



## Article 2. Licensing

### Overview

This article amends various licensing statutes. It amends license applicant and application requirements and requires license holders to have a policy for reporting a death in their program. Crib safety requirements are modified to conform to federal law and child passenger restraint requirements are amended to conform to changes in state law. It allows "portability" of background studies between programs of the same license holder.

- 1 Application for licensure.** Amends §245A.04, subd. 1. Provides that when an application is deficient, the commissioner must provide written notice to the applicant identifying the deficiencies and give the applicant 45 days to submit a second complete application. States that the applicant's failure to comply is the basis for denial of a license.

Requires license applicants to demonstrate knowledge of licensing requirements, statutes, and rules. Allows the commissioner, beginning January 1, 2013, to administer a written examination to applicants, except for child foster care.

Requires an individual applicant to provide the individual's Social Security number and a photocopy of a Minnesota drivers' license or identification card or a valid U.S. passport.

Provides that when the applicant is a nonindividual, the applicant must provide a Minnesota tax ID number; the name, address, Social Security number of all controlling individuals, and the date the background study was initiated for each controlling individual; and if an agent is authorized to accept service, specified identifying information.
- 2 Grant of license; license extension.** Amends §245A.04, subd. 7. Prohibits the commissioner from granting a license if an applicant has not submitted the required identification information, or has not provided the applicant's Social Security number or documentation of the applicant's qualified alien status.
- 3 Education program; permitted ages, additional requirement.** Amends §245A.04, subd. 11. Provides that the commissioner may not issue a license to a residential facility for children, except foster care, until the commissioner of education documents approval of the facility's educational program.

For licensed residential programs serving persons under the age of 21, the facility must assess the risk posed by individuals age 18 and older to other residents of the facility, and develop and implement measures to minimize the risk. Requires programs to ensure that services and living arrangements are appropriate to the age and functioning of the residents.
- 4 Program policy; reporting a death in the program.** Amends §245A.04, by adding subd. 16. Provides that licensed programs, including programs licensed to provide services to developmentally disabled individuals, must have a written policy for reporting the death of a service recipient. Requires notification within 24 hours of the death.
- 5 Child care education plan.** Amends §245A.04, by adding subd. 17. Makes explicit that child care providers are not required to have an education plan or curriculum approved by the Department of Education as a condition for initial or renewed licensure.
- 6 Denial of application.** Amends §245A.05. Allows the commissioner to deny a license to an applicant who fails to submit a substantially complete application after receiving notice from the commissioner or fails to provide the required identification information.

- 7 License suspension, revocation, or fine.** Amends §245A.07, subd. 3. Allows the commissioner, after July 1, 2012, to suspend or revoke a license or impose a fine if a license holder fails to submit required identification information. Allows a license holder to avoid a fine under specified circumstances for failing to initiate a background study if the license holder self-corrects the violation.
- 8 Swimming pools; family day care and group family day care providers.** Amends §245A.14, subd. 11 to conform to the Abigail Taylor Pool Safety Act.
- 9 Documentation requirement for license holders.** Amends §245A.146, subd. 2. Requires licensed programs to comply with federal crib safety requirements by December 28, 2012. Extends the current monthly crib safety inspection requirements to children's residential facilities, chemical dependency programs with children in care, and residential habilitation programs for children with developmental disabilities.
- 10 License holder documentation of cribs.** Amends §245A.146, subd. 3. Instructs license holders to make crib safety inspection documentation available to guardians as well as parents.
- 11 Seat belt and child passenger restraint system use.** Amends §245A.18, subd. 1. Adds a cross reference to modifications to child passenger restraint requirements in §169.686.
- 12 Provider eligibility for payments from the consolidated chemical dependency treatment fund.** Creates §245A.191. Requires licensed chemical dependency treatment providers to meet specified criteria in order to be eligible for enhanced funding from the chemical dependency treatment fund.
- 13 Admission.** Amends §245A.22, subd. 2. Allows the commissioner to grant a variance so that independent living programs can serve clients with chemical use problems.
- 14 Child care centers; risk reduction plan.** Amends §245A.66, subd. 2. Provides that child care centers must assess risks to children presented by the center's physical plant and environment. Requires development of a risk reduction plan based on this assessment, which must include specific policies and procedures to minimize the risk of harm. Adds that the plan must include a detailed supervision plan to make sure children are supervised at all times.
- 15 Orientation to risk reduction plan and annual review.** Amends §245A.66, subd. 3. Adds that the license holder must document orientation to the risk reduction plan in each mandated reporter's personnel file. Requires annual review and documentation of this review.
- 16 Licensed programs.** Amends §245C.03, subd. 1. Clarifies that a background study is not required for foster children living in the foster home.
- 17 Licensed programs.** Amends §245C.04, subd. 1. Requires a license holder to initiate a new background study when an individual returns to a position after a 180-day absence. Current law requires a new study after a 45-day absence.
- Provides that if an individual was previously granted a set aside and the new study results in no new information that the individual poses a risk of harm, then the set aside remains in effect.
- Requires a substitute caregiver in family child care to have a repeat background study at time of license renewal.
- 18 Applicant, license holder, or other entity.** Amends §245C.05, subd. 2. Requires license holders to verify that the information provided by the subject of the background study is correct.
- 19 Privacy notice to background study subject.** Amends §245C.05, by adding subd. 2c. Requires the commissioner to notify the background study subject that if a previous study resulted in a set-aside,

that information will be reviewed and specified information may be shared with the agency that initiated the background study.

- 20 Electronic transmission.** Amends §245C.05, subd. 4. Requires license holders and applicants to use the commissioner's electronic system to submit background study requests unless the commissioner has granted a variance because the area in which the program is located does not have high-speed internet access.
- 21 Probation officer and corrections agent.** Amends §245C.05, subd. 7. Clarifies that if an individual has been affiliated with a regulated program within the preceding year, the individual's probation officer or corrections agent must notify the commissioner if the individual has been convicted of a disqualifying crime.
- 22 Study subject affiliated with multiple facilities.** Amends §245C.07. Provides, under specified circumstances, that if a background study was completed on an individual who is employed by a license holder with multiple programs, the background study is transferable to all of the license holder's programs when the study was completed on an individual related to child foster care. Studies completed related to other types of programs are transferable, but not to child foster care programs. Excludes studies submitted by adoption agencies, supplemental nursing agencies, personnel agencies, educational programs, professional services agencies, and unlicensed personal care provider organizations.
- 23 Background studies conducted by the Department of Human Services.** Amends §245C.08, subd. 1. Allows the commissioner to require the subject of a background study to provide fingerprints and record check with the national crime information databases when the commissioner has reasonable cause to believe the identity of the subject is uncertain.
- Strikes language allowing the commissioner to have access to certain information that has been expunged unless the court order for expungement was directed to the commissioner.
- 24 Disqualification from access.** Amends §245C.14, subd. 2. Clarifies that an individual who is disqualified is disqualified from contact and access.
- 25 Determining immediate risk of harm.** Amends §245C.16, subd. 1. Provides that this section does not apply to background studies for personal care assistants or qualified professionals who are subject to the provisions of §256B.0659.
- 26 Disqualification notice sent to subject.** Amends §245C.17, subd. 2. Requires the commissioner to disclose to a background study subject who has been disqualified that if the disqualification is set aside, the person or entity that requested the background study will be told of the reason for the individual's disqualification and the basis for the set-aside. Requires the commissioner to make the same disclosures when there is a subsequent background study.
- 27 Scope of set-aside.** Amends §245C.22, subd. 5. Adds that if the commissioner has previously set aside an individual's disqualification and the individual is the subject of a subsequent background study for a different program, the commissioner shall determine whether the set aside can be transferred to the new program. Lists the factors the commissioner must consider in making this determination.
- 28 Commissioner's notice of disqualification that is not set aside.** Amends §245C.23, subd. 2. Requires license holders to place an individual who is appealing disqualification under continuous, direct supervision pending the outcome of the individual's hearing.
- 29 Permanent bar to set aside disqualification.** Amends §245C.24, subd. 2. Allows the commissioner to consider granting a variance to an individual with a disqualification under §245C.15, subd. 1, if the individual will provide foster care for a specific child or children related to the individual, or if the

individual is a former foster child who is returning to the foster home for occasional overnight visits or to reside temporarily with the foster parents. Also allows the commissioner to consider granting a set aside to an individual whose disqualification for a crime or conduct under section 245C.15, subd. 1, was previously set aside before July 1, 2005.

- 30 License; permit.** Amends §471.709. Adds that a massage therapist can work without a license or permit from a municipality when the therapist works for or is an employee of a dental professional. Adds that a massage therapist must exclusively provide treatment in the office of the dental or medical professional, and is not limited to providing treatment to the medical or dental professional's patients.
- 31 Revisor's instruction.** Requires the revisor to renumber a statute and make the necessary cross reference changes.
- 32 Repealer.** Repeals Minnesota Rules, part 9503.0150, item E (child passenger restraint requirements).

### Article 3. Program Integrity

#### Overview

This article contains provisions related fraud investigations, data sharing between the departments of public safety and human services for purposes of fraud investigations. It requires certain license holders to comply with provider enrollment agreements and registration requirements as conditions of holding a license. It requires the state court administrator to provide drug conviction data to the commissioner of human services.

- 1 Application for licensure.** Amends §245A.04, subd. 1. Requires an applicant or license holder who elects to receive public funding to comply with provider enrollment agreements or registration requirements. Provides that failure to comply with these agreements or requirements may be the basis for disciplinary action.
- 2 Attendance records for publicly funded services.** Amends §245A.14, by adding subd. 14. Paragraph (a) requires child care centers to maintain daily attendance records for all children whose cost of care is reimbursed by a governmental program. Lists the information that must be included in the record.
- Paragraph (b) requires family child care providers to maintain daily attendance records for all children whose cost of care is reimbursed by a governmental program. Lists the information that must be included in the record.
- Paragraph (c) requires adult day services programs to maintain attendance records for each service recipient whose cost of care is reimbursed by a governmental program. Lists the information that must be included in the record.
- Paragraph (d) prohibits the commissioner from issuing a correction order for attendance record errors that occur prior to August 1, 2013.
- 3 Public funds program integrity monitoring.** Creates §245A.167. Requires that an applicant or license holder who elects to receive public funding must comply with the registration or enrollment requirements as licensing standards. Allows the department to review compliance during a licensing inspection or investigation. Provides that noncompliance may result in disciplinary action.
- 4 Drug convictions.** Amends §256.01, by adding subd. 18d. Paragraph (a) requires the state court administrator to report to the commissioner of human services the identifying information and conviction data of persons convicted of a felony drug offense.

Paragraph (b) requires the commissioner of human services to determine whether any person who has been reported under paragraph (a) has applied for or is receiving publicly funded benefits under chapter 256D or 256J. Requires the commissioner to impose sanctions as required by law and refer the matter to the county attorney.

Paragraph (c) instructs the commissioner to destroy any data that does not related to an individual receiving public assistance.

- 5 Data sharing with the Department of Human Services; multiple identification cards.** Amends §256.01, by adding subd. 18e. Paragraph (a) requires the commissioner of public safety to provide specific information to the commissioner of human services on individuals whose license or state identification cards have been cancelled.

Paragraph (b) requires the commissioner of human services to compare the information received under paragraph (a) with data regarding recipients of public assistance to determine whether a person with multiple identification cards has illegally or improperly received public assistance.

Paragraph (c) instructs the commissioner of human services, after providing all due process rights, to terminate the person from any public assistance programs if the person has been illegally or improperly receiving benefits.

- 6 Data sharing with the Department of Human Services; legal presence status.** Amends §256.01, by adding subd. 18f. Paragraph (a) requires the commissioner of public safety to provide specific information to the commissioner of human services about individuals whose temporary legal presence status has expired.

Paragraph (b) instructs the commissioner of human services to use the data received under paragraph (a) to determine whether the eligibility of any recipients of public assistance has changed as a result of the status change.

Paragraph (c) provides that if the commissioner of human services determines an individual has illegally or improperly received benefits, then the commissioner, after providing all due process rights, shall terminate the individual from the program and notify the county attorney.

- 7 Provider enrollment.** Amends §256B.04, subd. 21. Provides that as a condition of enrollment in medical assistance and of licensure under chapter 245A, a provider must have a designated compliance officer. Lists the duties of the compliance officer.

- 8 Instructions to the commissioner.** Requires the commissioner to convene a work group of representatives from specified agencies and groups to evaluate the administrative appeals process for background study, maltreatment, and licensing appeals. Requires a report to the legislature by February 1, 2013.