

## Summary of SF 4726/HF4692

### Introduction

Last session the Legislature passed legislation establishing Direct Care and Treatment as a standalone state agency under the governance structure of an executive board. As required under last year's legislation, this bill builds on what was passed last session by adding more specificity to the executive board membership as well as defining the duties, responsibilities, powers and function of the executive board as the governance structure of Direct Care and Treatment. As part of working on drafting this legislation, DCT has met with several vested groups conducting listening sessions, reviewing drafts, answering questions and concerns, and seeking feedback. This bill is the result of that process and can be best described as accomplishing the following:

- 1. Including DCT in current statutes.** Since DCT will be a standalone agency DCT must be added to several current statutes to ensure that DCT continues to comply with or be required to comply with these sections of law once it is a standalone agency.

**Sections 1 to 4; 10 to 14; 23; and 24 to 28** add DCT to the following relevant statutes:

Government-to-government consultations with Minnesota tribal nations **(section 1)**

The government data privacy act, chapter 13, ensuring that DCT is included in and complies with the data privacy act. **(sections 2-4)**

State personnel management, ensuring that certain positions in DCT are within the unclassified service, under chapter 43A **(sections 10 -11)**

Peer review for health care entities, ensuring that DCT is included and that peer review participants are given certain protections when participating in a peer review **(section 12)**

Ensuring that the chief medical director consults with both the executive board and the chief executive officer. **(section 13)** (246.018)

Participation in the social welfare fund with DHS and local social service agencies. The purpose of this fund is to hold funds in trust for the benefit of persons determined to have a developmental disability, mental illness, or substance use disorder. These sections would include DCT as a separate agency in this fund **(sections 24 -28)**

Creating special revenue fund accounts for DCT operational activities similar to what other state agencies have, including DHS. These accounts are for facility maintenance; computer and security systems; gifts, grants, and contributions; and cemetery maintenance at DCT facilities. **(Section 23)**

**2. Providing more substance to the executive board's membership, governance, powers and duties.  
(Sections 20, 21 and 22)**

Last year's legislation established an executive board of up to five members. During the listening sessions with partners and stakeholders, concerns were raised regarding the size of the board and that the membership representation as passed last year did not adequately reflect all partner groups necessary to ensure that all voices are heard and represented within the board's structure. To address these concerns while balancing potential conflicts of interest and ensuring that focus remains on patient care and services, the membership of the board is expanded to nine members, with seven voting members and two non-voting members. Six of the voting members would be appointed by the governor with the advice and consent of the senate, and the seventh voting member would be the commissioner of human services or designee. The two non-voting members include one member to be appointed by the Association of Minnesota Counties and one member to be appointed by joint representatives of the public labor unions that represent the staff at DCT.

Of the six voting members appointed by the governor, one member must be a licensed physician who is either a psychiatrist or a physician with experience in serving behavioral health patients; two members must have experience serving on a hospital board or nonprofit board; and three members must have experience working as a public labor union representative; in the delivery of behavioral health services, care coordination or traditional healing practices; as a licensed healthcare professional; within health care administration; or with residential services. A voting member must not currently be or within one year of appointment an employee of DCT; an employee of a county; an active employee or representative of a labor union that represents staff at DCT; or a state legislator.

Membership on the board must include representation from outside the seven-county metropolitan area.

Compensation of the board members would be set at a rate of \$500 per day spent on board activities, except for the commissioner of human services. The rate is being set at this amount in order for DCT to be competitive and to better reflect compensation paid to board members of other nonprofit health care systems.

**Section 20** also includes language on terms, appointing a chair and officers, conflict of interest, meetings, quorum, and establishing immunity and indemnification for board members.

**Section 20** also provides rulemaking authority to the executive board, including expedited rulemaking until July 1, 2030.

**Section 21** specifies that the overall management and control of DCT is vested in the executive board. The executive board may delegate duties as deemed appropriate by the board. Any delegation of a specified duty or power to an employee of DCT other than the chief executive officer must be made by written order and filed with the secretary of state similar to what is required when a commissioner delegates authority to employees other than a deputy commissioner.

**Section 21** also specifies the overall principles that the executive board must follow and defines the general duties and powers of the board such as the authority to set the overall strategic direction of the agency; enter into contracts, interagency agreements, and information sharing agreements; establish policy and procedures; approve an operating budget; employ personnel; accept and gifts, grants and contributions; establish and maintain administrative units; report to the legislature on the agency's performance; and other powers necessary to implement and administer the requirements of chapter 246C.

**Section 22** requires the executive board to appoint a chief executive officer. The chief executive officer is responsible for the administrative and operational management of DCT. The chief executive officer has all the powers of the executive board unless the board directs otherwise. This section also specifies that in the event that a vacancy occurs within the chief executive position, the chief medical officer shall immediately serve as the chief executive officer with all the powers and authority delegated to the to the chief executive officer until the board appoints a new chief executive officer. This is similar to the role of a deputy commissioner if a commissioner's position becomes vacant.

**3. Date of transfer of all authority and responsibilities for Direct Care and Treatment from DHS to the executive board. (Sections 18 and 33)**

**Section 18** changes the date of this transfer from January 1, 2025, to July 1, 2025, aligning the transfer with the start of a new fiscal year and biennium and providing a longer transitional period for both DCT and DHS to finalize separation activities and provide time for the executive board to be appointed and ready to assume authority once authority is transferred.

**Section 33** requires that the executive board be appointed by January 1, 2025, giving the board the time to receive in-depth training and education before assuming its governing role. During this period of training the board would be exempt from section 13D.01 and the open meeting requirements. This exemption would end when the board assumes the responsibilities of the agency on July 1, 2025. This section would also require the commissioner of human services to consult with the executive board in preparing budget estimates for the upcoming biennial budget and legislative proposals involving direct care and treatment operations if the board has been appointed. If the board has not been appointed, then the commissioner is required to provide the board with a summary of any budget estimates or proposals that have been submitted.

**4. Other changes.**

Finally, the bill makes other technical changes to the legislation enacted last session to conform with DCT's agency structure as an agency headed by a board and not a department headed by a commissioner. **(sections 5,6,17,19 and 29)**