- 738.23 (7) any age and capacity limitations required by the fire code inspection and square  
738.24 footage determinations shall be printed on the license; or
- 738.25 (f) the license holder is the primary provider of care and has located the licensed child  
738.26 care program in a commercial space, if the license holder meets the following requirements:
- 738.27 (1) the program is in compliance with local zoning regulations;
- 738.28 (2) the program is in compliance with the applicable fire code as follows:
- 738.29 (i) if the program serves more than five children older than 2-1/2 years of age, but no  
738.30 more than five children 2-1/2 years of age or less, the applicable fire code is educational  
738.31 occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2015,  
738.32 Section 202; or
- 739.1 (ii) if the program serves more than five children 2-1/2 years of age or less, the applicable  
739.2 fire code is Group I-4 Occupancies, as provided under the Minnesota State Fire Code 2015,  
739.3 Section 202;
- 739.4 (3) any age and capacity limitations required by the fire code inspection and square  
739.5 footage determinations are printed on the license; and
- 739.6 (4) the license holder prominently displays the license issued by the commissioner which  
739.7 contains the statement "This special family child care provider is not licensed as a child  
739.8 care center."

739.9 (g) Notwithstanding Minnesota Rules, part 9502.0335, subpart 12, the commissioner  
739.10 may issue up to four licenses to an organization licensed under paragraph (b), (c), or (e).  
739.11 Each license must have its own primary provider of care as required under paragraph (i).  
739.12 Each license must operate as a distinct and separate program in compliance with all applicable  
739.13 laws and regulations.

739.14 (h) For licenses issued under paragraph (b), (c), (d), (e), or (f), the commissioner may  
739.15 approve up to four licenses at the same location or under one contiguous roof if each license  
739.16 holder is able to demonstrate compliance with all applicable rules and laws. Each licensed  
739.17 program must operate as a distinct program and within the capacity, age, and ratio  
739.18 distributions of each license.

739.19 (i) For a license issued under paragraph (b), (c), or (e), the license holder must designate  
739.20 a person to be the primary provider of care at the licensed location on a form and in a manner  
739.21 prescribed by the commissioner. The license holder shall notify the commissioner in writing  
739.22 before there is a change of the person designated to be the primary provider of care. The  
739.23 primary provider of care:

739.24 (1) must be the person who will be the provider of care at the program and present during  
739.25 the hours of operation;

739.26 (2) must operate the program in compliance with applicable laws and regulations under  
739.27 chapter 245A and Minnesota Rules, chapter 9502;

739.28 (3) is considered a child care background study subject as defined in section 245C.02,  
739.29 subdivision 6a, and must comply with background study requirements in chapter 245C; ~~and~~

739.30 (4) must complete the training that is required of license holders in section 245A.50;

739.31 (5) is authorized to communicate with the county licensing agency and the department  
739.32 on matters related to licensing; and

740.1 (6) must meet the requirements of Minnesota Rules, part 9502.0355, subpart 3, before  
740.2 providing group family child care.

740.3 (j) For any license issued under this subdivision, the license holder must ensure that any  
740.4 other caregiver, substitute, or helper who assists in the care of children meets the training  
740.5 requirements in section 245A.50 and background study requirements under chapter 245C.

740.6 **EFFECTIVE DATE.** This section is effective July 1, 2022.

740.7 Sec. 6. Minnesota Statutes 2020, section 245A.1435, is amended to read:

740.8 **245A.1435 REDUCTION OF RISK OF SUDDEN UNEXPECTED INFANT DEATH**  
740.9 **IN LICENSED PROGRAMS.**

740.10 (a) When a license holder is placing an infant to sleep, the license holder must place the  
740.11 infant on the infant's back, unless the license holder has documentation from the infant's  
740.12 physician or advanced practice registered nurse directing an alternative sleeping position

740.13 for the infant. The physician or advanced practice registered nurse directive must be on a  
740.14 form ~~approved~~ developed by the commissioner and must remain on file at the licensed  
740.15 location.

740.16 An infant who independently rolls onto its stomach after being placed to sleep on its  
740.17 back may be allowed to remain sleeping on its stomach if the infant is at least six months  
740.18 of age or the license holder has a signed statement from the parent indicating that the infant  
740.19 regularly rolls over at home.

740.20 (b) The license holder must place the infant in a crib directly on a firm mattress with a  
740.21 fitted sheet that is appropriate to the mattress size, that fits tightly on the mattress, and  
740.22 overlaps the underside of the mattress so it cannot be dislodged by pulling on the corner of  
740.23 the sheet with reasonable effort. The license holder must not place anything in the crib with  
740.24 the infant except for the infant's pacifier, as defined in Code of Federal Regulations, title  
740.25 16, part 1511. The pacifier must be free from any sort of attachment. The requirements of  
740.26 this section apply to license holders serving infants younger than one year of age. Licensed  
740.27 child care providers must meet the crib requirements under section 245A.146. A correction  
740.28 order shall not be issued under this paragraph unless there is evidence that a violation  
740.29 occurred when an infant was present in the license holder's care.

740.30 (c) If an infant falls asleep before being placed in a crib, the license holder must move  
740.31 the infant to a crib as soon as practicable, and must keep the infant within sight of the license  
740.32 holder until the infant is placed in a crib. When an infant falls asleep while being held, the  
740.33 license holder must consider the supervision needs of other children in care when determining  
741.1 how long to hold the infant before placing the infant in a crib to sleep. The sleeping infant  
741.2 must not be in a position where the airway may be blocked or with anything covering the  
741.3 infant's face.

741.4 (d) When a license holder places an infant under one year of age down to sleep, the  
741.5 infant's clothing or sleepwear must not have weighted materials, a hood, or a bib.

741.6 (e) A license holder may place an infant under one year of age down to sleep wearing  
741.7 a helmet if the license holder has signed documentation by a physician, advanced practice  
741.8 registered nurse, licensed occupational therapist, or a licensed physical therapist on a form  
741.9 developed by the commissioner.

741.10 ~~(d)~~ (f) Placing a swaddled infant down to sleep in a licensed setting is not recommended  
741.11 for an infant of any age and is prohibited for any infant who has begun to roll over  
741.12 independently. However, with the written consent of a parent or guardian according to this  
741.13 paragraph, a license holder may place the infant who has not yet begun to roll over on its  
741.14 own down to sleep in a one-piece sleeper equipped with an attached system that fastens  
741.15 securely only across the upper torso, with no constriction of the hips or legs, to create a  
741.16 swaddle. A swaddle is defined as one-piece sleepwear that wraps over the infant's arms,  
741.17 fastens securely only across the infant's upper torso, and does not constrict the infant's hips  
741.18 or legs. If a swaddle is used by a license holder, the license holder must ensure that it meets  
741.19 the requirements of paragraph (d) and is not so tight that it restricts the infant's ability to

741.20 breathe or so loose that the fabric could cover the infant's nose and mouth. Prior to any use  
741.21 of swaddling for sleep by a provider licensed under this chapter, the license holder must  
741.22 obtain informed written consent for the use of swaddling from the parent or guardian of the  
741.23 infant on a form ~~provided~~ developed by the commissioner ~~and prepared in partnership with~~  
741.24 the Minnesota Sudden Infant Death Center.

741.25 (g) A license holder may request a variance to this section to permit the use of a  
741.26 cradleboard when requested by a parent or guardian for a cultural accommodation. Only  
741.27 the commissioner may issue a variance for the use of a cradleboard. The variance request  
741.28 must be submitted on a form developed by the commissioner in partnership with Tribal  
741.29 welfare agencies and the Department of Health.

741.30 **EFFECTIVE DATE.** This section is effective January 1, 2023.

742.1 Sec. 7. Minnesota Statutes 2020, section 245A.1443, is amended to read:

742.2 **245A.1443 CHEMICAL DEPENDENCY SUBSTANCE USE DISORDER**  
742.3 **TREATMENT LICENSED PROGRAMS THAT SERVE PARENTS WITH THEIR**  
742.4 **CHILDREN.**

742.5 Subdivision 1. **Application.** This section applies to ~~chemical dependency residential~~  
742.6 ~~substance use disorder treatment facilities that are licensed under this chapter and Minnesota~~  
742.7 ~~Rules, chapter 9530, 245G~~ and that provide services in accordance with section 245G.19.

742.8 Subd. 2. **Requirements for providing education.** (a) On or before the date of a child's  
742.9 initial physical presence at the facility, the license holder must provide education to the  
742.10 child's parent related to safe bathing and reducing the risk of sudden unexpected infant death  
742.11 and abusive head trauma from shaking infants and young children. The license holder must  
742.12 use the educational material developed by the commissioner to comply with this requirement.  
742.13 At a minimum, the education must address:

742.14 (1) instruction that a child or infant should never be left unattended around water, a tub  
742.15 should be filled with only two to four inches of water for infants, and an infant should never  
742.16 be put into a tub when the water is running; and

742.17 (2) the risk factors related to sudden unexpected infant death and abusive head trauma  
742.18 from shaking infants and young children, and means of reducing the risks, including the  
742.19 safety precautions identified in section 245A.1435 and the ~~danger~~ risks of co-sleeping.

742.20 (b) The license holder must document the parent's receipt of the education and keep the  
742.21 documentation in the parent's file. The documentation must indicate whether the parent  
742.22 agrees to comply with the safeguards. If the parent refuses to comply, program staff must  
742.23 provide additional education to the parent at appropriate intervals, at least weekly as described  
742.24 in the parental supervision plan. The parental supervision plan must include the intervention,  
742.25 frequency, and staff responsible for the duration of the parent's participation in the program  
742.26 or until the parent agrees to comply with the safeguards.

742.27 Subd. 3. **Parental supervision of children.** (a) On or before the date of a child's initial  
742.28 physical presence at the facility, the license holder must ~~complete and document an~~  
742.29 ~~assessment of the parent's capacity to meet the health and safety needs of the child while~~  
742.30 ~~on the facility premises, including identifying circumstances when the parent may be unable~~  
742.31 ~~to adequately care for their child due to~~ considering the following factors:

742.32 (1) the parent's physical ~~or~~ and mental health;

742.33 (2) the parent being under the influence of drugs, alcohol, medications, or other chemicals;

743.1 ~~(3) the parent being unable to provide appropriate supervision for the child; or~~

743.2 (3) the child's physical and mental health; and

743.3 (4) any other information available to the license holder that indicates the parent may  
743.4 not be able to adequately care for the child.

743.5 (b) The license holder must have written procedures specifying the actions to be taken  
743.6 by staff if a parent is or becomes unable to adequately care for the parent's child.

743.7 (c) If the parent refuses to comply with the safeguards described in subdivision 2 or is  
743.8 unable to adequately care for the child, the license holder must develop a parental supervision  
743.9 plan in conjunction with the client. The plan must account for any factors in paragraph (a)  
743.10 that contribute to the parent's inability to adequately care for the child. The plan must be  
743.11 dated and signed by the staff person who completed the plan.

743.12 Subd. 4. **Alternative supervision arrangements.** The license holder must have written  
743.13 procedures addressing whether the program permits a parent to arrange for supervision of  
743.14 the parent's child by another client in the program. If permitted, the facility must have a  
743.15 procedure that requires staff approval of the supervision arrangement before the supervision  
743.16 by the nonparental client occurs. The procedure for approval must include an assessment  
743.17 of the nonparental client's capacity to assume the supervisory responsibilities using the  
743.18 criteria in subdivision 3. The license holder must document the license holder's approval of  
743.19 the supervisory arrangement and the assessment of the nonparental client's capacity to  
743.20 supervise the child, and must keep this documentation in the file of the parent of the child  
743.21 being supervised.

743.22 **EFFECTIVE DATE.** This section is effective January 1, 2023.

743.23 Sec. 8. Minnesota Statutes 2020, section 245A.146, subdivision 3, is amended to read:

743.24 Subd. 3. **License holder documentation of cribs.** (a) Annually, from the date printed  
743.25 on the license, all license holders shall check all their cribs' brand names and model numbers  
743.26 against the United States Consumer Product Safety Commission website listing of unsafe  
743.27 cribs.

743.28 (b) The license holder shall maintain written documentation to be reviewed on site for  
743.29 each crib showing that the review required in paragraph (a) has been completed, and which  
743.30 of the following conditions applies:

743.31 (1) the crib was not identified as unsafe on the United States Consumer Product Safety  
743.32 Commission website;

744.1 (2) the crib was identified as unsafe on the United States Consumer Product Safety  
744.2 Commission website, but the license holder has taken the action directed by the United  
744.3 States Consumer Product Safety Commission to make the crib safe; or

744.4 (3) the crib was identified as unsafe on the United States Consumer Product Safety  
744.5 Commission website, and the license holder has removed the crib so that it is no longer  
744.6 used by or accessible to children in care.

744.7 (c) Documentation of the review completed under this subdivision shall be maintained  
744.8 by the license holder on site and made available to parents or guardians of children in care  
744.9 and the commissioner.

744.10 (d) Notwithstanding Minnesota Rules, part 9502.0425, a family child care provider that  
744.11 complies with this section may use a mesh-sided or fabric-sided play yard, pack and play,  
744.12 or playpen or crib that has not been identified as unsafe on the United States Consumer  
744.13 Product Safety Commission website for the care or sleeping of infants.

744.14 (e) On at least a monthly basis, the family child care license holder shall perform safety  
744.15 inspections of every mesh-sided or fabric-sided play yard, pack and play, or playpen used  
744.16 by or that is accessible to any child in care, and must document the following:

744.17 (1) there are no tears, holes, or loose or unraveling threads in mesh or fabric sides of  
744.18 crib;

744.19 (2) the weave of the mesh on the crib is no larger than one-fourth of an inch;

744.20 (3) no mesh fabric is unsecure or unattached to top rail and floor plate of crib;

744.21 (4) no tears or holes to top rail of crib;

744.22 (5) the mattress floor board is not soft and does not exceed one inch thick;

744.23 (6) the mattress floor board has no rips or tears in covering;

744.24 (7) the mattress floor board in use is ~~a waterproof~~ an original mattress or replacement  
744.25 mattress provided by the manufacturer of the crib;

744.26 (8) there are no protruding or loose rivets, metal nuts, or bolts on the crib;

744.27 (9) there are no knobs or wing nuts on outside crib legs;

744.28 (10) there are no missing, loose, or exposed staples; and

744.29 (11) the latches on top and side rails used to collapse crib are secure, they lock properly,  
744.30 and are not loose.

745.1 (f) If a cradleboard is used in a licensed setting, the license holder must check the  
745.2 cradleboard not less than monthly to ensure the cradleboard is structurally sound and does  
745.3 not have loose or protruding parts. The license holder shall maintain written documentation  
745.4 of the review.

745.5 **EFFECTIVE DATE.** This section is effective January 1, 2023.

745.6 Sec. 9. Minnesota Statutes 2020, section 245A.16, subdivision 1, is amended to read:

745.7 Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and private  
745.8 agencies that have been designated or licensed by the commissioner to perform licensing  
745.9 functions and activities under section 245A.04 and background studies for family child care  
745.10 under chapter 245C; to recommend denial of applicants under section 245A.05; to issue  
745.11 correction orders, to issue variances, and recommend a conditional license under section  
745.12 245A.06; or to recommend suspending or revoking a license or issuing a fine under section  
745.13 245A.07, shall comply with rules and directives of the commissioner governing those  
745.14 functions and with this section. The following variances are excluded from the delegation  
745.15 of variance authority and may be issued only by the commissioner:

745.16 (1) dual licensure of family child care and child foster care, dual licensure of child and  
745.17 adult foster care, and adult foster care and family child care;

745.18 (2) adult foster care maximum capacity;

745.19 (3) adult foster care minimum age requirement;

745.20 (4) child foster care maximum age requirement;

745.21 (5) variances regarding disqualified individuals except that, before the implementation  
745.22 of NETStudy 2.0, county agencies may issue variances under section 245C.30 regarding  
745.23 disqualified individuals when the county is responsible for conducting a consolidated  
745.24 reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and  
745.25 (b), of a county maltreatment determination and a disqualification based on serious or  
745.26 recurring maltreatment;

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

745.29 (7) variances to requirements relating to chemical use problems of a license holder or a  
745.30 household member of a license holder; ~~and~~

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

746.4 (9) variances to section 245A.1435 for the use of a cradleboard for a cultural  
746.5 accommodation.

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

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

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

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

746.15 (c) Before the implementation of NETStudy 2.0, county agencies must report information  
746.16 about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision  
746.17 2, paragraphs (a) and (b), and variances granted under paragraph (a), clause (5), to the  
746.18 commissioner at least monthly in a format prescribed by the commissioner.

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

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

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

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

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

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

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

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

747.1 (h) Licensing authority specific to section 245D.06, subdivisions 5, 6, 7, and 8, or  
747.2 successor provisions; and section 245D.061 or successor provisions, for family child foster  
747.3 care programs providing out-of-home respite, as identified in section 245D.03, subdivision  
747.4 1, paragraph (b), clause (1), is excluded from the delegation of authority to county and  
747.5 private agencies.

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

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

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

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

747.14 Sec. 10. Minnesota Statutes 2020, section 245F.15, subdivision 1, is amended to read:

747.15 Subdivision 1. **Qualifications for all staff who have direct patient contact.** ~~(a) All~~  
747.16 ~~staff who have direct patient contact must be at least 18 years of age and must, at the time~~  
747.17 ~~of hiring, document that they meet the requirements in paragraph (b), (c), or (d).~~

747.18 ~~(b) Program directors, supervisors, nurses, and alcohol and drug counselors must be free~~  
747.19 ~~of substance use problems for at least two years immediately preceding their hiring and~~  
747.20 ~~must sign a statement attesting to that fact.~~

747.21 ~~(c) Recovery peers must be free of substance use problems for at least one year~~  
747.22 ~~immediately preceding their hiring and must sign a statement attesting to that fact.~~

747.23 ~~(d) Technicians and other support staff must be free of substance use problems for at~~  
747.24 ~~least six months immediately preceding their hiring and must sign a statement attesting to~~  
747.25 ~~that fact.~~

747.26 **EFFECTIVE DATE.** This section is effective January 1, 2023.

747.27 Sec. 11. Minnesota Statutes 2020, section 245F.16, subdivision 1, is amended to read:

747.28 Subdivision 1. **Policy requirements.** A license holder must have written personnel  
747.29 policies and must make them available to staff members at all times. The personnel policies  
747.30 must:

748.1 (1) ensure that a staff member's retention, promotion, job assignment, or pay are not  
748.2 affected by a good-faith communication between the staff member and the Department of  
748.3 Human Services, Department of Health, Ombudsman for Mental Health and Developmental  
748.4 Disabilities, law enforcement, or local agencies that investigate complaints regarding patient  
748.5 rights, health, or safety;

748.6 (2) include a job description for each position that specifies job responsibilities, degree  
748.7 of authority to execute job responsibilities, standards of job performance related to specified  
748.8 job responsibilities, and qualifications;

748.9 (3) provide for written job performance evaluations for staff members of the license  
748.10 holder at least annually;

748.11 (4) describe behavior that constitutes grounds the process for disciplinary action,  
748.12 suspension, or dismissal, ~~including policies that address substance use problems and meet~~

748.13 ~~the requirements of section 245F.15, subdivisions 1 and 2. The policies and procedures~~  
748.14 ~~must list behaviors or incidents that are considered substance use problems. The list must~~  
748.15 ~~include:~~ of a staff person for violating the drug and alcohol policy described in section  
748.16 245A.04, subdivision 1, paragraph (c);

748.17 ~~(i) receiving treatment for substance use disorder within the period specified for the~~  
748.18 ~~position in the staff qualification requirements;~~

748.19 ~~(ii) substance use that has a negative impact on the staff member's job performance;~~

748.20 ~~(iii) substance use that affects the credibility of treatment services with patients, referral~~  
748.21 ~~sources, or other members of the community; and~~

748.22 ~~(iv) symptoms of intoxication or withdrawal on the job;~~

748.23 (5) include policies prohibiting personal involvement with patients and policies  
748.24 prohibiting patient maltreatment as specified under sections 245A.65, 626.557, and 626.5572  
748.25 and chapters 260E and 604;

748.26 (6) include a chart or description of organizational structure indicating the lines of  
748.27 authority and responsibilities;

748.28 (7) include a written plan for new staff member orientation that, at a minimum, includes  
748.29 training related to the specific job functions for which the staff member was hired, program  
748.30 policies and procedures, patient needs, and the areas identified in subdivision 2, paragraphs  
748.31 (b) to (e); and

748.32 (8) include a policy on the confidentiality of patient information.

749.1 **EFFECTIVE DATE.** This section is effective January 1, 2023.

749.2 Sec. 12. Minnesota Statutes 2020, section 245G.01, subdivision 4, is amended to read:

749.3 Subd. 4. **Alcohol and drug counselor.** "Alcohol and drug counselor" ~~has the meaning~~  
749.4 ~~given in section 148F.01, subdivision 5~~ means a person who is qualified according to section  
749.5 245G.11, subdivision 5.

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

749.7 Sec. 13. Minnesota Statutes 2020, section 245G.01, subdivision 17, is amended to read:

749.8 Subd. 17. **Licensed professional in private practice. (a)** "Licensed professional in  
749.9 private practice" means an individual who:

749.10 (1) is licensed under chapter 148F, or is exempt from licensure under that chapter but  
749.11 is otherwise licensed to provide alcohol and drug counseling services;

749.12 (2) practices solely within the permissible scope of the individual's license as defined  
749.13 in the law authorizing licensure; and

749.14 (3) does not affiliate with other licensed or unlicensed professionals to provide alcohol  
749.15 and drug counseling services. ~~Affiliation does not include conferring with another~~  
749.16 ~~professional or making a client referral.~~

749.17 (b) For purposes of this subdivision, affiliate includes but is not limited to:

749.18 (1) using the same electronic record system as another professional, except when the  
749.19 system prohibits each professional from accessing the records of another professional;

749.20 (2) advertising the services of more than one professional together;

749.21 (3) accepting client referrals made to a group of professionals;

749.22 (4) providing services to another professional's clients when that professional is absent;

749.23 or

749.24 (5) appearing in any way to be a group practice or program.

749.25 (c) For purposes of this subdivision, affiliate does not include:

749.26 (1) conferring with another professional;

749.27 (2) making a client referral to another professional;

749.28 (3) contracting with the same agency as another professional for billing services;

749.29 (4) using the same waiting area for clients in an office as another professional; or

750.1 (5) using the same receptionist as another professional if the receptionist supports each  
750.2 professional independently.

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

750.4 Sec. 14. Minnesota Statutes 2020, section 245G.06, is amended by adding a subdivision  
750.5 to read:

750.6 Subd. 2a. **Documentation of treatment services.** The license holder must ensure that  
750.7 the staff member who provides the treatment service documents in the client record the  
750.8 date, type, and amount of each treatment service provided to a client and the client's response  
750.9 to each treatment service within seven days of providing the treatment service.

750.10 **EFFECTIVE DATE.** This section is effective August 1, 2022.

750.11 Sec. 15. Minnesota Statutes 2020, section 245G.06, is amended by adding a subdivision  
750.12 to read:

750.13 Subd. 2b. **Client record documentation requirements.** (a) The license holder must  
750.14 document in the client record any significant event that occurs at the program on the day  
750.15 the event occurs. A significant event is an event that impacts the client's relationship with  
750.16 other clients, staff, or the client's family, or the client's treatment plan.

314.3 Section 1. Minnesota Statutes 2020, section 245G.06, is amended by adding a subdivision  
314.4 to read:

314.5 Subd. 2a. **Client record documentation requirements.** (a) The license holder must  
314.6 document in the client record any significant event that occurs at the program within 24  
314.7 hours of the event. A significant event is an event that impacts the client's treatment plan  
314.8 or the client's relationship with other clients, staff, or the client's family.

750.17 (b) A residential treatment program must document in the client record the following  
750.18 items on the day that each occurs:

750.19 (1) medical and other appointments the client attended;

750.20 (2) concerns related to medications that are not documented in the medication  
750.21 administration record; and

750.22 (3) concerns related to attendance for treatment services, including the reason for any  
750.23 client absence from a treatment service.

750.24 (c) Each entry in a client's record must be accurate, legible, signed, dated, and include  
750.25 the job title or position of the staff person that made the entry. A late entry must be clearly  
750.26 labeled "late entry." A correction to an entry must be made in a way in which the original  
750.27 entry can still be read.

750.28 **EFFECTIVE DATE.** This section is effective August 1, 2022.

751.1 Sec. 16. Minnesota Statutes 2020, section 245G.06, subdivision 3, is amended to read:

751.2 Subd. 3. ~~Documentation of treatment services; Treatment plan review.~~ (a) ~~A review~~  
751.3 ~~of all treatment services must be documented weekly and include a review of:~~

751.4 (1) ~~care coordination activities;~~

751.5 (2) ~~medical and other appointments the client attended;~~

751.6 (3) ~~issues related to medications that are not documented in the medication administration~~  
751.7 ~~record; and~~

751.8 (4) ~~issues related to attendance for treatment services, including the reason for any client~~  
751.9 ~~absence from a treatment service.~~

751.10 (b) ~~A note must be entered immediately following any significant event. A significant~~  
751.11 ~~event is an event that impacts the client's relationship with other clients, staff, the client's~~  
751.12 ~~family, or the client's treatment plan.~~

751.13 (e) A treatment plan review must be entered in a client's file weekly or after each treatment  
751.14 service, whichever is less frequent, by the staff member providing the service alcohol and  
751.15 drug counselor responsible for the client's treatment plan. The review must indicate the span  
751.16 of time covered by the review and each of the six dimensions listed in section 245G.05,  
751.17 subdivision 2, paragraph (c). The review must:

751.18 (1) ~~indicate the date, type, and amount of each treatment service provided and the client's~~  
751.19 ~~response to each service;~~

751.20 (2) (1) address each goal in the treatment plan and whether the methods to address the  
751.21 goals are effective;

314.9 (b) A residential treatment program must document in the client record the following  
314.10 items within 24 hours that each occurs:

314.11 (1) medical and other appointments the client attended if known by the provider;

314.12 (2) concerns related to medications that are not documented in the medication  
314.13 administration record; and

314.14 (3) concerns related to attendance for treatment services, including the reason for any  
314.15 client absence from a treatment service.

314.16 Sec. 2. Minnesota Statutes 2020, section 245G.06, subdivision 3, is amended to read:

314.17 Subd. 3. ~~Documentation of treatment services; Treatment plan review.~~ (a) ~~A review~~  
314.18 ~~of all treatment services must be documented weekly and include a review of:~~

314.19 (1) ~~care coordination activities;~~

314.20 (2) ~~medical and other appointments the client attended;~~

314.21 (3) ~~issues related to medications that are not documented in the medication administration~~  
314.22 ~~record; and~~

314.23 (4) ~~issues related to attendance for treatment services, including the reason for any client~~  
314.24 ~~absence from a treatment service.~~

314.25 (b) ~~A note must be entered immediately following any significant event. A significant~~  
314.26 ~~event is an event that impacts the client's relationship with other clients, staff, the client's~~  
314.27 ~~family, or the client's treatment plan.~~

314.28 (e) A treatment plan review must be entered in a client's file ~~weekly or after each treatment~~  
314.29 ~~service, whichever is less frequent, by the staff member providing the service by an alcohol~~  
314.30 ~~and drug counselor at least every 28 calendar days; when there is a significant change in~~  
314.31 ~~the client's situation, functioning, or service methods; or at the request of the client.~~ The  
315.1 review must indicate the span of time covered by the review and each of the six dimensions  
315.2 listed in section 245G.05, subdivision 2, paragraph (c). The review must:

315.3 (1) ~~indicate the date, type, and amount of each treatment service provided and the client's~~  
315.4 ~~response to each service;~~

315.5 (2) address each goal in the treatment plan and whether the methods to address the goals  
315.6 are effective;

751.22 ~~(2)~~ (2) include monitoring of any physical and mental health problems;

751.23 ~~(3)~~ (3) document the participation of others;

751.24 ~~(4)~~ (4) document staff recommendations for changes in the methods identified in the  
751.25 treatment plan and whether the client agrees with the change; and

751.26 ~~(5)~~ (5) include a review and evaluation of the individual abuse prevention plan according  
751.27 to section 245A.65.

751.28 ~~(d) Each entry in a client's record must be accurate, legible, signed, and dated. A late~~  
751.29 ~~entry must be clearly labeled "late entry." A correction to an entry must be made in a way~~  
751.30 ~~in which the original entry can still be read.~~

751.31 **EFFECTIVE DATE.** This section is effective August 1, 2022.

752.1 Sec. 17. Minnesota Statutes 2020, section 245G.08, subdivision 5, is amended to read:

752.2 Subd. 5. **Administration of medication and assistance with self-medication.** (a) A  
752.3 license holder must meet the requirements in this subdivision if a service provided includes  
752.4 the administration of medication.

752.5 (b) A staff member, other than a licensed practitioner or nurse, who is delegated by a  
752.6 licensed practitioner or a registered nurse the task of administration of medication or assisting  
752.7 with self-medication, must:

752.8 (1) successfully complete a medication administration training program for unlicensed  
752.9 personnel through an accredited Minnesota postsecondary educational institution. A staff  
752.10 member's completion of the course must be documented in writing and placed in the staff  
752.11 member's personnel file;

752.12 (2) be trained according to a formalized training program that is taught by a registered  
752.13 nurse and offered by the license holder. The training must include the process for  
752.14 administration of naloxone, if naloxone is kept on site. A staff member's completion of the  
752.15 training must be documented in writing and placed in the staff member's personnel records;  
752.16 or

752.17 (3) demonstrate to a registered nurse competency to perform the delegated activity. A  
752.18 registered nurse must be employed or contracted to develop the policies and procedures for  
752.19 administration of medication or assisting with self-administration of medication, or both.

752.20 (c) A registered nurse must provide supervision as defined in section 148.171, subdivision  
752.21 23. The registered nurse's supervision must include, at a minimum, monthly on-site  
752.22 supervision or more often if warranted by a client's health needs. The policies and procedures  
752.23 must include:

752.24 (1) a provision that a delegation of administration of medication is limited to a method  
752.25 a staff member has been trained to administer and limited to the administration of:

315.7 ~~(2)~~ (2) include monitoring of any physical and mental health problems;

315.8 ~~(3)~~ (3) document the participation of others;

315.9 ~~(4)~~ (4) document staff recommendations for changes in the methods identified in the  
315.10 treatment plan and whether the client agrees with the change; and

315.11 ~~(5)~~ (5) include a review and evaluation of the individual abuse prevention plan according  
315.12 to section 245A.65.

315.13 ~~(b)~~ (b) Each entry in a client's record must be accurate, legible, signed, and dated. A late  
315.14 entry must be clearly labeled "late entry." A correction to an entry must be made in a way  
315.15 in which the original entry can still be read.

315.16 **EFFECTIVE DATE.** This section is effective August 1, 2022.

- 752.26 (i) a medication that is administered orally, topically, or as a suppository, an eye drop,  
752.27 an ear drop, ~~or~~ an inhalant, or an intranasal; and
- 752.28 (ii) an intramuscular injection of naloxone or epinephrine;
- 752.29 (2) a provision that each client's file must include documentation indicating whether  
752.30 staff must conduct the administration of medication or the client must self-administer  
752.31 medication, or both;
- 753.1 (3) a provision that a client may carry emergency medication such as nitroglycerin as  
753.2 instructed by the client's physician or advanced practice registered nurse;
- 753.3 (4) a provision for the client to self-administer medication when a client is scheduled to  
753.4 be away from the facility;
- 753.5 (5) a provision that if a client self-administers medication when the client is present in  
753.6 the facility, the client must self-administer medication under the observation of a trained  
753.7 staff member;
- 753.8 (6) a provision that when a license holder serves a client who is a parent with a child,  
753.9 the parent may only administer medication to the child under a staff member's supervision;
- 753.10 (7) requirements for recording the client's use of medication, including staff signatures  
753.11 with date and time;
- 753.12 (8) guidelines for when to inform a nurse of problems with self-administration of  
753.13 medication, including a client's failure to administer, refusal of a medication, adverse  
753.14 reaction, or error; and
- 753.15 (9) procedures for acceptance, documentation, and implementation of a prescription,  
753.16 whether written, verbal, telephonic, or electronic.
- 753.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 753.18 Sec. 18. Minnesota Statutes 2020, section 245G.09, subdivision 3, is amended to read:
- 753.19 Subd. 3. **Contents.** Client records must contain the following:
- 753.20 (1) documentation that the client was given information on client rights and  
753.21 responsibilities, grievance procedures, tuberculosis, and HIV, and that the client was provided  
753.22 an orientation to the program abuse prevention plan required under section 245A.65,  
753.23 subdivision 2, paragraph (a), clause (4). If the client has an opioid use disorder, the record  
753.24 must contain documentation that the client was provided educational information according  
753.25 to section 245G.05, subdivision 1, paragraph (b);
- 753.26 (2) an initial services plan completed according to section 245G.04;
- 753.27 (3) a comprehensive assessment completed according to section 245G.05;
- 753.28 (4) an assessment summary completed according to section 245G.05, subdivision 2;

753.29 (5) an individual abuse prevention plan according to sections 245A.65, subdivision 2,  
753.30 and 626.557, subdivision 14, when applicable;

753.31 (6) an individual treatment plan according to section 245G.06, subdivisions 1 and 2;

754.1 (7) documentation of treatment services, significant events, appointments, concerns, and  
754.2 treatment plan review reviews according to section 245G.06, ~~subdivision~~ subdivisions 2a,  
754.3 2b, and 3; and

754.4 (8) a summary at the time of service termination according to section 245G.06,  
754.5 subdivision 4.

754.6 **EFFECTIVE DATE.** This section is effective August 1, 2022.

754.7 Sec. 19. Minnesota Statutes 2020, section 245G.11, subdivision 1, is amended to read:

754.8 Subdivision 1. **General qualifications.** (a) All staff members who have direct contact  
754.9 must be 18 years of age or older. ~~At the time of employment, each staff member must meet~~  
754.10 ~~the qualifications in this subdivision. For purposes of this subdivision, "problematic substance~~  
754.11 ~~use" means a behavior or incident listed by the license holder in the personnel policies and~~  
754.12 ~~procedures according to section 245G.13, subdivision 1, clause (5).~~

754.13 ~~(b) A treatment director, supervisor, nurse, counselor, student intern, or other professional~~  
754.14 ~~must be free of problematic substance use for at least the two years immediately preceding~~  
754.15 ~~employment and must sign a statement attesting to that fact.~~

754.16 ~~(c) A paraprofessional, recovery peer, or any other staff member with direct contact~~  
754.17 ~~must be free of problematic substance use for at least one year immediately preceding~~  
754.18 ~~employment and must sign a statement attesting to that fact.~~

754.19 **EFFECTIVE DATE.** This section is effective January 1, 2023.

754.20 Sec. 20. Minnesota Statutes 2020, section 245G.11, subdivision 10, is amended to read:

754.21 Subd. 10. **Student interns.** A qualified staff member must supervise and be responsible  
754.22 for a treatment service performed by a student intern and must review and sign each  
754.23 assessment, ~~progress note, and~~ individual treatment plan, and treatment plan review prepared  
754.24 by a student intern. A student intern must receive the orientation and training required in  
754.25 section 245G.13, subdivisions 1, clause (7), and 2. No more than 50 percent of the treatment  
754.26 staff may be students or licensing candidates with time documented to be directly related  
754.27 to the provision of treatment services for which the staff are authorized.

754.28 **EFFECTIVE DATE.** This section is effective January 1, 2023.

754.29 Sec. 21. Minnesota Statutes 2020, section 245G.13, subdivision 1, is amended to read:

754.30 Subdivision 1. **Personnel policy requirements.** A license holder must have written  
754.31 personnel policies that are available to each staff member. The personnel policies must:

- 755.1 (1) ensure that staff member retention, promotion, job assignment, or pay are not affected  
755.2 by a good faith communication between a staff member and the department, the Department  
755.3 of Health, the ombudsman for mental health and developmental disabilities, law enforcement,  
755.4 or a local agency for the investigation of a complaint regarding a client's rights, health, or  
755.5 safety;
- 755.6 (2) contain a job description for each staff member position specifying responsibilities,  
755.7 degree of authority to execute job responsibilities, and qualification requirements;
- 755.8 (3) provide for a job performance evaluation based on standards of job performance  
755.9 conducted on a regular and continuing basis, including a written annual review;
- 755.10 (4) describe behavior that constitutes grounds for disciplinary action, suspension, or  
755.11 dismissal, including ~~policies that address staff member problematic substance use and the~~  
755.12 ~~requirements of section 245G.11, subdivision 1,~~ policies prohibiting personal involvement  
755.13 with a client in violation of chapter 604, and policies prohibiting client abuse described in  
755.14 sections 245A.65, 626.557, and 626.5572, and chapter 260E;
- 755.15 ~~(5) identify how the program will identify whether behaviors or incidents are problematic~~  
755.16 ~~substance use, including a description of how the facility must address:~~
- 755.17 ~~(i) receiving treatment for substance use within the period specified for the position in~~  
755.18 ~~the staff qualification requirements, including medication-assisted treatment;~~
- 755.19 ~~(ii) substance use that negatively impacts the staff member's job performance;~~
- 755.20 ~~(iii) substance use that affects the credibility of treatment services with a client, referral~~  
755.21 ~~source, or other member of the community;~~
- 755.22 ~~(iv) symptoms of intoxication or withdrawal on the job; and~~
- 755.23 ~~(v) the circumstances under which an individual who participates in monitoring by the~~  
755.24 ~~health professional services program for a substance use or mental health disorder is able~~  
755.25 ~~to provide services to the program's clients;~~
- 755.26 (5) describe the process for disciplinary action, suspension, or dismissal of a staff person  
755.27 for violating the drug and alcohol policy described in section 245A.04, subdivision 1,  
755.28 paragraph (c);
- 755.29 (6) include a chart or description of the organizational structure indicating lines of  
755.30 authority and responsibilities;
- 755.31 (7) include orientation within 24 working hours of starting for each new staff member  
755.32 based on a written plan that, at a minimum, must provide training related to the staff member's  
756.1 specific job responsibilities, policies and procedures, client confidentiality, HIV minimum  
756.2 standards, and client needs; and
- 756.3 (8) include policies outlining the license holder's response to a staff member with a  
756.4 behavior problem that interferes with the provision of treatment service.

756.5 **EFFECTIVE DATE.** This section is effective January 1, 2023.

756.6 Sec. 22. Minnesota Statutes 2020, section 245G.20, is amended to read:

756.7 **245G.20 LICENSE HOLDERS SERVING PERSONS WITH CO-OCCURRING**  
756.8 **DISORDERS.**

756.9 A license holder specializing in the treatment of a person with co-occurring disorders  
756.10 must:

756.11 (1) demonstrate that staff levels are appropriate for treating a client with a co-occurring  
756.12 disorder, and that there are adequate staff members with mental health training;

756.13 (2) have continuing access to a medical provider with appropriate expertise in prescribing  
756.14 psychotropic medication;

756.15 (3) have a mental health professional available for staff member supervision and  
756.16 consultation;

756.17 (4) determine group size, structure, and content considering the special needs of a client  
756.18 with a co-occurring disorder;

756.19 (5) have documentation of active interventions to stabilize mental health symptoms  
756.20 present in the individual treatment plans and ~~progress notes~~ treatment plan reviews;

756.21 (6) have continuing documentation of collaboration with continuing care mental health  
756.22 providers, and involvement of the providers in treatment planning meetings;

756.23 (7) have available program materials adapted to a client with a mental health problem;

756.24 (8) have policies that provide flexibility for a client who may lapse in treatment or may  
756.25 have difficulty adhering to established treatment rules as a result of a mental illness, with  
756.26 the goal of helping a client successfully complete treatment; and

756.27 (9) have individual psychotherapy and case management available during treatment  
756.28 service.

756.29 **EFFECTIVE DATE.** This section is effective January 1, 2023.

757.1 Sec. 23. Minnesota Statutes 2020, section 245G.22, subdivision 7, is amended to read:

757.2 Subd. 7. **Restrictions for unsupervised use of methadone hydrochloride.** (a) If a  
757.3 medical director or prescribing practitioner assesses and determines that a client meets the  
757.4 criteria in subdivision 6 and may be dispensed a medication used for the treatment of opioid  
757.5 addiction, the restrictions in this subdivision must be followed when the medication to be  
757.6 dispensed is methadone hydrochloride. The results of the assessment must be contained in  
757.7 the client file. The number of unsupervised use medication doses per week in paragraphs  
757.8 (b) to (d) is in addition to the number of unsupervised use medication doses a client may  
757.9 receive for days the clinic is closed for business as allowed by subdivision 6, paragraph (a).

757.10 (b) During the first 90 days of treatment, the unsupervised use medication supply must  
757.11 be limited to a maximum of a single dose each week and the client shall ingest all other  
757.12 doses under direct supervision.

757.13 (c) In the second 90 days of treatment, the unsupervised use medication supply must be  
757.14 limited to two doses per week.

757.15 (d) In the third 90 days of treatment, the unsupervised use medication supply must not  
757.16 exceed three doses per week.

757.17 (e) In the remaining months of the first year, a client may be given a maximum six-day  
757.18 unsupervised use medication supply.

757.19 (f) After one year of continuous treatment, a client may be given a maximum two-week  
757.20 unsupervised use medication supply.

757.21 (g) After two years of continuous treatment, a client may be given a maximum one-month  
757.22 unsupervised use medication supply, but must make monthly visits to the program.

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

757.24 Sec. 24. Minnesota Statutes 2020, section 245H.05, is amended to read:

757.25 **245H.05 MONITORING AND INSPECTIONS.**

757.26 (a) The commissioner must conduct an on-site inspection of a certified license-exempt  
757.27 child care center at least ~~annually~~ once each calendar year to determine compliance with  
757.28 the health, safety, and fire standards specific to a certified license-exempt child care center.

757.29 (b) No later than November 19, 2017, the commissioner shall make publicly available  
757.30 on the department's website the results of inspection reports for all certified centers including  
757.31 the number of deaths, serious injuries, and instances of substantiated child maltreatment  
757.32 that occurred in certified centers each year.

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

758.2 Sec. 25. Minnesota Statutes 2020, section 245H.08, is amended by adding a subdivision  
758.3 to read:

758.4 **Subd. 6. Authority to modify requirements.** (a) Notwithstanding subdivisions 4 and  
758.5 5, for children in kindergarten through 13 years old, the commissioner may increase the  
758.6 maximum group size to no more than 40 children and may increase the minimally acceptable  
758.7 staff-to-child ratio to one to 20 during a national security or peacetime emergency declared  
758.8 under section 12.31, or during a public health emergency declared due to a pandemic by  
758.9 the United States Secretary of Health and Human Services under section 319 of the Public  
758.10 Health Service Act, United States Code, title 42, section 247d.

758.11 (b) If the commissioner modifies requirements under this subdivision, a certified center  
758.12 operating under the modified requirements must have at least one staff person who is at  
758.13 least 18 years old with each group of 40 children.

758.14 Sec. 26. Laws 2020, First Special Session chapter 7, section 1, subdivision 5, as amended  
758.15 by Laws 2021, First Special Session chapter 7, article 2, section 73, is amended to read:

758.16 Subd. 5. **Waivers and modifications; extension for 365 days.** When the peacetime  
758.17 emergency declared by the governor in response to the COVID-19 outbreak expires, is  
758.18 terminated, or is rescinded by the proper authority, waiver CV23: modifying background  
758.19 study requirements, issued by the commissioner of human services pursuant to Executive  
758.20 Orders 20-11 and 20-12, including any amendments to the modification issued before the  
758.21 peacetime emergency expires, shall remain in effect ~~for 365 days after the peacetime~~  
758.22 ~~emergency ends~~ until January 1, 2023.

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

758.24 Sec. 27. **CHILD CARE REGULATION MODERNIZATION; PILOT PROJECTS.**

758.25 The commissioner of human services may conduct and administer pilot projects to test  
758.26 methods and procedures for the projects to modernize regulation of child care centers and  
758.27 family child care allowed under Laws 2021, First Special Session chapter 7, article 2, sections  
758.28 75 and 81. To carry out the pilot projects, the commissioner of human services may, by  
758.29 issuing a commissioner's order, waive enforcement of existing specific statutory program  
758.30 requirements, rules, and standards in one or more counties. The commissioner's order  
758.31 establishing the waiver must provide alternative methods and procedures of administration  
758.32 and must not be in conflict with the basic purposes, coverage, or benefits provided by law.  
759.1 In no event may a pilot project under this section extend beyond February 1, 2024. Pilot  
759.2 projects must comply with the requirements of the child care and development fund plan.

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

315.17 Sec. 3. Laws 2021, First Special Session chapter 7, article 2, section 74, is amended by  
315.18 adding a subdivision to read:

315.19 Subd. 4a. **Furnishing and analyzing data.** In the event the Department of Human  
315.20 Services is unable to furnish or analyze the relevant data on the background studies,  
315.21 disqualifications, set-asides, and other relevant topics under this section, the department  
315.22 may use an outside organization to analyze and furnish the relevant data to the task force.

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

759.4 Sec. 28. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; AMENDING**  
759.5 **CHILDREN'S RESIDENTIAL FACILITY AND DETOXIFICATION PROGRAM**  
759.6 **RULES.**

759.7 (a) The commissioner of human services must amend Minnesota Rules, part 2960.0460,  
759.8 to remove all references to repealed Minnesota Rules, part 2960.0460, subpart 2.

759.9 (b) The commissioner must amend Minnesota Rules, part 2960.0470, to require license  
759.10 holders to have written personnel policies that describe the process for disciplinary action,  
759.11 suspension, or dismissal of a staff person for violating the drug and alcohol policy described  
759.12 in Minnesota Statutes, section 245A.04, subdivision 1, paragraph (c), and Minnesota Rules,  
759.13 part 2960.0030, subpart 9.

759.14 (c) The commissioner must amend Minnesota Rules, part 9530.6565, subpart 1, to  
759.15 remove items A and B and the documentation requirement that references these items.

759.16 (d) The commissioner must amend Minnesota Rules, part 9530.6570, subpart 1, item  
759.17 D, to remove the existing language and insert language to require license holders to have  
759.18 written personnel policies that describe the process for disciplinary action, suspension, or  
759.19 dismissal of a staff person for violating the drug and alcohol policy described in Minnesota  
759.20 Statutes, section 245A.04, subdivision 1, paragraph (c).

759.21 (e) For purposes of this section, the commissioner may use the good cause exempt  
759.22 process under Minnesota Statutes, section 14.388, subdivision 1, clause (3), and Minnesota  
759.23 Statutes, section 14.386, does not apply.

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

759.25 Sec. 29. **REPEALER.**

759.26 (a) Minnesota Statutes 2020, sections 245F.15, subdivision 2; and 245G.11, subdivision  
759.27 2, are repealed.

759.28 (b) Minnesota Rules, parts 2960.0460, subpart 2; and 9530.6565, subpart 2, are repealed.

759.29 **EFFECTIVE DATE.** This section is effective January 1, 2023.