Bill Summary Comparison of

Health and Human Services

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| Senate File: 800-3 | House File: UES0800-2 |
| Article 8: Chemical and Mental Health Services | Article 6: Chemical and Mental Health |

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| Article 8: Chemical and Mental Health Services |  | Article: 6: Chemical and Mental Health |
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|  | House only | Sec. 1. Diagnostic assessment. Amends § 245.462, subd. 9. Modifies definition of “diagnostic assessment,” in the Adult Mental Health Act, adding cross-reference to Minnesota Rules, parts 9505.0370 and 9505.0372; describes what a brief diagnostic assessment must include; and creates exceptions to items in Minnesota Rules, part 9505.0371. |
| **Section 1 (245.4662**) establishes the Mental Health Innovation Grant Program, **subdivision 1** defines terms.  **Subdivision 2** requires the commissioner to award grants to eligible applicants to plan, establish, or operated programs to improve accessibility and quality of community-based, outpatient mental health services.  **Subdivision 3** requires the applicant to submit an application by October 31, 2017, and by October 31 thereafter. This subdivision specifies what the application must contain.  In determining whether applicants receive grants, the commissioner shall give preference to applications with the four factors listed in paragraph (d).  **Subdivision 4** requires the commissioner to notify grantees by December 15, and disperse grants by January 1. | Similar. House includes language requiring consultation with stakeholders, specifies that it is a onetime appropriation available until 2021, and that grants are for two-year periods. House language also requires a letter of support from the local mental health authority and demonstrated financial sustainability.  Senate language specifies dates for published criteria, application deadlines, notice of awards, and disbursement. Senate language gives preference to listed services, and House includes supportive housing on the list of services.  House adds a subdivision requiring a report to the legislature on outcomes of the grant program. | Sec. 18. Grant program; mental health innovation.  Subd. 1. Definitions. Defines the following terms: community partnership, eligible applicant, intensive residential treatment services, and metropolitan area.  “Eligible applicant” includes a county, Indian tribe, mental health center, hospital, and community partnership.  Subd. 2. Grants authorized. Authorizes the commissioner to award grants to eligible applicants to plan, establish, or operate programs to improve community-based outpatient mental health services. Specifies that half of grant funds will be awarded to applicants in the metropolitan area, and half outside the area. Specifies that the funding is a one-time appropriation, available until June 30, 2021.  Subd. 3. Allocation of grants. Specifies application deadlines and what applications must contain. Lists guidelines for the commissioner to establish criteria, and relevant factors for the commissioner to consider. Lists grant award purposes: intensive residential treatment services, mental health urgent care centers, crisis residential services, new or expanded community mental health services, supportive housing, and other innovative projects.  Subd. 4. Report to legislature. Requires the commissioner to provide a report to the legislature by December 1, 2019, on program outcomes. Requires grantees to provide information to commissioner for the report. |
|  | House only | Sec. 2. Diagnostic assessment. Amends § 245.4871, adding subd. 11a. Adds definition of “diagnostic assessment” to Children’s Mental Health Act. |
|  | House only | Sec. 3. Diagnostic assessment. Amends § 245.4876, subd. 2. Removes “outpatient” from children’s mental health services for which a diagnostic assessment must be completed. |
| **Section 2** **(245.4889, subd. 1)** allows the children’s mental health grants to be used for start-up funds to establish new childrens’ mental health programs to support providers to meet program requirements and begin operations, and for transportation to school-linked mental health services. | From House Article 1. Technical language differences in clause (17) and paragraph (c); staff recommends House. Senate adds clause (18) allowing funding to be used for transportation for school-linked mental health services. Both make clause (17) effective the day following final enactment. | Article 1, sec. 2. Establishment and authority. Amends § 245.4889, subd. 1. Allows the commissioner to make grants for start-up funding to support providers in meeting program requirements and beginning operations, when establishing a new children’s mental health program. Provides an immediate effective date. |
| **Section 3 to 5** modify provisions related to the Ombudsman for Mental Health and Developmental Disabilities. |  | House article 9, sections 5 to 8. |
| **Section 3 (245.91, subd. 4)** expands the definition of “facility or program” to include any agency, facility or program providing services for mental illness, developmental disabilities, chemical dependency, or emotional disturbances that is licensed, certified, or registered by the Commissioner of Human Services, health, or education.  Existing law limited this definition to programs licensed by the Commissioner of Human Services. | Identical, except House has immediate effective date. | Sec. 5. Facility or program. Amends § 245.91, subd. 4. Specifies that a “facility” or “program” includes any entity required to be licensed, certified, or registered, providing services or treatment for mental illness, developmental disabilities, chemical dependency, or emotional disturbance.  Makes section effective the day following final enactment. |
| **Section 4 (245.91, subd. 6)** amends the definition of the term “serious injury.” | Identical | Sec. 6. Serious injury. Amends § 245.91, subd. 6. Adds to the list of serious injuries for reporting to the ombudsman for mental health and developmental disabilities:   1. head injuries with loss of consciousness or potential for a closed head injury or concussion without loss of consciousness requiring a medical assessment, whether or not further medical attention was sought; 2. attempted suicide; and 3. all other incidents considered serious by a health care professional, including self-harm, medication error requiring medical treatment, delay of medical treatment, and complications related to treatment and injury.   Makes section effective the day following final enactment. |
|  | House only | Sec. 7. Powers. Amends § 245.94, subd. 1.  Paragraph (b) clarifies that the ombudsman for mental health and developmental disabilities is a health oversight agency under federal regulations, and may access patient records.  Paragraph (d) allows the ombudsman to investigate to promote the health, safety, and welfare of clients, even in acute care facilities receiving services through private funding.  Paragraph (e) allows the ombudsman to gather and analyze data upon receiving information or a complaint relating to the rights of one or more clients who may not be capable of requesting assistance.  Paragraph (f) allows the ombudsman to gather records on behalf of one or more clients, and specifies that the ombudsman is not required to obtain consent for access to private data for individuals in the Minnesota Sex Offender Program. Allows the ombudsman to take photos or video evidence while investigating, with client consent. Adds chemical dependency to the services for which the ombudsman may access private data on deceased clients without consent.  Paragraph (i) expands ombudsman’s power to attend meetings and access private client data without consent.  Paragraph (j) instructs the ombudsman to gather private data regarding services for clients with developmental disabilities and those served by the Minnesota Sex Offender Program.  Paragraph (l) states that the Office of the Ombudsman must provide the services of the Civil Commitment Training and Resource Center.  Makes section effective the day following final enactment. |
| **Section 5 (245.97, subd. 6)** changes the terms, compensation, and removal of the ombudsman committee, which is under the jurisdiction of the state government committee. | Identical | Sec. 8. Terms, compensation, and removal. Amends § 245.97, subd. 6. Changes the membership, compensation, and removal terms for the Ombudsman Committee.  Makes section effective the day following final enactment. |
| **Section 6 (245A.03, subd. 2)** updates terminology to refer to substance use disorder and insert cross-references to the new substance abuse in Minnesota Statutes, chapter 245G. | House does not update terminology or add cross-references to chapter 245G (because House does not add chapter 245G in this bill). In section 4, House adds two exemptions that are included in section 9, subdivision 2 of this article.  Senate includes January 1, 2018, effective date. | Sec. 4. Exclusion from licensure. Amends § 245A.03, subd. 2. Expands DHS licensing exemption for chemical dependency or substance abuse treatment activities of licensed professionals in private practice; exempts counties and recovery community organizations that are eligible vendors under section 254B.05 for care coordination, comprehensive assessment, or peer recovery support services. |
| **Section 7 (245A.191)** updates terminology to refer to substance use disorder and insert cross-references to the new substance abuse in Minnesota Statutes, chapter 245G. | Differences related to Senate 245G chapter. | Sec. 5. Provider eligibility for payments from the chemical dependency consolidated treatment fund. Amends § 245A.191. Corrects cross-reference. |
| **Sections 8 to 29 (245G.01, 245G.02, 245G.03, 245G.04, 245G.05, 245G.06, 245G.07, 245G.08, 245G.09, 245G.10, 245G.11, 245G.12, 245G.13, 245G.14, 245G.15, 245G.16, 245G.17, 245G.18, 245G.19, 245G.20, 245G.21, 245G.22)** establish the standards for the substance use disorder services.  A majority of the language in these sections is existing rule, and is being codified in this new chapter.  New language in section 14 includes the expansion of services, which are peer recovery support services and care coordination, subject to federal approval.  Also, the existing provisions related to opioid treatment programs are consolidated in this chapter in section 29. | Senate only. A majority of the changes in this article relate to the establishment of this new chapter, the resulting changes in terminology, and the delayed January 1, 2018, effective. |  |
| **Sections 30 to 44** amend the treatment for alcohol and drug abuse chapter of law. | Senate only |  |
| **Section 30 (254A.01) modifies the public policy statement related drug and alcohol addiction.** | Senate only |  |
| **Sections 31 to 34, 36, and 37 (254A.02, subds. 2, 3, 5, 6, 8, and 10)** update terminology and strike obsolete references. | Senate only |  |
| **Section 35 (254A.02, subd. 6a)** adds a new subdivision defining the term “substance misuse.” | Senate only |  |
| **Section 38 (254A.02, subd. 10a)** adds a new subdivision defining the term “substance use disorder.” | Senate only |  |
| **Section 39 (254A.03**) updates the statute delegating authority to the alcohol and drug abuse section in DHS, by incorporating the new services and updating terminology.  Subdivision 3 of this section also specifies that upon federal approval or on July 1, 2018, whichever is later, of a comprehensive assessment as a Medicaid benefit, an eligible vendor may determine and approve the appropriate level of substance use disorder treatment for a recipient of public assistance. The commissioner shall develop and implement a utilization review process for publicly funded treatment placements to monitor and review the clinical appropriateness and timeliness of publicly funded placements in treatment. | Senate updates terminology in subdivisions 1 and 2. Both House and Senate include modifications to subdivision 3, which are substantially similar, but Senate updates terminology and includes July 1, 2018, date related to federal approval for new services, and formatting and slight stylistic differences.  Staff recommends House language for technical differences. | Sec. 6. Rules for chemical dependency care. Amends § 254A.03, subd. 3. Paragraph (b) allows eligible vendors to provide substance use disorder comprehensive assessment services for public assistance recipients, upon federal approval. Instructs commissioner to develop and implement a utilization review process for publicly funded treatment placements.  Paragraph (c) clarifies that an individual’s choice to access a vendor for comprehensive assessment will not affect an individual’s eligibility for the consolidated chemical dependency treatment fund or a subsidized health plan. |
| **Sections 40 to 43 (254A.035, subd. 1, 254A.04, 254A.08, 254A.09)** update terminology and incorporate references to rule. | Senate only sections 40, 41, and 43. Senate section 42 and House section 7 are identical except Senate updates terminology and refers to the Department of Human Services, while the House refers to the commissioner. Senate includes January 1, 2018, effective date consistent with changes related to new chapter 245G.  Staff recommends Senate language for technical differences. | Sec. 7. Program requirements. Amends § 254A.08, subd. 2. Adds cross-reference to rules for detoxification program licensing. |
| **Sections 45 to 58**amend chapter 254B, the chemical dependency treatment chapter of law. |  |  |
| **Section 45 (254B.01, subd. 3)** updates terminology by changing “chemical dependency” to “substance use disorder.” | Senate only |  |
| **Section 46 (254B.01, subd. 8)** defines the term “recovery community organization.” | Identical except for minor grammar and stylistic differences, and Senate effective date.  Staff recommends House language on technical differences. | Sec. 8. Recovery community organization. Amends § 254B.01, adding subd. 8. Defines “recovery community organization.” |
| **Section 47 (254B.03, subd. 2)** updates terminology and prohibits a vendor from requiring clients to use their public benefits to offset the cost of services paid under this section.  Clarifies that SNAP benefits belong to the client. | Senate modifications are consistent with the establishment of the new chapter 245G. House references rule that Senate is repealing. Senate includes language prohibiting vendors from using public benefits to offset the cost of services paid under the chemical dependency fund. | Sec. 9. Chemical dependency fund payment. Amends § 254B.03, subd. 2. Adds cross-reference to rules for detoxification services licensing. |
| **Sections 48 and 49 (254B.04, subds. 1, 2b)** modify the chemical dependency fund services by striking obsolete language. | Senate only |  |
| **Section 50 (254B.05, subd. 1**) provides that on July 1, 2018, or upon federal approval, whichever is later, licensed professionals in private practice and counties are eligible vendors of comprehensive assessment and assessment summary services, under new paragraphs (b) and (c), respectively.  The counties are also eligible providers of care coordination services. New paragraph (d) provides that on July 1, 2018, or upon federal approval, whichever is later, a recovery community organization is an eligible vendor of peer support services. | Similar. Senate updates terminology and includes cross-references to sections in chapter 245G, which House does not add (refers to existing rules instead). Senate includes July 1, 2018, date related to federal approval, and adds January 1, 2018, effective date. Other grammar, punctuation, and stylistic differences.  Staff recommends House language on technical differences. | Sec. 10. Licensure required. Amends § 254B.05, subd. 1. Specifies that the following are eligible vendors, upon federal approval:  (b) Licensed professionals in private practice, for comprehensive assessment and individual substance use disorder treatment services.  (c) Counties, for comprehensive assessment services provided by licensed professionals in private practice, and for care coordination services when provided by an individual who meets certification requirements.  (d) Recovery community organizations, for one-to-one peer support services provided by an individual in recovery.  (e) Specifies that a licensed detoxification program is not an eligible vendor, and that a program not licensed as a chemical dependency residential or nonresidential treatment or withdrawal management program is not an eligible vendor. |
| **Section 51 (254B.05, subd. 1a)** updates cross-references to new chapter 245G. | Senate only |  |
| **Section 52 (254B.05, subd. 5)** requires the commissioner to establish rates for the eligible services under this section.  New eligible services include comprehensive assessments, care coordination, peer recovery support services, and withdrawal management services effective July 1, 2018, or upon federal approval, whichever is later. This section also updates references to the new chapter 245G. | Senate updates terminology and includes cross-references to new services in clauses (1) to (5), and updates references in the remaining clauses to sections in chapter 245G, which House does not add (refers to existing rules instead). Senate adds January 1, 2018, effective date. | Sec. 11. Rate requirements. Amends § 254B.05, subd. 5. Instructs commissioner to establish rates for comprehensive assessment services, care coordination services, peer recovery support services, and withdrawal management services provided under chapter 245F. |
| **Sections 53 to 58 (254B.051, 254B.07, 254B.08, 254B.09, 254B.12, subd. 2, 254B.13, subd. 2a)** update terminology and references. Section 55 gives the commissioner the authority to apply for the federal waivers necessary to secure federal financial participation for substance use disorder services. | Senate only |  |
|  | House only | Sec. 12. Chemical dependency provider rate increase. Amends § 254B.12 by adding subd. 3.  Provides for a 3 percent rate increase for chemical dependency services listed in section 254B.05, subdivision 5 provided on or after July 1, 2017. |
|  |  | Section 13 to 16 are being compared in Senate article 4, sections 15 to 19, and 29. |
| **Section 59** **(256B.0625, subd. 45a)** adds a cross-reference to the new section of law establishing eligibility for PRTF and strikes obsolete language. | Identical | Sec. 22. Psychiatric residential treatment facility services for persons under 21 years of age. Amends § 256B.0625, subd. 45a. Clarifies that MA coverage of psychiatric residential treatment facility services must be provided according to section 256B.0941, and makes conforming and technical changes. |
| **Section 60** (**256B.0941)** establishes the eligibility for the Psychiatric Residential Treatment Facilities (PRTF) for persons under 21 years of age and specifies the services that must be provided, the statewide per diem rate, and criteria for leave days. | Identical except for section title.  Staff recommends Senate language. | Sec. 28. Psychiatric residential treatment facility for persons under 21 years of age. Adds § 256B.0941.  Subd. 1. Eligibility. (a) States that individuals eligible for mental health treatment services in a psychiatric residential treatment facility must meet all of the following criteria:  (1) before admission, the services are determined to be medically necessary by the state’s medical review agent;  (2) be younger than age 21 at the time of admission, with services continuing until the individual meets discharge criteria or reaches age 22, whichever occurs first;  (3) has a mental health diagnosis, and clinical evidence of severe aggression or a finding that the individual is a risk to self or others;  (4) has a functional impairment and a history of difficulty in functioning safely and successfully, an inability to adequately care for one’s physical needs, or caregiver, guardians, and family members are unable to safely fulfill the individual’s needs;  (5) requires psychiatric residential treatment under the direction of a physician;  (6) utilized and exhausted other community-based mental health services, or clinical evidence indicates that these services cannot provide the needed level of care; and  (7) was referred to residential treatment by a qualified mental health professional.  (b) Requires the mental health professional making a referral to submit specified documentation to the state’s medical review agent, within 180 days of the individual’s admission.  Subd. 2. Services. Requires psychiatric residential treatment facility services providers to offer and have the capacity to provide the following:  (1) development of the individual plan of care, review of the plan every 30 days, and discharge planning;  (2) any services provided by a psychiatrist or physician for purposes of the services required in clause (1);  (3) active treatment seven days per week;  (4) individual therapy, at least twice per week;  (5) family engagement activities, at least once per week;  (6) consultation with other professionals;  (7) coordination of educational services between local and resident school districts and the facility;  (8) 24-hour nursing; and  (9) direct care and supervision, supportive services for daily living and safety, and positive behavior management.  Subd. 3. Per diem rate. (a) Requires the commissioner to establish a statewide per diem rate for facility services for individuals 21 years of age or younger. Specifies criteria for the rate and the reporting of costs.  (b) Specifies rate components.  (c) Allows a facility to submit a claim for payment outside of the per diem for professional services, and specifies related criteria.  (d) Requires Medicaid to reimburse for concurrent services as approved by the commissioner to support continuity of care and successful discharge. Defines concurrent services and specifies related criteria.  (e) Excludes the costs of the following services from payment rates: educational services, acute medical care or specialty services for other conditions, dental services, and pharmacy drug costs.  (f) Provides a definition of “actual cost.”  Subd. 4. Leave days. Provides medical assistance coverage for therapeutic and hospital leave days, and specifies requirements for payment and payment levels.  Provides an immediate effective date. |
| **Section 61** **(256B.0943, subd. 13)** amends the children’s therapeutic services and supports (CTSS) statute by striking a problematic reference to group homes, and adding a reference to PRTF.  This section allows up to 15 hours of CTSS provided within a six-month period in the locations listed in this section of law. | Identical | Sec. 29. Exception to excluded services. Amends § 256B.0943, subd. 13. Adds a psychiatric residential treatment facility to the list of facilities for which payment can be made under MA for children’s therapeutic services and supports. Strikes obsolete language. |
| **Sections 62 and 63 (256B.0945, subds. 2 and 4)** modify provisions related to residential facilities for children with severe emotional disturbance. If the federal Centers for Medicare and Medicaid Services determine that these residential facilities are institutions for mental diseases, resulting in the discontinuation of federal financial participation, state funds must be used to pay for the lost federal financial participation. | Identical | Sec. 30. Covered services. Amends § 256B.0945, subd. 2. Provides that MA covers mental health services provided to children with severe emotional disturbance in a residential facility determined by CMS to be an institution for mental diseases, except for room and board, using state-only MA funding.  Sec. 31. Payment rates. Amends § 256B.0945, subd. 4. Provides that payments to counties, for services provided to children with severe emotional disturbance by a residential facility that is determined to be an institution for mental diseases, shall be equivalent to the federal share of the payment that would have been made were the facility not an institution for mental diseases. Requires the portion of payment representing what would be the nonfederal share to be paid by the county. Specifies other payment criteria and makes conforming changes. |
|  | House only section. | Sec. 17. Critical access mental health rate increase. Amends § 256B.763. Requires the medical assistance payment rate to mental health clinics and centers that are not designated as essential community providers under section 62Q.19 to be the same as the payment rate for those facilities that are designated as essential community providers under section 62Q.19, for the following services:   1. Group skills training as a component of mental health services. 2. Medication education services provided by adult rehabilitative mental health services providers. 3. Mental health behavioral aide services provided by children's therapeutic services and support providers. 4. Individual and family skills training provided by children's therapeutic services and support providers.   Requires a provider to demonstrate a commitment to serve low-income and underserved populations, in order to receive increased payments by:   1. charging for services on a sliding fee schedule based on poverty guidelines; and 2. not restricting access or services because of financial limitations. |
| **Section 64** requires the Commissioner of Human Services to conduct a comprehensive analysis of Minnesota’s continuum of intensive mental health services and develop recommendations for a sustainable and community-driven continuum of care for children with serious mental health needs, including children currently being served in residential treatment. The report is due by November 15, 2018. | Identical | Sec. 49. Children’s mental health report and recommendations. Requires the commissioner of human services to conduct a comprehensive analysis of Minnesota’s continuum of intensive mental health services and develop recommendations for a sustainable and community-driven continuum of care for children with serious mental health needs, including children served in residential treatment. Lists criteria for the analysis. Requires the analysis to be supported and informed by extensive stakeholder engagement. Requires the commissioner to present the report with specific recommendations and implementation timelines to the legislative committees with jurisdiction over children’s mental health policy and finance by November 15, 2018. |
| **Section 65** requires the commissioner to contract with an outside expert to identify recommendations for the development of a substance use disorder residential treatment program model and payment structure that is not subject to the federal institutions for mental diseases exclusion, and is financially sustainable. The report is due no later than December 15, 2018. | Identical except for slight technical differences.  Staff recommends House language. | Article 6, sec. 19. Residential treatment and payment rate reform. Requires the commissioner to contract with an outside expert to develop a substance use disorder residential treatment program model that is not subject to the federal IMD exclusion, and that is financially sustainable and improves treatment outcomes. Requires analysis to include recommendations and a timeline for providers to transition to the new models of care. Requires report to legislative committees by December 15, 2018. |
|  |  | See Senate article 4, section 41. |
| **Section 66** is a revisor’s instruction to make necessary cross-references changes due to terminology changes. | Senate only |  |
| **Section 67** repeals obsolete statutes and rules due to chapter 245G. | Senate only |  |
|  | House only | Sec. 21. Repealer. Repeals § 256B.7631 (chemical dependency provider rate). |