

1.1 moves to amend H.F. No. 1994 as follows:

1.2 Page 11, after line 28, insert:

1.3 "Sec. 3. Minnesota Statutes 2011 Supplement, section 245A.03, subdivision 7, is
1.4 amended to read:

1.5 Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an
1.6 initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to
1.7 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to
1.8 9555.6265, under this chapter for a physical location that will not be the primary residence
1.9 of the license holder for the entire period of licensure. If a license is issued during this
1.10 moratorium, and the license holder changes the license holder's primary residence away
1.11 from the physical location of the foster care license, the commissioner shall revoke the
1.12 license according to section 245A.07. Exceptions to the moratorium include:

1.13 (1) foster care settings that are required to be registered under chapter 144D;

1.14 (2) foster care licenses replacing foster care licenses in existence on May 15, 2009,
1.15 and determined to be needed by the commissioner under paragraph (b);

1.16 (3) new foster care licenses determined to be needed by the commissioner under
1.17 paragraph (b) for the closure of a nursing facility, ICF/MR, or regional treatment center, or
1.18 restructuring of state-operated services that limits the capacity of state-operated facilities;

1.19 (4) new foster care licenses determined to be needed by the commissioner under
1.20 paragraph (b) for persons requiring hospital level care; or

1.21 (5) new foster care licenses determined to be needed by the commissioner for the
1.22 transition of people from personal care assistance to the home and community-based
1.23 services.

1.24 (b) The commissioner shall determine the need for newly licensed foster care homes
1.25 as defined under this subdivision. As part of the determination, the commissioner shall
1.26 consider the availability of foster care capacity in the area in which the licensee seeks to
1.27 operate, and the recommendation of the local county board. The determination by the

2.1 commissioner must be final. A determination of need is not required for a change in
2.2 ownership at the same address.

2.3 ~~(e) Residential settings that would otherwise be subject to the moratorium established~~
2.4 ~~in paragraph (a), that are in the process of receiving an adult or child foster care license as~~
2.5 ~~of July 1, 2009, shall be allowed to continue to complete the process of receiving an adult~~
2.6 ~~or child foster care license. For this paragraph, all of the following conditions must be met~~
2.7 ~~to be considered in the process of receiving an adult or child foster care license:~~

2.8 ~~(1) participants have made decisions to move into the residential setting, including~~
2.9 ~~documentation in each participant's care plan;~~

2.10 ~~(2) the provider has purchased housing or has made a financial investment in the~~
2.11 ~~property;~~

2.12 ~~(3) the lead agency has approved the plans, including costs for the residential setting~~
2.13 ~~for each individual;~~

2.14 ~~(4) the completion of the licensing process, including all necessary inspections, is~~
2.15 ~~the only remaining component prior to being able to provide services; and~~

2.16 ~~(5) the needs of the individuals cannot be met within the existing capacity in that~~
2.17 ~~county.~~

2.18 ~~To qualify for the process under this paragraph, the lead agency must submit~~
2.19 ~~documentation to the commissioner by August 1, 2009, that all of the above criteria are~~
2.20 ~~met.~~

2.21 ~~(d)~~ (c) The commissioner shall study the effects of the license moratorium under this
2.22 subdivision and shall report back to the legislature by January 15, 2011. This study shall
2.23 include, but is not limited to the following:

2.24 (1) the overall capacity and utilization of foster care beds where the physical location
2.25 is not the primary residence of the license holder prior to and after implementation
2.26 of the moratorium;

2.27 (2) the overall capacity and utilization of foster care beds where the physical
2.28 location is the primary residence of the license holder prior to and after implementation
2.29 of the moratorium; and

2.30 (3) the number of licensed and occupied ICF/MR beds prior to and after
2.31 implementation of the moratorium.

2.32 ~~(e)~~ (d) When a foster care recipient moves out of a foster home that is not the
2.33 primary residence of the license holder according to section 256B.49, subdivision 15,
2.34 paragraph (f), the county shall immediately inform the Department of Human Services
2.35 Licensing Division, and the department shall immediately decrease the licensed capacity

3.1 for the home. A decreased licensed capacity according to this paragraph is not subject to
3.2 appeal under this chapter.

3.3 (e) At the time of application and reapplication for licensure, the applicant and the
3.4 license holder that are subject to the moratorium or an exclusion established in paragraph
3.5 (a) are required to inform the commissioner whether the physical location where the foster
3.6 care will be provided is or will be the primary residence of the license holder for the entire
3.7 period of licensure. If the primary residence of the applicant or license holder changes, the
3.8 applicant or license holder must notify the commissioner immediately. The commissioner
3.9 shall print on the foster care license certificate whether or not the physical location is the
3.10 primary residence of the license holder.

3.11 (f) License holders of foster care homes identified under paragraph (e) that are not
3.12 the primary residence of the license holder and that also provide services in the foster care
3.13 home that are covered by a federally approved home and community-based services
3.14 waiver, as authorized under section 256B.0915, 256B.092, or 256B.49 must inform the
3.15 human services licensing division that the license holder provides or intends to provide
3.16 these waiver-funded services. These license holders must be considered registered under
3.17 section 256B.092, subdivision 11, paragraph (c), and this registration status must be
3.18 identified on their license certificates."

3.19 Page 13, after line 2, insert:

3.20 "Sec. 5. Minnesota Statutes 2010, section 245A.11, subdivision 8, is amended to read:

3.21 Subd. 8. **Community residential setting license.** (a) The commissioner shall
3.22 establish provider standards for residential support services that integrate service standards
3.23 and the residential setting under one license. The commissioner shall propose statutory
3.24 language and an implementation plan for licensing requirements for residential support
3.25 services to the legislature by January 15, ~~2011~~ 2012, as a component of the quality outcome
3.26 standards recommendations required by Laws 2010, chapter 352, article 1, section 24.

3.27 (b) Providers licensed under chapter 245B, and providing, contracting, or arranging
3.28 for services in settings licensed as adult foster care under Minnesota Rules, parts
3.29 9555.5105 to 9555.6265, or child foster care under Minnesota Rules, parts 2960.3000 to
3.30 2960.3340; and meeting the provisions of section 256B.092, subdivision 11, paragraph
3.31 (b), must be required to obtain a community residential setting license.

3.32 Sec. 6. Minnesota Statutes 2010, section 252.32, subdivision 1a, is amended to read:

3.33 Subd. 1a. **Support grants.** (a) Provision of support grants must be limited to
3.34 families who require support and whose dependents are under the age of 21 and who
3.35 have been certified disabled under section 256B.055, subdivision 12, paragraphs (a),

4.1 (b), (c), (d), and (e). Families who are receiving: home and community-based waived
4.2 services for persons with ~~developmental~~ disabilities authorized under section 256B.092 or
4.3 256B.49; personal care assistance under section 256B.0652; or a consumer support grant
4.4 under section 256.476 are not eligible for support grants.

4.5 Families whose annual adjusted gross income is \$60,000 or more are not eligible for
4.6 support grants except in cases where extreme hardship is demonstrated. Beginning in state
4.7 fiscal year 1994, the commissioner shall adjust the income ceiling annually to reflect the
4.8 projected change in the average value in the United States Department of Labor Bureau of
4.9 Labor Statistics Consumer Price Index (all urban) for that year.

4.10 (b) Support grants may be made available as monthly subsidy grants and lump-sum
4.11 grants.

4.12 (c) Support grants may be issued in the form of cash, voucher, and direct county
4.13 payment to a vendor.

4.14 (d) Applications for the support grant shall be made by the legal guardian to the
4.15 county social service agency. The application shall specify the needs of the families, the
4.16 form of the grant requested by the families, and the items and services to be reimbursed.

4.17 **Sec. 7. [252.34] REPORT BY COMMISSIONER OF HUMAN SERVICES.**

4.18 Beginning January 1, 2013, the commissioner of human services shall provide a
4.19 biennial report to the chairs of the legislative committees with jurisdiction over health and
4.20 human services policy and funding. The report must provide a summary of overarching
4.21 goals and priorities for persons with disabilities, including the status of how each of the
4.22 following programs administered by the commissioner is supporting the overarching
4.23 goals and priorities:

4.24 (1) home and community-based services waivers for persons with disabilities under
4.25 sections 256B.092 and 256B.49;

4.26 (2) home care services under section 256B.0652; and

4.27 (3) other relevant programs and services as determined by the commissioner.

4.28 Sec. 8. Minnesota Statutes 2010, section 252A.21, subdivision 2, is amended to read:

4.29 Subd. 2. **Rules.** The commissioner shall adopt rules to implement this chapter.
4.30 The rules must include standards for performance of guardianship or conservatorship
4.31 duties including, but not limited to: twice a year visits with the ward; ~~quarterly reviews~~
4.32 ~~of records from day, residential, and support services;~~ a requirement that the duties of
4.33 guardianship or conservatorship and case management not be performed by the same

5.1 person; specific standards for action on "do not resuscitate" orders, sterilization requests,
5.2 and the use of psychotropic medication and aversive procedures.

5.3 Sec. 9. Minnesota Statutes 2010, section 256.476, subdivision 11, is amended to read:

5.4 Subd. 11. **Consumer support grant program after July 1, 2001.** Effective
5.5 July 1, 2001, the commissioner shall allocate consumer support grant resources to
5.6 serve additional individuals based on a review of Medicaid authorization and payment
5.7 information of persons eligible for a consumer support grant from the most recent fiscal
5.8 year. The commissioner shall use the following methodology to calculate maximum
5.9 allowable monthly consumer support grant levels:

5.10 (1) For individuals whose program of origination is medical assistance home care
5.11 under sections 256B.0651 and 256B.0653 to 256B.0656, the maximum allowable monthly
5.12 grant levels are calculated by:

5.13 (i) determining ~~50 percent of the average~~ the service authorization for each
5.14 individual based on the individual's home care rating assessment;

5.15 (ii) calculating the overall ratio of actual payments to service authorizations by
5.16 program;

5.17 (iii) applying the overall ratio to ~~the average 50 percent of the service authorization~~
5.18 level of each home care rating; and

5.19 (iv) adjusting the result for any authorized rate ~~increases~~ changes provided by the
5.20 legislature; ~~and.~~

5.21 ~~(v) adjusting the result for the average monthly utilization per recipient.~~

5.22 (2) The commissioner ~~may review and evaluate~~ shall ensure the methodology ~~to~~
5.23 reflect changes in is consistent with the home care programs."

5.24 Page 14, after line 2, insert:

5.25 "Sec. 11. Minnesota Statutes 2010, section 256B.0625, subdivision 19c, is amended to
5.26 read:

5.27 Subd. 19c. **Personal care.** Medical assistance covers personal care assistance
5.28 services provided by an individual who is qualified to provide the services according to
5.29 subdivision 19a and sections 256B.0651 to 256B.0656, provided in accordance with a
5.30 plan, and supervised by a qualified professional.

5.31 "Qualified professional" means a mental health professional as defined in section
5.32 245.462, subdivision 18, clauses (1) to (6), or 245.4871, subdivision 27, clauses (1) to (6);
5.33 or a registered nurse as defined in sections 148.171 to 148.285, a licensed social worker
5.34 as defined in sections 148D.010 and 148D.055, or a qualified developmental disabilities

6.1 specialist under section 245B.07, subdivision 4. The qualified professional shall perform
6.2 the duties required in section 256B.0659.

6.3 Sec. 12. Minnesota Statutes 2010, section 256B.0659, subdivision 1, is amended to
6.4 read:

6.5 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in
6.6 paragraphs (b) to (r) have the meanings given unless otherwise provided in text.

6.7 (b) "Activities of daily living" means grooming, dressing, bathing, transferring,
6.8 mobility, positioning, eating, and toileting.

6.9 (c) "Behavior," effective January 1, 2010, means a category to determine the home
6.10 care rating and is based on the criteria found in this section. "Level I behavior" means
6.11 physical aggression towards self, others, or destruction of property that requires the
6.12 immediate response of another person.

6.13 (d) "Complex health-related needs," effective January 1, 2010, means a category to
6.14 determine the home care rating and is based on the criteria found in this section.

6.15 (e) "Critical activities of daily living," effective January 1, 2010, means transferring,
6.16 mobility, eating, and toileting.

6.17 (f) "Dependency in activities of daily living" means a person requires assistance to
6.18 begin and complete one or more of the activities of daily living.

6.19 (g) "Extended personal care assistance service" means personal care assistance
6.20 services included in a service plan under one of the home and community-based services
6.21 waivers authorized under sections 256B.0915, 256B.092, subdivision 5, and 256B.49,
6.22 which exceed the amount, duration, and frequency of the state plan personal care
6.23 assistance services for participants who:

6.24 (1) need assistance provided periodically during a week, but less than daily will not
6.25 be able to remain in their homes without the assistance, and other replacement services
6.26 are more expensive or are not available when personal care assistance services are to
6.27 be ~~terminated~~ reduced; or

6.28 (2) need additional personal care assistance services beyond the amount authorized
6.29 by the state plan personal care assistance assessment in order to ensure that their safety,
6.30 health, and welfare are provided for in their homes.

6.31 (h) "Health-related procedures and tasks" means procedures and tasks that can
6.32 be delegated or assigned by a licensed health care professional under state law to be
6.33 performed by a personal care assistant.

6.34 (i) "Instrumental activities of daily living" means activities to include meal planning
6.35 and preparation; basic assistance with paying bills; shopping for food, clothing, and other

7.1 essential items; performing household tasks integral to the personal care assistance
7.2 services; communication by telephone and other media; and traveling, including to
7.3 medical appointments and to participate in the community.

7.4 (j) "Managing employee" has the same definition as Code of Federal Regulations,
7.5 title 42, section 455.

7.6 (k) "Qualified professional" means a professional providing supervision of personal
7.7 care assistance services and staff as defined in section 256B.0625, subdivision 19c.

7.8 (l) "Personal care assistance provider agency" means a medical assistance enrolled
7.9 provider that provides or assists with providing personal care assistance services and
7.10 includes a personal care assistance provider organization, personal care assistance choice
7.11 agency, class A licensed nursing agency, and Medicare-certified home health agency.

7.12 (m) "Personal care assistant" or "PCA" means an individual employed by a personal
7.13 care assistance agency who provides personal care assistance services.

7.14 (n) "Personal care assistance care plan" means a written description of personal
7.15 care assistance services developed by the personal care assistance provider according
7.16 to the service plan.

7.17 (o) "Responsible party" means an individual who is capable of providing the support
7.18 necessary to assist the recipient to live in the community.

7.19 (p) "Self-administered medication" means medication taken orally, by injection or
7.20 insertion, or applied topically without the need for assistance.

7.21 (q) "Service plan" means a written summary of the assessment and description of the
7.22 services needed by the recipient.

7.23 (r) "Wages and benefits" means wages and salaries, the employer's share of FICA
7.24 taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation,
7.25 mileage reimbursement, health and dental insurance, life insurance, disability insurance,
7.26 long-term care insurance, uniform allowance, and contributions to employee retirement
7.27 accounts.

7.28 Sec. 13. Minnesota Statutes 2010, section 256B.0659, subdivision 3, is amended to
7.29 read:

7.30 Subd. 3. **Noncovered personal care assistance services.** (a) Personal care
7.31 assistance services are not eligible for medical assistance payment under this section
7.32 when provided:

7.33 (1) by the recipient's spouse, parent of a recipient under the age of 18, paid legal
7.34 guardian, licensed foster provider, except as allowed under section 256B.0652, subdivision
7.35 10, or responsible party;

8.1 (2) ~~in lieu of other staffing options~~ order to meet staffing or license requirements in a
 8.2 residential or child care setting;

8.3 (3) solely as a child care or babysitting service; or

8.4 (4) without authorization by the commissioner or the commissioner's designee.

8.5 (b) The following personal care services are not eligible for medical assistance
 8.6 payment under this section when provided in residential settings:

8.7 (1) ~~effective January 1, 2010~~, when the provider of home care services who is not
 8.8 related by blood, marriage, or adoption owns or otherwise controls the living arrangement,
 8.9 including licensed or unlicensed services; or

8.10 (2) when personal care assistance services are the responsibility of a residential or
 8.11 program license holder under the terms of a service agreement and administrative rules.

8.12 (c) Other specific tasks not covered under paragraph (a) or (b) that are not eligible
 8.13 for medical assistance reimbursement for personal care assistance services under this
 8.14 section include:

8.15 (1) sterile procedures;

8.16 (2) injections of fluids and medications into veins, muscles, or skin;

8.17 (3) home maintenance or chore services;

8.18 (4) homemaker services not an integral part of assessed personal care assistance
 8.19 services needed by a recipient;

8.20 (5) application of restraints or implementation of procedures under section 245.825;

8.21 (6) instrumental activities of daily living for children under the age of 18, except
 8.22 when immediate attention is needed for health or hygiene reasons integral to the personal
 8.23 care services and the need is listed in the service plan by the assessor; and

8.24 (7) assessments for personal care assistance services by personal care assistance
 8.25 provider agencies or by independently enrolled registered nurses.

8.26 Sec. 14. Minnesota Statutes 2010, section 256B.0659, subdivision 9, is amended to
 8.27 read:

8.28 Subd. 9. **Responsible party; generally.** (a) "Responsible party" means an
 8.29 individual who is capable of providing the support necessary to assist the recipient to live
 8.30 in the community.

8.31 (b) A responsible party must be 18 years of age, actively participate in planning and
 8.32 directing of personal care assistance services, and attend all assessments for the recipient.

8.33 (c) A responsible party must not be the:

8.34 (1) personal care assistant;

8.35 (2) qualified professional;

9.1 (3) home care provider agency owner or ~~staff manager~~; or
 9.2 (4) home care provider agency staff unless staff who are not listed in clauses (1) to
 9.3 (3) are related to the recipient by blood, marriage, or adoption; or
 9.4 ~~(3)~~ (5) county staff acting as part of employment.

9.5 (d) A licensed family foster parent who lives with the recipient may be the
 9.6 responsible party as long as the family foster parent meets the other responsible party
 9.7 requirements.

9.8 (e) A responsible party is required when:

9.9 (1) the person is a minor according to section 524.5-102, subdivision 10;

9.10 (2) the person is an incapacitated adult according to section 524.5-102, subdivision
 9.11 6, resulting in a court-appointed guardian; or

9.12 (3) the assessment according to subdivision 3a determines that the recipient is in
 9.13 need of a responsible party to direct the recipient's care.

9.14 (f) There may be two persons designated as the responsible party for reasons such
 9.15 as divided households and court-ordered custodies. Each person named as responsible
 9.16 party must meet the program criteria and responsibilities.

9.17 (g) The recipient or the recipient's legal representative shall appoint a responsible
 9.18 party if necessary to direct and supervise the care provided to the recipient. The
 9.19 responsible party must be identified at the time of assessment and listed on the recipient's
 9.20 service agreement and personal care assistance care plan.

9.21 Sec. 15. Minnesota Statutes 2011 Supplement, section 256B.0659, subdivision 11,
 9.22 is amended to read:

9.23 Subd. 11. **Personal care assistant; requirements.** (a) A personal care assistant
 9.24 must meet the following requirements:

9.25 (1) be at least 18 years of age with the exception of persons who are 16 or 17 years
 9.26 of age with these additional requirements:

9.27 (i) supervision by a qualified professional every 60 days; and

9.28 (ii) employment by only one personal care assistance provider agency responsible
 9.29 for compliance with current labor laws;

9.30 (2) be employed by a personal care assistance provider agency;

9.31 (3) enroll with the department as a personal care assistant after clearing a background
 9.32 study. Except as provided in subdivision 11a, before a personal care assistant provides
 9.33 services, the personal care assistance provider agency must initiate a background study on
 9.34 the personal care assistant under chapter 245C, and the personal care assistance provider

10.1 agency must have received a notice from the commissioner that the personal care assistant
10.2 is:

10.3 (i) not disqualified under section 245C.14; or

10.4 (ii) is disqualified, but the personal care assistant has received a set aside of the
10.5 disqualification under section 245C.22;

10.6 (4) be able to effectively communicate with the recipient and personal care
10.7 assistance provider agency;

10.8 (5) be able to provide covered personal care assistance services according to the
10.9 recipient's personal care assistance care plan, respond appropriately to recipient needs,
10.10 and report changes in the recipient's condition to the supervising qualified professional
10.11 or physician;

10.12 (6) not be a consumer of personal care assistance services;

10.13 (7) maintain daily written records including, but not limited to, time sheets under
10.14 subdivision 12;

10.15 (8) effective January 1, 2010, complete standardized training as determined
10.16 by the commissioner before completing enrollment. The training must be available
10.17 in languages other than English and to those who need accommodations due to
10.18 disabilities. Personal care assistant training must include successful completion of the
10.19 following training components: basic first aid, vulnerable adult, child maltreatment,
10.20 OSHA universal precautions, basic roles and responsibilities of personal care assistants
10.21 including information about assistance with lifting and transfers for recipients, emergency
10.22 preparedness, orientation to positive behavioral practices, fraud issues, and completion of
10.23 time sheets. Upon completion of the training components, the personal care assistant must
10.24 demonstrate the competency to provide assistance to recipients;

10.25 (9) complete training and orientation on the needs of the recipient ~~within the first~~
10.26 ~~seven days after the services begin;~~ and

10.27 (10) be limited to providing and being paid for up to 275 hours per month, ~~except~~
10.28 ~~that this limit shall be 275 hours per month for the period July 1, 2009, through June 30,~~
10.29 ~~2011,~~ of personal care assistance services regardless of the number of recipients being
10.30 served or the number of personal care assistance provider agencies enrolled with. The
10.31 number of hours worked per day shall not be disallowed by the department unless in
10.32 violation of the law.

10.33 (b) A legal guardian may be a personal care assistant if the guardian is not being paid
10.34 for the guardian services and meets the criteria for personal care assistants in paragraph (a).

10.35 (c) Persons who do not qualify as a personal care assistant include parents ~~and~~
10.36 ~~stepparents, and legal guardians of minors;~~ spouses; paid legal guardians; of adults;

11.1 family foster care providers, except as otherwise allowed in section 256B.0625,
11.2 subdivision 19a, ~~or, and~~ staff of a residential setting. When the personal care assistant is a
11.3 relative of the recipient, the commissioner shall pay 80 percent of the provider rate. For
11.4 purposes of this section, relative means the parent or adoptive parent of an adult child, a
11.5 sibling aged 16 years or older, an adult child, a grandparent, or a grandchild.

11.6 Sec. 16. Minnesota Statutes 2010, section 256B.0659, subdivision 13, is amended to
11.7 read:

11.8 Subd. 13. **Qualified professional; qualifications.** (a) The qualified professional
11.9 must work for a personal care assistance provider agency and meet the definition under
11.10 section 256B.0625, subdivision 19c. Before a qualified professional provides services, the
11.11 personal care assistance provider agency must initiate a background study on the qualified
11.12 professional under chapter 245C, and the personal care assistance provider agency must
11.13 have received a notice from the commissioner that the qualified professional:

11.14 (1) is not disqualified under section 245C.14; or

11.15 (2) is disqualified, but the qualified professional has received a set aside of the
11.16 disqualification under section 245C.22.

11.17 (b) The qualified professional shall perform the duties of training, supervision, and
11.18 evaluation of the personal care assistance staff and evaluation of the effectiveness of
11.19 personal care assistance services. The qualified professional shall:

11.20 (1) develop and monitor with the recipient a personal care assistance care plan based
11.21 on the service plan and individualized needs of the recipient;

11.22 (2) develop and monitor with the recipient a monthly plan for the use of personal
11.23 care assistance services;

11.24 (3) review documentation of personal care assistance services provided;

11.25 (4) provide training and ensure competency for the personal care assistant in the
11.26 individual needs of the recipient; and

11.27 (5) document all training, communication, evaluations, and needed actions to
11.28 improve performance of the personal care assistants.

11.29 (c) Effective July 1, ~~2010~~ 2011, the qualified professional shall complete the provider
11.30 training with basic information about the personal care assistance program approved by
11.31 the commissioner. Newly hired qualified professionals must complete the training within
11.32 six months of the date hired by a personal care assistance provider agency. Qualified
11.33 professionals who have completed the required training as a worker from a personal care
11.34 assistance provider agency do not need to repeat the required training if they are hired
11.35 by another agency, if they have completed the training within the last three years. The

12.1 required training ~~shall~~ must be available ~~in languages other than English and to those who~~
12.2 ~~need accommodations due to disabilities,~~ with meaningful access according to title VI of
12.3 the Civil Rights Act and federal regulations adopted under that law or any guidance from
12.4 the United States Health and Human Services Department. The required training must
12.5 be available online, or by electronic remote connection, ~~and~~. The required training must
12.6 provide for competency testing to demonstrate an understanding of the content without
12.7 attending in-person training. A qualified professional is allowed to be employed and is not
12.8 subject to the training requirement until the training is offered online or through remote
12.9 electronic connection. A qualified professional employed by a personal care assistance
12.10 provider agency certified for participation in Medicare as a home health agency is exempt
12.11 from the training required in this subdivision. When available, the qualified professional
12.12 working for a Medicare-certified home health agency must successfully complete the
12.13 competency test. The commissioner shall ensure there is a mechanism in place to verify
12.14 the identity of persons completing the competency testing electronically.

12.15 **EFFECTIVE DATE.** This section is effective retroactively from July 1, 2011.

12.16 Sec. 17. Minnesota Statutes 2010, section 256B.0659, subdivision 14, is amended to
12.17 read:

12.18 Subd. 14. **Qualified professional; duties.** (a) Effective January 1, 2010, all personal
12.19 care assistants must be supervised by a qualified professional.

12.20 (b) Through direct training, observation, return demonstrations, and consultation
12.21 with the staff and the recipient, the qualified professional must ensure and document
12.22 that the personal care assistant is:

12.23 (1) capable of providing the required personal care assistance services;

12.24 (2) knowledgeable about the plan of personal care assistance services before services
12.25 are performed; and

12.26 (3) able to identify conditions that should be immediately brought to the attention of
12.27 the qualified professional.

12.28 (c) The qualified professional shall evaluate the personal care assistant within the
12.29 first 14 days of starting to provide regularly scheduled services for a recipient, or sooner as
12.30 determined by the qualified professional, except for the personal care assistance choice
12.31 option under subdivision 19, paragraph (a), clause (4). For the initial evaluation, the
12.32 qualified professional shall evaluate the personal care assistance services for a recipient
12.33 through direct observation of a personal care assistant's work. The qualified professional
12.34 may conduct additional training and evaluation visits, based upon the needs of the
12.35 recipient and the personal care assistant's ability to meet those needs. Subsequent visits to

13.1 evaluate the personal care assistance services provided to a recipient do not require direct
13.2 observation of each personal care assistant's work and shall occur:

13.3 (1) at least every 90 days thereafter for the first year of a recipient's services;

13.4 (2) every 120 days after the first year of a recipient's service or whenever needed for
13.5 response to a recipient's request for increased supervision of the personal care assistance
13.6 staff; and

13.7 (3) after the first 180 days of a recipient's service, supervisory visits may alternate
13.8 between unscheduled phone or Internet technology and in-person visits, unless the
13.9 in-person visits are needed according to the care plan.

13.10 (d) Communication with the recipient is a part of the evaluation process of the
13.11 personal care assistance staff.

13.12 (e) At each supervisory visit, the qualified professional shall evaluate personal care
13.13 assistance services including the following information:

13.14 (1) satisfaction level of the recipient with personal care assistance services;

13.15 (2) review of the month-to-month plan for use of personal care assistance services;

13.16 (3) review of documentation of personal care assistance services provided;

13.17 (4) whether the personal care assistance services are meeting the goals of the service
13.18 as stated in the personal care assistance care plan and service plan;

13.19 (5) a written record of the results of the evaluation and actions taken to correct any
13.20 deficiencies in the work of a personal care assistant; and

13.21 (6) revision of the personal care assistance care plan as necessary in consultation
13.22 with the recipient or responsible party, to meet the needs of the recipient.

13.23 (f) The qualified professional shall complete the required documentation in the
13.24 agency recipient and employee files and the recipient's home, including the following
13.25 documentation:

13.26 (1) the personal care assistance care plan based on the service plan and individualized
13.27 needs of the recipient;

13.28 (2) a month-to-month plan for use of personal care assistance services;

13.29 (3) changes in need of the recipient requiring a change to the level of service and the
13.30 personal care assistance care plan;

13.31 (4) evaluation results of supervision visits and identified issues with personal care
13.32 assistance staff with actions taken;

13.33 (5) all communication with the recipient and personal care assistance staff; and

13.34 (6) hands-on training or individualized training for the care of the recipient.

13.35 (g) The documentation in paragraph (f) must be done on agency ~~forms~~ templates.

14.1 (h) The services that are not eligible for payment as qualified professional services
14.2 include:

14.3 (1) direct professional nursing tasks that could be assessed and authorized as skilled
14.4 nursing tasks;

14.5 ~~(2) supervision of personal care assistance completed by telephone;~~

14.6 ~~(3)~~ (2) agency administrative activities;

14.7 ~~(4)~~ (3) training other than the individualized training required to provide care for a
14.8 recipient; and

14.9 ~~(5)~~ (4) any other activity that is not described in this section.

14.10 Sec. 18. Minnesota Statutes 2010, section 256B.0659, subdivision 19, is amended to
14.11 read:

14.12 Subd. 19. **Personal care assistance choice option; qualifications; duties.** (a)

14.13 Under personal care assistance choice, the recipient or responsible party shall:

14.14 (1) recruit, hire, schedule, and terminate personal care assistants according to the
14.15 terms of the written agreement required under subdivision 20, paragraph (a);

14.16 (2) develop a personal care assistance care plan based on the assessed needs
14.17 and addressing the health and safety of the recipient with the assistance of a qualified
14.18 professional as needed;

14.19 (3) orient and train the personal care assistant with assistance as needed from the
14.20 qualified professional;

14.21 (4) effective January 1, 2010, supervise and evaluate the personal care assistant with
14.22 the qualified professional, who is required to visit the recipient at least every 180 days;

14.23 (5) monitor and verify in writing and report to the personal care assistance choice
14.24 agency the number of hours worked by the personal care assistant and the qualified
14.25 professional;

14.26 (6) engage in an annual face-to-face reassessment to determine continuing eligibility
14.27 and service authorization; and

14.28 (7) use the same personal care assistance choice provider agency if shared personal
14.29 assistance care is being used.

14.30 (b) The personal care assistance choice provider agency shall:

14.31 (1) meet all personal care assistance provider agency standards;

14.32 (2) enter into a written agreement with the recipient, responsible party, and personal
14.33 care assistants;

14.34 (3) not be related as a parent, child, sibling, or spouse to the recipient, ~~qualified~~
14.35 ~~professional~~, or the personal care assistant; and

15.1 (4) ensure arm's-length transactions without undue influence or coercion with the
15.2 recipient and personal care assistant.

15.3 (c) The duties of the personal care assistance choice provider agency are to:

15.4 (1) be the employer of the personal care assistant and the qualified professional for
15.5 employment law and related regulations including, but not limited to, purchasing and
15.6 maintaining workers' compensation, unemployment insurance, surety and fidelity bonds,
15.7 and liability insurance, and submit any or all necessary documentation including, but not
15.8 limited to, workers' compensation and unemployment insurance;

15.9 (2) bill the medical assistance program for personal care assistance services and
15.10 qualified professional services;

15.11 (3) request and complete background studies that comply with the requirements for
15.12 personal care assistants and qualified professionals;

15.13 (4) pay the personal care assistant and qualified professional based on actual hours
15.14 of services provided;

15.15 (5) withhold and pay all applicable federal and state taxes;

15.16 (6) verify and keep records of hours worked by the personal care assistant and
15.17 qualified professional;

15.18 (7) make the arrangements and pay taxes and other benefits, if any, and comply with
15.19 any legal requirements for a Minnesota employer;

15.20 (8) enroll in the medical assistance program as a personal care assistance choice
15.21 agency; and

15.22 (9) enter into a written agreement as specified in subdivision 20 before services
15.23 are provided.

15.24 Sec. 19. Minnesota Statutes 2010, section 256B.0659, subdivision 21, is amended to
15.25 read:

15.26 Subd. 21. **Requirements for initial enrollment of personal care assistance**
15.27 **provider agencies.** (a) All personal care assistance provider agencies must provide, at the
15.28 time of enrollment as a personal care assistance provider agency in a format determined
15.29 by the commissioner, information and documentation that includes, but is not limited to,
15.30 the following:

15.31 (1) the personal care assistance provider agency's current contact information
15.32 including address, telephone number, and e-mail address;

15.33 (2) proof of surety bond coverage in the amount of \$50,000 or ten percent of the
15.34 provider's payments from Medicaid in the previous year, whichever is less;

15.35 (3) proof of fidelity bond coverage in the amount of \$20,000;

- 16.1 (4) proof of workers' compensation insurance coverage;
- 16.2 (5) proof of liability insurance;
- 16.3 (6) a description of the personal care assistance provider agency's organization
- 16.4 identifying the names of all owners, managing employees, staff, board of directors, and
- 16.5 the affiliations of the directors, owners, or staff to other service providers;
- 16.6 (7) a copy of the personal care assistance provider agency's written policies and
- 16.7 procedures including: hiring of employees; training requirements; service delivery;
- 16.8 and employee and consumer safety including process for notification and resolution
- 16.9 of consumer grievances, identification and prevention of communicable diseases, and
- 16.10 employee misconduct;
- 16.11 (8) copies of all other forms the personal care assistance provider agency uses in
- 16.12 the course of daily business including, but not limited to:
- 16.13 (i) a copy of the personal care assistance provider agency's time sheet if the time
- 16.14 sheet varies from the standard time sheet for personal care assistance services approved
- 16.15 by the commissioner, and a letter requesting approval of the personal care assistance
- 16.16 provider agency's nonstandard time sheet;
- 16.17 (ii) the personal care assistance provider agency's template for the personal care
- 16.18 assistance care plan; and
- 16.19 (iii) the personal care assistance provider agency's template for the written
- 16.20 agreement in subdivision 20 for recipients using the personal care assistance choice
- 16.21 option, if applicable;
- 16.22 (9) a list of all training and classes that the personal care assistance provider agency
- 16.23 requires of its staff providing personal care assistance services;
- 16.24 (10) documentation that the personal care assistance provider agency and staff have
- 16.25 successfully completed all the training required by this section;
- 16.26 (11) documentation of the agency's marketing practices;
- 16.27 (12) disclosure of ownership, leasing, or management of all residential properties
- 16.28 that is used or could be used for providing home care services;
- 16.29 (13) documentation that the agency will use the following percentages of revenue
- 16.30 generated from the medical assistance rate paid for personal care assistance services
- 16.31 for employee personal care assistant wages and benefits: 72.5 percent of revenue in the
- 16.32 personal care assistance choice option and 72.5 percent of revenue from other personal
- 16.33 care assistance providers; and
- 16.34 (14) effective May 15, 2010, documentation that the agency does not burden
- 16.35 recipients' free exercise of their right to choose service providers by requiring personal
- 16.36 care assistants to sign an agreement not to work with any particular personal care

17.1 assistance recipient or for another personal care assistance provider agency after leaving
17.2 the agency and that the agency is not taking action on any such agreements or requirements
17.3 regardless of the date signed.

17.4 (b) Personal care assistance provider agencies shall provide the information specified
17.5 in paragraph (a) to the commissioner at the time the personal care assistance provider
17.6 agency enrolls as a vendor or upon request from the commissioner. The commissioner
17.7 shall collect the information specified in paragraph (a) from all personal care assistance
17.8 providers beginning July 1, 2009.

17.9 (c) All personal care assistance provider agencies shall require all employees in
17.10 management and supervisory positions and owners of the agency who are active in the
17.11 day-to-day management and operations of the agency to complete mandatory training
17.12 as determined by the commissioner before enrollment of the agency as a provider.
17.13 Employees in management and supervisory positions and owners who are active in
17.14 the day-to-day operations of an agency who have completed the required training as
17.15 an employee with a personal care assistance provider agency do not need to repeat
17.16 the required training if they are hired by another agency, if they have completed the
17.17 training within the past three years. By September 1, 2010, the required training must be
17.18 available ~~in languages other than English and to those who need accommodations due~~
17.19 ~~to disabilities;~~ with meaningful access according to title VI of the Civil Rights Act and
17.20 federal regulations adopted under that law or any guidance from the United States Health
17.21 and Human Services Department. The required training must be available online; or by
17.22 electronic remote connection, ~~and~~ The required training must provide for competency
17.23 testing. Personal care assistance provider agency billing staff shall complete training about
17.24 personal care assistance program financial management. This training is effective July 1,
17.25 2009. Any personal care assistance provider agency enrolled before that date shall, if it
17.26 has not already, complete the provider training within 18 months of July 1, 2009. Any new
17.27 owners or employees in management and supervisory positions involved in the day-to-day
17.28 operations are required to complete mandatory training as a requisite of working for the
17.29 agency. Personal care assistance provider agencies certified for participation in Medicare
17.30 as home health agencies are exempt from the training required in this subdivision. When
17.31 available, Medicare-certified home health agency owners, supervisors, or managers must
17.32 successfully complete the competency test.

17.33 Sec. 20. Minnesota Statutes 2010, section 256B.0659, subdivision 30, is amended to
17.34 read:

17.35 Subd. 30. **Notice of service changes to recipients.** The commissioner must provide:

18.1 (1) by October 31, 2009, information to recipients likely to be affected that (i)
 18.2 describes the changes to the personal care assistance program that may result in the
 18.3 loss of access to personal care assistance services, and (ii) includes resources to obtain
 18.4 further information; and

18.5 ~~(2) notice of changes in medical assistance personal care assistance services to each~~
 18.6 ~~affected recipient at least 30 days before the effective date of the change.~~

18.7 ~~The notice shall include how to get further information on the changes, how to get help to~~
 18.8 ~~obtain other services, a list of community resources, and appeal rights. Notwithstanding~~
 18.9 ~~section 256.045, a recipient may request continued services pending appeal within the~~
 18.10 ~~time period allowed to request an appeal; and~~

18.11 ~~(3)~~ (2) a service agreement authorizing personal care assistance hours of service at
 18.12 the previously authorized level, throughout the appeal process period, when a recipient
 18.13 requests services pending an appeal.

18.14 **EFFECTIVE DATE.** This section is effective July 1, 2012.

18.15 Sec. 21. Minnesota Statutes 2010, section 256B.0916, subdivision 7, is amended to
 18.16 read:

18.17 Subd. 7. **Annual report by commissioner.** (a) Beginning November 1, 2001, and
 18.18 each November 1 thereafter, the commissioner shall issue an annual report on county and
 18.19 state use of available resources for the home and community-based waiver for persons with
 18.20 developmental disabilities. For each county or county partnership, the report shall include:

18.21 (1) the amount of funds allocated but not used;

18.22 (2) the county specific allowed reserve amount approved and used;

18.23 (3) the number, ages, and living situations of individuals screened and waiting for
 18.24 services;

18.25 (4) the urgency of need for services to begin within one, two, or more than two
 18.26 years for each individual;

18.27 (5) the services needed;

18.28 (6) the number of additional persons served by approval of increased capacity within
 18.29 existing allocations;

18.30 (7) results of action by the commissioner to streamline administrative requirements
 18.31 and improve county resource management; and

18.32 (8) additional action that would decrease the number of those eligible and waiting
 18.33 for waived services.

18.34 The commissioner shall specify intended outcomes for the program and the degree to
 18.35 which these specified outcomes are attained.

19.1 (b) This subdivision expires January 1, 2013.

19.2 Sec. 22. Minnesota Statutes 2010, section 256B.092, subdivision 11, is amended to
19.3 read:

19.4 Subd. 11. **Residential support services.** (a) Upon federal approval, there is
19.5 established a new service called residential support that is available on the community
19.6 alternative care, community alternatives for disabled individuals, developmental
19.7 disabilities, and traumatic brain injury waivers. Existing waiver service descriptions
19.8 must be modified to the extent necessary to ensure there is no duplication between
19.9 other services. Residential support services must be provided by vendors licensed as a
19.10 community residential setting as defined in section 245A.11, subdivision 8.

19.11 (b) Residential support services must meet the following criteria:

19.12 (1) providers of residential support services must own or control the residential site;

19.13 (2) the residential site must not be the primary residence of the license holder;

19.14 (3) the residential site must have a designated program supervisor responsible for
19.15 program oversight, development, and implementation of policies and procedures;

19.16 (4) the provider of residential support services must provide supervision, training,
19.17 and assistance as described in the person's community support plan; and

19.18 (5) the provider of residential support services must meet the requirements of
19.19 licensure and additional requirements of the person's community support plan.

19.20 (c) Providers of residential support services that meet the definition in paragraph
19.21 (a) must be registered using a process determined by the commissioner beginning July
19.22 1, 2009. Providers licensed to provide child foster care under Minnesota Rules, parts
19.23 2960.3000 to 2960.3340, or adult foster care licensed under Minnesota Rules, parts
19.24 9555.5105 to 9555.6265, and that meet the requirements in section 245A.03, subdivision
19.25 7, paragraph (e), are considered registered under this section.

19.26 Sec. 23. Minnesota Statutes 2010, section 256B.096, subdivision 5, is amended to read:

19.27 Subd. 5. **Biennial report.** (a) The commissioner shall provide a biennial report to
19.28 the chairs of the legislative committees with jurisdiction over health and human services
19.29 policy and funding beginning January 15, 2009, on the development and activities of the
19.30 quality management, assurance, and improvement system designed to meet the federal
19.31 requirements under the home and community-based services waiver programs for persons
19.32 with disabilities. By January 15, 2008, the commissioner shall provide a preliminary
19.33 report on priorities for meeting the federal requirements, progress on development and
19.34 field testing of the annual survey, appropriations necessary to implement an annual survey

20.1 of service recipients once field testing is completed, recommendations for improvements
20.2 in the incident reporting system, and a plan for incorporating quality assurance efforts
20.3 under section 256B.095 and other regional efforts into the statewide system.

20.4 (b) This subdivision expires January 1, 2013."

20.5 Page 15, after line 18, insert:

20.6 "Sec. 27. Minnesota Statutes 2010, section 256B.49, subdivision 21, is amended to
20.7 read:

20.8 Subd. 21. **Report.** (a) The commissioner shall expand on the annual report required
20.9 under section 256B.0916, subdivision 7, to include information on the county of residence
20.10 and financial responsibility, age, and major diagnoses for persons eligible for the home
20.11 and community-based waivers authorized under subdivision 11 who are:

- 20.12 (1) receiving those services;
20.13 (2) screened and waiting for waiver services; and
20.14 (3) residing in nursing facilities and are under age 65.

20.15 (b) This subdivision expires January 1, 2013."

20.16 Page 16, after line 22, insert:

20.17 "Sec. 29. Laws 2009, chapter 79, article 8, section 81, as amended by Laws 2010,
20.18 chapter 352, article 1, section 24, is amended to read:

20.19 Sec. 81. **ESTABLISHING A SINGLE SET OF STANDARDS.**

20.20 (a) The commissioner of human services shall consult with disability service
20.21 providers, advocates, counties, and consumer families to develop a single set of standards,
20.22 to be referred to as "quality outcome standards," governing services for people with
20.23 disabilities receiving services under the home and community-based waiver services
20.24 program, with the exception of customized living services because the service license
20.25 is under the jurisdiction of the Department of Health, to replace all or portions of
20.26 existing laws and rules including, but not limited to, data practices, licensure of facilities
20.27 and providers, background studies, reporting of maltreatment of minors, reporting of
20.28 maltreatment of vulnerable adults, and the psychotropic medication checklist. The
20.29 standards must:

- 20.30 (1) enable optimum consumer choice;
20.31 (2) be consumer driven;
20.32 (3) link services to individual needs and life goals;
20.33 (4) be based on quality assurance and individual outcomes;
20.34 (5) utilize the people closest to the recipient, who may include family, friends, and
20.35 health and service providers, in conjunction with the recipient's risk management plan to

21.1 assist the recipient or the recipient's guardian in making decisions that meet the recipient's
21.2 needs in a cost-effective manner and assure the recipient's health and safety;

21.3 (6) utilize person-centered planning; and

21.4 (7) maximize federal financial participation.

21.5 (b) The commissioner may consult with existing stakeholder groups convened under
21.6 the commissioner's authority, including the home and community-based expert services
21.7 panel established by the commissioner in 2008, to meet all or some of the requirements
21.8 of this section.

21.9 (c) The commissioner shall provide the reports and plans required by this section to
21.10 the legislative committees and budget divisions with jurisdiction over health and human
21.11 services policy and finance by January 15, 2012."

21.12 Page 24, after line 24, insert:

21.13 "Section 1. Minnesota Statutes 2011 Supplement, section 256B.0625, subdivision
21.14 56, is amended to read:

21.15 Subd. 56. **Medical service coordination.** (a) Medical assistance covers in-reach
21.16 community-based service coordination that is performed ~~in~~ through a hospital emergency
21.17 department as an eligible procedure under a state healthcare program ~~or private insurance~~
21.18 for a frequent user. A frequent user is defined as an individual who has frequented the
21.19 hospital emergency department for services three or more times in the previous four
21.20 consecutive months. In-reach community-based service coordination includes navigating
21.21 services to address a client's mental health, chemical health, social, economic, and housing
21.22 needs, or any other activity targeted at reducing the incidence of emergency room and
21.23 other nonmedically necessary health care utilization.

21.24 (b) Reimbursement must be made in 15-minute increments ~~under current Medicaid~~
21.25 ~~mental health social work reimbursement methodology~~ and allowed for up to 60 days
21.26 posthospital discharge based upon the specific identified emergency department visit or
21.27 inpatient admitting event. ~~A frequent user who is participating in care coordination within~~
21.28 ~~a health care home framework is ineligible for reimbursement under this subdivision.~~

21.29 In-reach community-based service coordination shall seek to connect frequent users with
21.30 existing covered services available to them, including but not limited to targeted case
21.31 management, waiver case management, or care coordination in a health care home.

21.32 Eligible in-reach service coordinators must hold a minimum of a bachelor's degree in
21.33 social work, public health, corrections, or a related field. The commissioner shall submit
21.34 any necessary application for waivers to the Centers for Medicare and Medicaid Services
21.35 to implement this subdivision.

22.1 (c) For the purposes of this subdivision, "in-reach community-based service
 22.2 coordination" means the practice of a community-based worker with training, knowledge,
 22.3 skills, and ability to access a continuum of services, including housing, transportation,
 22.4 chemical and mental health treatment, employment, and peer support services, by working
 22.5 with an organization's staff to transition an individual back into the individual's living
 22.6 environment. In-reach community-based service coordination includes working with the
 22.7 individual during their discharge and for up to a defined amount of time in the individual's
 22.8 living environment, reducing the individual's need for readmittance."

22.9 Page 29, line 6, delete the new language and reinstate the stricken language

22.10 Page 29, line 7, delete the new language

22.11 Page 32, line 9, strike "and"

22.12 Page 32, line 11, strike the period and insert "; and"

22.13 Page 32, after line 11, insert:

22.14 "(10) providing information about competitive employment, with or without
 22.15 supports, for school-age youth and working-age adults and referrals to the Disability
 22.16 Linkage Line and Disability Benefits 101 to ensure that an informed choice about
 22.17 competitive employment can be made. For the purposes of this subdivision, "competitive
 22.18 employment" means work in the competitive labor market that is performed on a full-time
 22.19 or part-time basis in an integrated setting, and for which an individual is compensated at
 22.20 or above the minimum wage, but not less than the customary wage and level of benefits
 22.21 paid by the employer for the same or similar work performed by individuals without
 22.22 disabilities."

22.23 Page 34, line 5, strike "Each"

22.24 Page 34, strike line 6

22.25 Page 34, line 7, strike "health nurse from their respective county agencies."

22.26 Page 34, line 25, delete "(.....)" and insert "an administrative contact for
 22.27 communication purposes."

22.28 Page 36, line 5, delete everything after "eligible"

22.29 Page 36, delete lines 6 to 7

22.30 Page 36, line 8, delete "determined eligible"

22.31 Page 42, line 2, strike "3" and insert "3a"

22.32 Page 46, line 4, delete "and"

22.33 Page 46, line 5, after the semicolon, insert "and"

22.34 Page 46, after line 5, insert:

22.35 "(9) includes the authorized annual and monthly amounts for the services."

23.1 Page 49, line 13, before the semicolon, insert "including the person's choices made
 23.2 on self-directed options and on services and supports to achieve employment goals"

23.3 Page 49, line 33, strike "and"

23.4 Page 49, line 35, strike the period and insert "; and"

23.5 Page 49, after line 35, insert:

23.6 "(13) includes the authorized annual and monthly amounts for the services."

23.7 Page 54, line 33, before the semicolon, insert "including self-directed service
 23.8 options"

23.9 Page 57, after line 19, insert:

23.10 "Sec. 36. Minnesota Statutes 2010, section 256B.15, subdivision 1c, is amended to
 23.11 read:

23.12 Subd. 1c. **Notice of potential claim.** (a) A state agency with a claim or potential
 23.13 claim under this section may file a notice of potential claim under this subdivision anytime
 23.14 before or within one year after a medical assistance recipient dies. The claimant shall be
 23.15 the state agency. A notice filed prior to the recipient's death shall not take effect and shall
 23.16 not be effective as notice until the recipient dies. A notice filed after a recipient dies
 23.17 shall be effective from the time of filing.

23.18 (b) The notice of claim shall be filed or recorded in the real estate records in the
 23.19 office of the county recorder or registrar of titles for each county in which any part of
 23.20 the property is located. The recorder shall accept the notice for recording or filing. The
 23.21 registrar of titles shall accept the notice for filing if the recipient has a recorded interest in
 23.22 the property. The registrar of titles shall not carry forward to a new certificate of title any
 23.23 notice filed more than one year from the date of the recipient's death.

23.24 (c) The notice must be dated, state the name of the claimant, the medical assistance
 23.25 recipient's name and last four digits of the Social Security number if filed before their
 23.26 death and their date of death if filed after they die, the name and date of death of any
 23.27 predeceased spouse of the medical assistance recipient for whom a claim may exist, a
 23.28 statement that the claimant may have a claim arising under this section, generally identify
 23.29 the recipient's interest in the property, contain a legal description for the property and
 23.30 whether it is abstract or registered property, a statement of when the notice becomes
 23.31 effective and the effect of the notice, be signed by an authorized representative of the state
 23.32 agency, and may include such other contents as the state agency may deem appropriate.

23.33 Sec. 37. Minnesota Statutes 2010, section 256B.15, subdivision 1f, is amended to read:

23.34 Subd. 1f. **Agency lien.** (a) The notice shall constitute a lien in favor of the
 23.35 Department of Human Services against the recipient's interests in the real estate it

24.1 describes for a period of 20 years from the date of filing or the date of the recipient's death,
24.2 whichever is later. Notwithstanding any law or rule to the contrary, a recipient's life estate
24.3 and joint tenancy interests shall not end upon the recipient's death but shall continue
24.4 according to subdivisions 1h, 1i, and 1j. The amount of the lien shall be equal to the total
24.5 amount of the claims that could be presented in the recipient's estate under this section.

24.6 (b) If no estate has been opened for the deceased recipient, any holder of an interest
24.7 in the property may apply to the lienholder for a statement of the amount of the lien or
24.8 for a full or partial release of the lien. The application shall include the applicant's name,
24.9 current mailing address, current home and work telephone numbers, and a description of
24.10 their interest in the property, a legal description of the recipient's interest in the property,
24.11 and the deceased recipient's name, date of birth, and last four digits of the Social Security
24.12 number. The lienholder shall send the applicant by certified mail, return receipt requested,
24.13 a written statement showing the amount of the lien, whether the lienholder is willing to
24.14 release the lien and under what conditions, and inform them of the right to a hearing under
24.15 section 256.045. The lienholder shall have the discretion to compromise and settle the lien
24.16 upon any terms and conditions the lienholder deems appropriate.

24.17 (c) Any holder of an interest in property subject to the lien has a right to request
24.18 a hearing under section 256.045 to determine the validity, extent, or amount of the lien.
24.19 The request must be in writing, and must include the names, current addresses, and home
24.20 and business telephone numbers for all other parties holding an interest in the property. A
24.21 request for a hearing by any holder of an interest in the property shall be deemed to be a
24.22 request for a hearing by all parties owning interests in the property. Notice of the hearing
24.23 shall be given to the lienholder, the party filing the appeal, and all of the other holders of
24.24 interests in the property at the addresses listed in the appeal by certified mail, return receipt
24.25 requested, or by ordinary mail. Any owner of an interest in the property to whom notice of
24.26 the hearing is mailed shall be deemed to have waived any and all claims or defenses in
24.27 respect to the lien unless they appear and assert any claims or defenses at the hearing.

24.28 (d) If the claim the lien secures could be filed under subdivision 1h, the lienholder
24.29 may collect, compromise, settle, or release the lien upon any terms and conditions it deems
24.30 appropriate. If the claim the lien secures could be filed under subdivision 1i or 1j, the lien
24.31 may be adjusted or enforced to the same extent had it been filed under subdivisions 1i
24.32 and 1j, and the provisions of subdivisions 1i, clause (f), and 1j, clause (d), shall apply to
24.33 voluntary payment, settlement, or satisfaction of the lien.

24.34 (e) If no probate proceedings have been commenced for the recipient as of the date
24.35 the lien holder executes a release of the lien on a recipient's life estate or joint tenancy
24.36 interest, created for purposes of this section, the release shall terminate the life estate or

25.1 joint tenancy interest created under this section as of the date it is recorded or filed to the
 25.2 extent of the release. If the claimant executes a release for purposes of extinguishing a
 25.3 life estate or a joint tenancy interest created under this section to remove a cloud on title
 25.4 to real property, the release shall have the effect of extinguishing any life estate or joint
 25.5 tenancy interests in the property it describes which may have been continued by reason
 25.6 of this section retroactive to the date of death of the deceased life tenant or joint tenant
 25.7 except as provided for in section 514.981, subdivision 6.

25.8 (f) If the deceased recipient's estate is probated, a claim shall be filed under this
 25.9 section. The amount of the lien shall be limited to the amount of the claim as finally
 25.10 allowed. If the claim the lien secures is filed under subdivision 1h, the lien may be released
 25.11 in full after any allowance of the claim becomes final or according to any agreement to
 25.12 settle and satisfy the claim. The release shall release the lien but shall not extinguish
 25.13 or terminate the interest being released. If the claim the lien secures is filed under
 25.14 subdivision 1i or 1j, the lien shall be released after the lien under subdivision 1i or 1j is
 25.15 filed or recorded, or settled according to any agreement to settle and satisfy the claim. The
 25.16 release shall not extinguish or terminate the interest being released. If the claim is finally
 25.17 disallowed in full, the claimant shall release the claimant's lien at the claimant's expense."

25.18 Page 59, line 26, strike "Individualized service" and insert "Coordinated service and
 25.19 support"

25.20 Page 62, line 17, after "REDESIGN" insert "AND STUDY OF COUNTY AND
 25.21 TRIBAL ADMINISTRATIVE FUNCTIONS"

25.22 Page 62, line 18, before "By" insert "(a)" and delete "2012" and insert "2013"

25.23 Page 62, line 19, delete "to be effective"

25.24 Page 62, line 20, delete "July 1, 2012,"

25.25 Page 62, after line 30, insert:

25.26 "(b) The commissioner of human services shall evaluate county and tribal
 25.27 administrative functions, processes, and reimbursement methodologies for the purposes
 25.28 of administration of home and community-based services, and compliance and
 25.29 oversight functions. The commissioner shall work with county, tribal, and stakeholder
 25.30 representatives in the evaluation process and develop a plan for the delegation of
 25.31 commissioner duties to county and tribal entities after the elimination of county contracts
 25.32 under Minnesota Statutes, section 256B.4912, for waiver service provision and the
 25.33 creation of quality outcome standards under Laws 2009, chapter 79, article 8, section
 25.34 81, and residential support services under Minnesota Statutes, sections 256B.092,
 25.35 subdivision 11, and 245A.11, subdivision 8. The commissioner shall present findings
 25.36 and recommendations to the chairs and ranking minority members of the legislative

26.1 committees with jurisdiction over health and human services finance and policy by
 26.2 February 1, 2013, with any specific recommendations and language for proposed
 26.3 legislation to be effective July 1, 2013."

26.4 Page 63, line 1, delete "manual" and insert "list"

26.5 Page 63, line 2, delete "manual" and insert "list" and delete "be used in definition"

26.6 Page 63, line 3, delete "of emotional disturbance and mental illness" and insert "
 26.7 define the range of child and adult mental illnesses"

26.8 Page 63, line 4, delete "Internal" and insert "International"

26.9 Page 63, line 6, delete "manual" and insert "list" and delete "a time-limited" and
 26.10 insert "an"

26.11 Page 63, line 9, delete "manual" and insert "list"

26.12 Page 63, line 10, delete "manual" and insert "list"

26.13 Page 63, line 18, delete "manual" and insert "list"

26.14 Page 64, line 16, delete "manual" and insert "list"

26.15 Page 64, line 17, delete "manual" and insert "list" and delete "to be used in definition"

26.16 Page 64, line 18, delete "of emotional disturbance and mental illness" and insert "
 26.17 define the range of child and adult mental illnesses"

26.18 Page 64, line 19, delete "Internal" and insert "International"

26.19 Page 64, line 21, delete "manual" and insert "list"

26.20 Page 64, line 24, delete "manual" and insert "list"

26.21 Page 64, line 25, delete "manual" and insert "list"

26.22 Page 64, line 34, delete "manual" and insert "list"

26.23 Page 65, line 4, delete "manual" and insert "list"

26.24 Page 68, after line 30, insert:

26.25 "Sec. 10. **TERMINOLOGY AUDIT.**

26.26 The commissioner of human services shall collaborate with individuals with
 26.27 disabilities, families, advocates, and other governmental agencies to solicit feedback and
 26.28 identify inappropriate and insensitive terminology relating to individuals with disabilities,
 26.29 conduct a comprehensive audit of the placement of this terminology in Minnesota Statutes
 26.30 and Minnesota Rules, and make recommendations for changes to the 2013 legislature
 26.31 on the repeal and replacement of this terminology with more appropriate and sensitive
 26.32 terminology."

26.33 Page 91, line 5, after "and" insert "current and former"

26.34 Page 91, line 21, strike "subdivision" and insert "section"

26.35 Page 93, delete section 21

26.36 Page 94, after line 10, insert:

27.1 **"ARTICLE 6**
 27.2 **TECHNICAL**

27.3 Section 1. Minnesota Statutes 2010, section 144A.071, subdivision 5a, is amended to
 27.4 read:

27.5 Subd. 5a. **Cost estimate of a moratorium exception project.** (a) For the
 27.6 purposes of this section and section 144A.073, the cost estimate of a moratorium
 27.7 exception project shall include the effects of the proposed project on the costs of the state
 27.8 subsidy for community-based services, nursing services, and housing in institutional
 27.9 and noninstitutional settings. The commissioner of health, in cooperation with the
 27.10 commissioner of human services, shall define the method for estimating these costs in the
 27.11 permanent rule implementing section 144A.073. The commissioner of human services
 27.12 shall prepare an estimate of the total state annual long-term costs of each moratorium
 27.13 exception proposal.

27.14 (b) The interest rate to be used for estimating the cost of each moratorium exception
 27.15 project proposal shall be the lesser of either the prime rate plus two percentage points, or
 27.16 the posted yield for standard conventional fixed rate mortgages of the Federal Home Loan
 27.17 Mortgage Corporation plus two percentage points as published in the Wall Street Journal
 27.18 and in effect 56 days prior to the application deadline. If the applicant's proposal uses this
 27.19 interest rate, the commissioner of human services, in determining the facility's actual
 27.20 property-related payment rate to be established upon completion of the project must use
 27.21 the actual interest rate obtained by the facility for the project's permanent financing up to
 27.22 the maximum permitted under ~~subdivision 6~~ Minnesota Rules, part 9549.0060, subpart 6.

27.23 The applicant may choose an alternate interest rate for estimating the project's cost.
 27.24 If the applicant makes this election, the commissioner of human services, in determining
 27.25 the facility's actual property-related payment rate to be established upon completion of the
 27.26 project, must use the lesser of the actual interest rate obtained for the project's permanent
 27.27 financing or the interest rate which was used to estimate the proposal's project cost. For
 27.28 succeeding rate years, the applicant is at risk for financing costs in excess of the interest
 27.29 rate selected.

27.30 Sec. 2. **REVISOR'S INSTRUCTION.**

27.31 (a) In Minnesota Statutes, sections 256B.038, 256B.0911, 256B.0918, 256B.092,
 27.32 256B.097, 256B.49, and 256B.765, the revisor of statutes shall delete the word "traumatic"
 27.33 when it comes before the word "brain."

28.1 (b) In Minnesota Statutes, section 256B.093, subdivision 1, clauses (4) and (5), and
28.2 subdivision 3, clause (2), the revisor of statutes shall delete the word "traumatic" when it
28.3 comes before the word "brain."

28.4 (c) In Minnesota Statutes, sections 144.0724 and 144G.05, the revisor of statutes
28.5 shall delete "TBI" and replace it with "BI."

28.6 Amend the title as follows:

28.7 Page 1, line 5, after the semicolon, insert "requiring reports;"

28.8 Renumber the sections in sequence and correct the internal references

28.9 Correct the title numbers accordingly