

Subject DHS Office of Inspector General Policy Bill

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Date March 8, 2023

Overview

This bill makes technical, clarifying, and policy changes to provisions governing licensing and background studies conducted by the Department of Human Services and medical assistance program integrity and review procedures.

Summary

Section	Description
1	<p>Licensing data.</p> <p>Amends § 13.46, subd. 4. Paragraph (a) applies the data practices that govern licensing data to certified, license-exempt child care centers and certified mental health clinics. Paragraph (b) adds “public e-mail address provided by nonfamily foster care license holder” to the list of information from an applicant, license holder, or former licensee that are considered public.</p>
2	<p>Background study required.</p> <p>Amends § 62V.05, subd. 4a. Modifies MNsure navigator background study requirements related to the board’s duties to evaluate disqualification notifications from the Department of Human Services; makes clarifying changes.</p>
3	<p>Background studies.</p> <p>Amends § 122A.18, subd. 8. Makes clarifying changes related to background studies for educator and administrator licenses.</p>
4	<p>Controlling individual.</p> <p>Amends § 245A.02, subd. 5a. Expands the definition of “controlling individual” for purposes of DHS licensing to include the president and treasurer of the board of directors of a nonprofit corporation.</p>

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5	Owner. Amends § 245A.02, subd. 10b. Modifies the definition of “owner” for purposes of DHS licensing. Provides that the “owner of an employee stock ownership plan” means the president and treasurer of the entity and provides that a nonprofit corporation issued a license under the chapter is designated as an owner.
6	Application for licensure. Amends § 245A.04, subd. 1. Paragraph (a) corrects a statutory cross-reference. Paragraphs (f), (g), and (h) provide that specified applicants for licenses under the chapter must provide an e-mail address that will be made public. Provides an immediate effective date.
7	Grant of license; license extension. Amends § 245A.04, subd. 7. Paragraph (a) adds “public e-mail address of the program” to the list of information that must be stated on a license issued under the chapter. Paragraph (b) makes technical changes. Paragraph (d) provides that the commissioner cannot issue or reissue a license if an applicant, license holder, or controlling individual fails to submit specified information related to the Child and Adult Care Food Program. Provides an immediate effective date.
8	First date of direct contact; documentation requirements. Amends § 245A.041 by adding subd. 6. Requires that license holders document the first date that a background study subject has direct contact with a person served by the license holder’s program and either maintain documentation of the first contact in personnel files or provide the documentation to the commissioner upon request. Exempts family child care, family foster care for children, and family adult day services from the requirement. Provides a January 1, 2024, effective date.
9	Immediate suspension expedited hearing. Amends § 245A.07, subd. 2a. Modifies the commissioner’s process for determining licensing sanctions after a final order affirming an immediate suspension.
10	License suspension, revocation, or fine. Amends § 245A.07, subd. 3. Allows the commissioner to suspend a license if persons served by a program are at imminent risk of harm while investigations or judicial proceedings that are necessary for determining a final licensing sanction are ongoing.
11	Application fee for initial license or certification. Amends § 245A.10, subd. 3. Makes technical conforming changes. Provides an immediate effective date.

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12	<p>License or certification fee for certain programs.</p> <p>Amends § 245A.10, subd. 4. Makes technical conforming changes. Provides an immediate effective date.</p>
13	<p>Delegation of authority to agencies.</p> <p>Amends § 245A.16, subd. 1. Removes language related to family child care background studies performed by county or private agencies; removes obsolete language about background study requirements. Provides an immediate effective date.</p>
14	<p>Prone restraint prohibition.</p> <p>Creates § 245A.211.</p> <p>Subd. 1. Applicability. Applies the section to all programs licensed or certified under the specified chapters of statute.</p> <p>Subd. 2. Definitions. Defines “mechanical restraint,” “prone restraint,” and “restraint.”</p> <p>Subd. 3. Prone restraint prohibition. Prohibits a license or certification holder from using a prone restraint on any person receiving services in a program, except in the specified circumstances.</p> <p>Subd. 4. Contraindicated physical restraints. Prohibits a license or certification holder from implementing a restraint on a person receiving services in a program in a way that is contraindicated for any of the person’s known medical or psychological conditions. Requires that a license or certification holder assess and document a determination of any medical or psychological conditions for which restraints are contraindicated prior to using restraints on a person.</p>
15	<p>Child care background study subject.</p> <p>Amends § 245C.02, subd. 6a. Clarifies that a child care contractor is a background study subject if the contractor is providing services for hire in the program.</p>
16	<p>Entity.</p> <p>Amends § 245C.02, subd. 11c. Adds license holder and government agency to the definition of “entity” for background study purposes.</p>
17	<p>Employee.</p> <p>Amends § 245C.02 by adding subd. 11f. Adds definition of “employee” for background study purposes.</p>

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18	Volunteer. Amends § 245C.02 by adding subd. 22. Adds definition of “volunteer” for background study purposes.
19	Licensed programs. Amends § 245C.03, subd. 1. Strikes “contractor” term and strikes “independent living assistance for youth” from list of licensed programs. Provides an immediate effective date.
20	Procedure. Amends § 245C.03, subd. 1a. Adds reference to Bureau of Criminal Apprehension consent and self-disclosure.
21	Personnel pool agencies; temporary personnel agencies; educational programs; professional services agencies. Amends § 245C.03, subd. 4. Adds paragraph requiring personnel pool agencies, temporary personnel agencies, and professional services to employ the individuals providing direct care services; requires those individuals to be affiliated in NETStudy 2.0 and subject to oversight and direct supervision by the entity.
22	Other state agencies. Amends § 245C.03, subd. 5. Strikes “contractors.”
23	Facilities serving children or adults licensed or regulated by the Department of Health. Amends § 245C.03, subd. 5a. Makes clarifying change; states that the Department of Human Services is not liable for conducting background studies that have been submitted or not removed from the roster.
24	Alternative background studies. Amends § 245C.031, subd. 1. Adds reference to Bureau of Criminal Apprehension consent and self-disclosure.
25	Applicants, licensees, and other occupations regulated by the commissioner of health. Amends § 245C.031, subd. 4. Adds criminal history disclosure form to alternative background study requirements.
26	Individual studied. Amends § 245C.05, subd. 1. Adds language allowing an acceptable form of identification as determined by the commissioner; clarifies requirements for

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	background study subjects aged 18 or older and 17 or younger; adds criminal history disclosure form.
27	Background study requirements for minors. Amends § 245C.05, subd. 5a. Modifies requirements and makes clarifying changes regarding fingerprint and photograph requirements and national criminal history checks for subjects aged 17 or younger.
28	Study submitted. Amends § 245C.05 by adding subd. 8. Specifies that an entity with which the background study subject is seeking affiliation must initiate the NETStudy 2.0 background study.
29	Study subject affiliated with multiple facilities. Amends § 245C.07. Makes clarifying change; adds temporary personnel agencies.
30	Background studies conducted by Department of Human Services. Amends § 245C.08, subd. 1. Makes technical conforming change.
31	Temporary personnel agencies, personnel pool agencies, educational programs, and professional services agencies. Amends § 245C.10, subd. 4. Adds personnel pool agencies.
32	Disclosure of reason for disqualification. Amends § 245C.30, subd. 2. Removes language stating that, for programs providing family child care for children, foster care for children in the provider's own home, or foster care or day care services for adults, if the commissioner grants a variance, the individual's consent is not required to disclose the reason for the disqualification to the license holder.
33	Board determines disciplinary or corrective action. Amends § 245C.31, subd. 1. Removes paragraph that exempts individuals submitting a study for child foster care, adult foster care, or family child care licensure, from the requirement that the commissioner notify a health-related licensing board of a finding of substantiated maltreatment.
34	Information commissioner reviews. Amends § 245C.33, subd. 4. Removes language requiring the submission of the dates of adoption-related background studies and the names of the agencies that conducted the studies.

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35	<p>Behavior guidance.</p> <p>Amends § 245H.13, subd. 9. Prohibits certified, license-exempt child care centers from using prone restraints, as prohibited by section 245A.211, on children.</p>
36	<p>Application procedures.</p> <p>Amends § 245I.20, subd. 10. For mental health provider certification, adds language allowing the commissioner to require the applicant or certification holder to provide an e-mail address for the certification holder that will be made public.</p>
37	<p>Administrative reconsideration.</p> <p>Amends § 256.9685, subd. 1a. Makes clarifying changes for appeals of inpatient hospital services determined to be medically unnecessary; specifies that the medical review agent shall make a recommendation to the commissioner, whose decision on reconsideration is final and not subject to appeal.</p>
38	<p>Appeal of reconsideration.</p> <p>Amends § 256.9685, subd. 1b. Removes language regarding appeals of reconsideration decisions for inpatient hospital services determined to be medically unnecessary; specifies that the commissioner's decision is appealable only by petition for writ of certiorari under chapter 606.</p>
39	<p>Medical review agent.</p> <p>Amends § 256.9685 by adding subd. 7a. Adds definition of “medical review agent” and specifies requirements.</p>
40	<p>Utilization review.</p> <p>Amends § 256B.04, subd. 15. Makes clarifying change.</p>
41	<p>Sanctions; monetary recovery.</p> <p>Amends § 256B.064. Makes clarifying changes; expands individuals against whom the commissioner may impose sanctions, to include any individual or entity that receives medical assistance payments or provides goods or services for which medical assistance payment is made; specifies meaning of “goods or services.”</p> <p>In subdivision 2, allows the commissioner to issue fines in place of or in addition to full monetary recovery of the value of the claims submitted under subdivision 1c.</p>
42	<p>Access to medical records.</p> <p>Amends § 256B.27, subd. 3. Specifies that the commissioner’s access to medical records for fraud investigations must be in the manner and within the time prescribed by the commissioner; requires providers to make records available</p>

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	immediately to the commissioner upon request. Specifies admissibility of records for evidentiary purposes.
43	Procedure; state agency licensing data. Amends § 524.5-118, subd. 2a. Removes Department of Education from list of agencies for which the commissioner of human services must provide a court with specified licensing agency data for guardianship and conservatorship purposes.
44	Revisor instruction. Instructs the revisor to reorganize section 245C.02 as necessary.
45	Repealer. Repeals §§ 245A.22 (independent living assistance for youth); 245C.02, subdivision 9 (definition of “contractor”); 245C.301 (child care; notification of set-aside or variance); and 256.9685, subdivisions 1c and 1d (inpatient hospital services judicial review; transmittal of record). Repeals Minnesota Rules, parts 9505.0505, subpart 18 (definition of “medical review agent”); and 9505.0520, subpart 9b (reconsideration; physician advisers appointed by medical review agent). Provides an immediate effective date.



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