..... moves to amend H.F. No. 1403 as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

AGING, DISABILITY, AND BEHAVIORAL HEALTH SERVICES

Section 1. Minnesota Statutes 2022, section 245.462, subdivision 3, is amended to read:

Subd. 3. **Case management services.** "Case management services" means activities that are coordinated with the community support services program as defined in subdivision 6 and are designed to help adults with serious and persistent mental illness in gaining access to needed medical, social, educational, vocational, and other necessary services as they relate to the client's mental health needs. Case management services include developing a functional assessment, an individual ~~assessment summary~~ community support plan, referring and assisting the person to obtain needed mental health and other services, ensuring coordination of services, and monitoring the delivery of services.

Sec. 2. Minnesota Statutes 2022, section 245.462, subdivision 12, is amended to read:

Subd. 12. **Individual ~~assessment summary~~ community support plan.** "Individual ~~assessment summary~~ community support plan" means a written plan developed by a case manager on the basis of a diagnostic assessment and functional assessment. The plan identifies specific services needed by an adult with serious and persistent mental illness to develop independence or improved functioning in daily living, health and medication management, social functioning, interpersonal relationships, financial management, housing, transportation, and employment.

Sec. 3. Minnesota Statutes 2022, section 245.4711, subdivision 3, is amended to read:

Subd. 3. **Duties of case manager.** Upon a determination of eligibility for case management services, and if the adult consents to the services, the case manager shall complete a written functional assessment according to section 245.462, subdivision 11a. The case manager shall develop an individual ~~assessment summary~~ community support plan for the adult according to subdivision 4, paragraph (a), review the adult's progress, and monitor the provision of services. If services are to be provided in a host county that is not the county of financial responsibility, the case manager shall consult with the host county and obtain a letter demonstrating the concurrence of the host county regarding the provision of services.

Sec. 4. Minnesota Statutes 2022, section 245.4711, subdivision 4, is amended to read:

Subd. 4. **Individual ~~assessment summary~~ community support plan.** (a) The case manager must develop an individual ~~assessment summary~~ community support plan for each adult that incorporates the client's individual treatment plan. The individual treatment plan may not be a substitute for the development of an individual ~~assessment summary~~ community support plan. The individual ~~assessment summary~~ community support plan must be developed within 30 days of client intake and reviewed at least every 180 days after it is developed, unless the case manager receives a written request from the client or the client's family for a review of the plan every 90 days after it is developed. The case manager is responsible for developing the individual ~~assessment summary~~ community support plan based on a diagnostic assessment and a functional assessment and for implementing and monitoring the delivery of services according to the individual ~~assessment summary~~ community support plan. To the extent possible, the adult with serious and persistent mental illness, the person's family, advocates, service providers, and significant others must be involved in all phases of development and implementation of the individual ~~or family assessment summary~~ community support plan.

(b) The client's individual ~~assessment summary~~ community support plan must state:

(1) the goals of each service;

(2) the activities for accomplishing each goal;

(3) a schedule for each activity; and

(4) the frequency of face-to-face contacts by the case manager, as appropriate to client need and the implementation of the individual ~~assessment summary~~ community support plan.

Sec. 5. Minnesota Statutes 2022, section 245.477, is amended to read:

245.477 APPEALS.

Any adult who requests mental health services under sections 245.461 to 245.486 must be advised of services available and the right to appeal at the time of the request and each time the individual ~~assessment summary~~ community support plan or individual treatment plan is reviewed. Any adult whose request for mental health services under sections 245.461 to 245.486 is denied, not acted upon with reasonable promptness, or whose services are suspended, reduced, or terminated by action or inaction for which the county board is responsible under sections 245.461 to 245.486 may contest that action or inaction before the state agency as specified in section 256.045. The commissioner shall monitor the nature and frequency of administrative appeals under this section.

Sec. 6. Minnesota Statutes 2022, section 245.4835, subdivision 2, is amended to read:

Subd. 2. **Failure to maintain expenditures.** (a) If a county does not comply with subdivision 1, the commissioner shall require the county to develop a corrective action plan according to a format and timeline established by the commissioner. If the commissioner determines that a county has not developed an acceptable corrective action plan within the required timeline, or that the county is not in compliance with an approved corrective action plan, the protections provided to that county under section 245.485 do not apply.

(b) The commissioner shall consider the following factors to determine whether to approve a county's corrective action plan:

(1) the degree to which a county is maximizing revenues for mental health services from noncounty sources;

(2) the degree to which a county is expanding use of alternative services that meet mental health needs, but do not count as mental health services within existing reporting systems. If approved by the commissioner, the alternative services must be included in the county's base as well as subsequent years. The commissioner's approval for alternative services must be based on the following criteria:

(i) the service must be provided to children with emotional disturbance or adults with mental illness;

(ii) the services must be based on an individual treatment plan or individual ~~assessment summary~~ community support plan as defined in the Comprehensive Mental Health Act; and

(iii) the services must be supervised by a mental health professional and provided by staff who meet the staff qualifications defined in sections 256B.0943, subdivision 7, and 256B.0623, subdivision 5.

(c) Additional county expenditures to make up for the prior year's underspending may be spread out over a two-year period.

Sec. 7. Minnesota Statutes 2022, section 245.4871, subdivision 3, is amended to read:

Subd. 3. **Case management services.** "Case management services" means activities that are coordinated with the family community support services and are designed to help the child with severe emotional disturbance and the child's family obtain needed mental health services, social services, educational services, health services, vocational services, recreational services, and related services in the areas of volunteer services, advocacy, transportation, and legal services. Case management services include assisting in obtaining a comprehensive diagnostic assessment, developing an individual family ~~assessment summary~~ community support plan, and assisting the child and the child's family in obtaining needed services by coordination with other agencies and assuring continuity of care. Case managers must assess and reassess the delivery, appropriateness, and effectiveness of services over time.

Sec. 8. Minnesota Statutes 2022, section 245.4871, subdivision 19, is amended to read:

Subd. 19. **Individual family ~~assessment summary~~ community support plan.** "Individual family ~~assessment summary~~ community support plan" means a written plan developed by a case manager in conjunction with the family and the child with severe emotional disturbance on the basis of a diagnostic assessment and a functional assessment. The plan identifies specific services needed by a child and the child's family to:

(1) treat the symptoms and dysfunctions determined in the diagnostic assessment;

(2) relieve conditions leading to emotional disturbance and improve the personal well-being of the child;

(3) improve family functioning;

(4) enhance daily living skills;

(5) improve functioning in education and recreation settings;

(6) improve interpersonal and family relationships;

(7) enhance vocational development; and

(8) assist in obtaining transportation, housing, health services, and employment.

Sec. 9. Minnesota Statutes 2022, section 245.4873, subdivision 4, is amended to read:

Subd. 4. **Individual case coordination.** The case manager designated under section 245.4881 is responsible for ongoing coordination with any other person responsible for planning, development, and delivery of social services, education, corrections, health, or vocational services for the individual child. The individual family ~~assessment summary~~ community support plan developed by the case manager shall reflect the coordination among the local service system providers.

Sec. 10. Minnesota Statutes 2022, section 245.4881, subdivision 3, is amended to read:

Subd. 3. **Duties of case manager.** (a) Upon a determination of eligibility for case management services, the case manager shall develop an individual family ~~assessment summary~~ community support plan for a child as specified in subdivision 4, review the child's progress, and monitor the provision of services. If services are to be provided in a host county that is not the county of financial responsibility, the case manager shall consult with the host county and obtain a letter demonstrating the concurrence of the host county regarding the provision of services.

(b) The case manager shall note in the child's record the services needed by the child and the child's family, the services requested by the family, services that are not available, and the unmet needs of the child and child's family. The case manager shall note this provision in the child's record.

Sec. 11. Minnesota Statutes 2022, section 245.4881, subdivision 4, is amended to read:

Subd. 4. **Individual family ~~assessment summary~~ community support plan.** (a) For each child, the case manager must develop an individual family ~~assessment summary~~ community support plan that incorporates the child's individual treatment plan. The individual treatment plan may not be a substitute for the development of an individual family ~~assessment summary~~ community support plan. The case manager is responsible for developing the individual family ~~assessment summary~~ community support plan within 30 days of intake based on a diagnostic assessment and for implementing and monitoring the delivery of services according to the individual family ~~assessment summary~~ community support plan. The case manager must review the plan at least every 180 calendar days after it is developed, unless the case manager has received a written request from the child's family or an advocate for the child for a review of the plan every 90 days after it is developed. To the extent

appropriate, the child with severe emotional disturbance, the child's family, advocates, service providers, and significant others must be involved in all phases of development and implementation of the individual family ~~assessment summary~~ community support plan. Notwithstanding the lack of an individual family ~~assessment summary~~ community support plan, the case manager shall assist the child and child's family in accessing the needed services listed in section 245.4884, subdivision 1.

(b) The child's individual family ~~assessment summary~~ community support plan must state:

(1) the goals and expected outcomes of each service and criteria for evaluating the effectiveness and appropriateness of the service;

(2) the activities for accomplishing each goal;

(3) a schedule for each activity; and

(4) the frequency of face-to-face contacts by the case manager, as appropriate to client need and the implementation of the individual family ~~assessment summary~~ community support plan.

Sec. 12. Minnesota Statutes 2022, section 245.4885, subdivision 1, is amended to read:

Subdivision 1. **Admission criteria.** (a) Prior to admission or placement, except in the case of an emergency, all children referred for treatment of severe emotional disturbance in a treatment foster care setting, residential treatment facility, or informally admitted to a regional treatment center shall undergo an assessment to determine the appropriate level of care if county funds are used to pay for the child's services. An emergency includes when a child is in need of and has been referred for crisis stabilization services under section 245.4882, subdivision 6. A child who has been referred to residential treatment for crisis stabilization services in a residential treatment center is not required to undergo an assessment under this section.

(b) The county board shall determine the appropriate level of care for a child when county-controlled funds are used to pay for the child's residential treatment under this chapter, including residential treatment provided in a qualified residential treatment program as defined in section 260C.007, subdivision 26d. When a county board does not have responsibility for a child's placement and the child is enrolled in a prepaid health program under section 256B.69, the enrolled child's contracted health plan must determine the appropriate level of care for the child. When Indian Health Services funds or funds of a tribally owned facility funded under the Indian Self-Determination and Education Assistance

Act, Public Law 93-638, are used for the child, the Indian Health Services or 638 tribal health facility must determine the appropriate level of care for the child. When more than one entity bears responsibility for a child's coverage, the entities shall coordinate level of care determination activities for the child to the extent possible.

(c) The child's level of care determination shall determine whether the proposed treatment:

(1) is necessary;

(2) is appropriate to the child's individual treatment needs;

(3) cannot be effectively provided in the child's home; and

(4) provides a length of stay as short as possible consistent with the individual child's needs.

(d) When a level of care determination is conducted, the county board or other entity may not determine that a screening of a child, referral, or admission to a residential treatment facility is not appropriate solely because services were not first provided to the child in a less restrictive setting and the child failed to make progress toward or meet treatment goals in the less restrictive setting. The level of care determination must be based on a diagnostic assessment of a child that evaluates the child's family, school, and community living situations; and an assessment of the child's need for care out of the home using a validated tool which assesses a child's functional status and assigns an appropriate level of care to the child. The validated tool must be approved by the commissioner of human services and may be the validated tool approved for the child's assessment under section 260C.704 if the juvenile treatment screening team recommended placement of the child in a qualified residential treatment program. If a diagnostic assessment has been completed by a mental health professional within the past 180 days, a new diagnostic assessment need not be completed unless in the opinion of the current treating mental health professional the child's mental health status has changed markedly since the assessment was completed. The child's parent shall be notified if an assessment will not be completed and of the reasons. A copy of the notice shall be placed in the child's file. Recommendations developed as part of the level of care determination process shall include specific community services needed by the child and, if appropriate, the child's family, and shall indicate whether these services are available and accessible to the child and the child's family. The child and the child's family must be invited to any meeting where the level of care determination is discussed and decisions regarding residential treatment are made. The child and the child's family may invite other relatives, friends, or advocates to attend these meetings.

(e) During the level of care determination process, the child, child's family, or child's legal representative, as appropriate, must be informed of the child's eligibility for case management services and family community support services and that an individual family ~~assessment summary~~ community support plan is being developed by the case manager, if assigned.

(f) The level of care determination, placement decision, and recommendations for mental health services must be documented in the child's record and made available to the child's family, as appropriate.

Sec. 13. Minnesota Statutes 2022, section 245.4887, is amended to read:

245.4887 APPEALS.

A child or a child's family, as appropriate, who requests mental health services under sections 245.487 to 245.4889 must be advised of services available and the right to appeal as described in this section at the time of the request and each time the individual family ~~assessment summary~~ community support plan or individual treatment plan is reviewed. A child whose request for mental health services under sections 245.487 to 245.4889 is denied, not acted upon with reasonable promptness, or whose services are suspended, reduced, or terminated by action or inaction for which the county board is responsible under sections 245.487 to 245.4889 may contest that action or inaction before the state agency according to section 256.045. The commissioner shall monitor the nature and frequency of administrative appeals under this section.

Sec. 14. Minnesota Statutes 2022, section 245A.03, subdivision 7, is amended to read:

Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter for a physical location that will not be the primary residence of the license holder for the entire period of licensure. If a family child foster care home or family adult foster care home license is issued during this moratorium, and the license holder changes the license holder's primary residence away from the physical location of the foster care license, the commissioner shall revoke the license according to section 245A.07. The commissioner shall not issue an initial license for a community residential setting licensed under chapter 245D. When approving an exception under this paragraph, the commissioner shall consider the resource need determination process in paragraph (h), the availability of foster care licensed beds in the geographic area in which the licensee seeks to operate, the results of a

person's choices during their annual assessment and service plan review, and the recommendation of the local county board. The determination by the commissioner is final and not subject to appeal. Exceptions to the moratorium include:

(1) ~~foster care settings~~ a license for a person in a foster care setting that is not the primary residence of the license holder and where at least 80 percent of the residents are 55 years of age or older;

(2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or community residential setting licenses replacing adult foster care licenses in existence on December 31, 2013, and determined to be needed by the commissioner under paragraph (b);

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

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

(5) new foster care licenses or community residential setting licenses for people receiving customized living or 24-hour customized living services under the brain injury or community access for disability inclusion waiver plans under section 256B.49 and residing in the customized living setting before July 1, 2022, for which a license is required. A customized living service provider subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until June 30, 2023. This exception is available when:

(i) the person's customized living services are provided in a customized living service setting serving four or fewer people under the brain injury or community access for disability inclusion waiver plans under section 256B.49 in a single-family home operational on or before June 30, 2021. Operational is defined in section 256B.49, subdivision 28;

(ii) the person's case manager provided the person with information about the choice of service, service provider, and location of service, including in the person's home, to help the person make an informed choice; and

(iii) the person's services provided in the licensed foster care or community residential setting are less than or equal to the cost of the person's services delivered in the customized living setting as determined by the lead agency.

(b) The commissioner shall determine the need for newly licensed foster care homes or community residential settings as defined under this subdivision. As part of the determination, the commissioner shall consider the availability of foster care capacity in the area in which the licensee seeks to operate, and the recommendation of the local county board. The determination by the commissioner must be final. A determination of need is not required for a change in ownership at the same address.

(c) When an adult resident served by the program moves out of a foster home that is not the primary residence of the license holder according to section 256B.49, subdivision 15, paragraph (f), or the adult community residential setting, the county shall immediately inform the Department of Human Services Licensing Division. The department may decrease the statewide licensed capacity for adult foster care settings.

(d) Residential settings that would otherwise be subject to the decreased license capacity established in paragraph (c) shall be exempt if the license holder's beds are occupied by residents whose primary diagnosis is mental illness and the license holder is certified under the requirements in subdivision 6a or section 245D.33.

(e) A resource need determination process, managed at the state level, using the available data required by section 144A.351, and other data and information shall be used to determine where the reduced capacity determined under section 256B.493 will be implemented. The commissioner shall consult with the stakeholders described in section 144A.351, and employ a variety of methods to improve the state's capacity to meet the informed decisions of those people who want to move out of corporate foster care or community residential settings, long-term service needs within budgetary limits, including seeking proposals from service providers or lead agencies to change service type, capacity, or location to improve services, increase the independence of residents, and better meet needs identified by the long-term services and supports reports and statewide data and information.

(f) At the time of application and reapplication for licensure, the applicant and the license holder that are subject to the moratorium or an exclusion established in paragraph (a) are required to inform the commissioner whether the physical location where the foster care

will be provided is or will be the primary residence of the license holder for the entire period of licensure. If the primary residence of the applicant or license holder changes, the applicant or license holder must notify the commissioner immediately. The commissioner shall print on the foster care license certificate whether or not the physical location is the primary residence of the license holder.

(g) License holders of foster care homes identified under paragraph (f) that are not the primary residence of the license holder and that also provide services in the foster care home that are covered by a federally approved home and community-based services waiver, as authorized under chapter 256S or section 256B.092 or 256B.49, must inform the human services licensing division that the license holder provides or intends to provide these waiver-funded services.

(h) The commissioner may adjust capacity to address needs identified in section 144A.351. Under this authority, the commissioner may approve new licensed settings or delicense existing settings. Delicensing of settings will be accomplished through a process identified in section 256B.493.

(i) The commissioner must notify a license holder when its corporate foster care or community residential setting licensed beds are reduced under this section. The notice of reduction of licensed beds must be in writing and delivered to the license holder by certified mail or personal service. The notice must state why the licensed beds are reduced and must inform the license holder of its right to request reconsideration by the commissioner. The license holder's request for reconsideration must be in writing. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds. If a request for reconsideration is made by personal service, it must be received by the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

(j) The commissioner shall not issue an initial license for children's residential treatment services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter for a program that Centers for Medicare and Medicaid Services would consider an institution for mental diseases. Facilities that serve only private pay clients are exempt from the moratorium described in this paragraph. The commissioner has the authority to manage existing statewide capacity for children's residential treatment services subject to the moratorium under this paragraph and may issue an initial license for such facilities if the initial license would not increase the statewide capacity for children's residential treatment services subject to the moratorium under this paragraph.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 15. Minnesota Statutes 2022, section 245A.11, subdivision 7, is amended to read:

Subd. 7. **Adult foster care and community residential settings; variance for alternate overnight supervision.** (a) The commissioner may grant a variance under section 245A.04, subdivision 9, to statutes and rule parts requiring a caregiver to be present in an adult foster care home or a community residential setting during normal sleeping hours to allow for alternative methods of overnight supervision. The commissioner may grant the variance if the local county licensing agency recommends the variance and the county recommendation includes documentation verifying that:

(1) the county has approved the license holder's plan for alternative methods of providing overnight supervision and determined the plan protects the residents' health, safety, and rights;

(2) the license holder has obtained written and signed informed consent from each resident or each resident's legal representative documenting the resident's or legal representative's agreement with the alternative method of overnight supervision; and

(3) the alternative method of providing overnight supervision, which may include the use of technology, is specified for each resident in the resident's: (i) individualized plan of care; (ii) ~~individual service~~ support plan under section 256B.092, subdivision 1b, if required; or (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required.

(b) To be eligible for a variance under paragraph (a), the adult foster care or community residential setting license holder must not have had a conditional license issued under section 245A.06, or any other licensing sanction issued under section 245A.07 during the prior 24 months based on failure to provide adequate supervision, health care services, or resident safety in the adult foster care home or community residential setting.

(c) A license holder requesting a variance under this subdivision to utilize technology as a component of a plan for alternative overnight supervision may request the commissioner's review in the absence of a county recommendation. Upon receipt of such a request from a license holder, the commissioner shall review the variance request with the county.

~~(d) A variance granted by the commissioner according to this subdivision before January 1, 2014, to a license holder for an adult foster care home must transfer with the license when the license converts to a community residential setting license under chapter 245D. The~~

~~terms and conditions of the variance remain in effect as approved at the time the variance was granted.~~

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 16. Minnesota Statutes 2022, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and private agencies that have been designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04 and background studies for family child care under chapter 245C; to recommend denial of applicants under section 245A.05; to issue correction orders, to issue variances, and recommend a conditional license under section 245A.06; or to recommend suspending or revoking a license or issuing a fine under section 245A.07, shall comply with rules and directives of the commissioner governing those functions and with this section. The following variances are excluded from the delegation of variance authority and may be issued only by the commissioner:

(1) dual licensure of family child care and family child foster care, dual licensure of family child foster care and family adult foster care, dual licensure of child foster residence setting and community residential setting, and dual licensure of family adult foster care and family child care;

(2) adult foster care maximum capacity;

(3) adult foster care minimum age requirement;

(4) child foster care maximum age requirement;

(5) variances regarding disqualified individuals except that, before the implementation of NETStudy 2.0, county agencies may issue variances under section 245C.30 regarding disqualified individuals when the county is responsible for conducting a consolidated reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and (b), of a county maltreatment determination and a disqualification based on serious or recurring maltreatment;

(6) the required presence of a caregiver in the adult foster care residence during normal sleeping hours;

(7) variances to requirements relating to chemical use problems of a license holder or a household member of a license holder; and

(8) variances to section 245A.53 for a time-limited period. If the commissioner grants a variance under this clause, the license holder must provide notice of the variance to all parents and guardians of the children in care.

Except as provided in section 245A.14, subdivision 4, paragraph (e), a county agency must not grant a license holder a variance to exceed the maximum allowable family child care license capacity of 14 children.

(b) A county agency that has been designated by the commissioner to issue family child care variances must:

(1) publish the county agency's policies and criteria for issuing variances on the county's public website and update the policies as necessary; and

(2) annually distribute the county agency's policies and criteria for issuing variances to all family child care license holders in the county.

(c) Before the implementation of NETStudy 2.0, county agencies must report information about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision 2, paragraphs (a) and (b), and variances granted under paragraph (a), clause (5), to the commissioner at least monthly in a format prescribed by the commissioner.

(d) For family child care programs, the commissioner shall require a county agency to conduct one unannounced licensing review at least annually.

(e) For family adult day services programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

(f) A license issued under this section may be issued for up to two years.

(g) During implementation of chapter 245D, the commissioner shall consider:

(1) the role of counties in quality assurance;

(2) the duties of county licensing staff; and

(3) the possible use of joint powers agreements, according to section 471.59, with counties through which some licensing duties under chapter 245D may be delegated by the commissioner to the counties.

Any consideration related to this paragraph must meet all of the requirements of the corrective action plan ordered by the federal Centers for Medicare and Medicaid Services.

(h) Licensing authority specific to section 245D.06, subdivisions 5, 6, 7, and 8, or successor provisions; and section 245D.061 or successor provisions, for family child foster

care programs providing out-of-home respite, as identified in section 245D.03, subdivision 1, paragraph (b), clause (1), is excluded from the delegation of authority to county and private agencies.

(i) A county agency shall report to the commissioner, in a manner prescribed by the commissioner, the following information for a licensed family child care program:

(1) the results of each licensing review completed, including the date of the review, and any licensing correction order issued;

(2) any death, serious injury, or determination of substantiated maltreatment; and

(3) any fires that require the service of a fire department within 48 hours of the fire. The information under this clause must also be reported to the state fire marshal within two business days of receiving notice from a licensed family child care provider.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 17. Minnesota Statutes 2022, section 245D.03, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** (a) The commissioner shall regulate the provision of home and community-based services to persons with disabilities and persons age 65 and older pursuant to this chapter. The licensing standards in this chapter govern the provision of basic support services and intensive support services.

(b) Basic support services provide the level of assistance, supervision, and care that is necessary to ensure the health and welfare of the person and do not include services that are specifically directed toward the training, treatment, habilitation, or rehabilitation of the person. Basic support services include:

(1) in-home and out-of-home respite care services as defined in section 245A.02, subdivision 15, and under the brain injury, community alternative care, community access for disability inclusion, developmental disabilities, and elderly waiver plans, excluding out-of-home respite care provided to children in a family child foster care home licensed under Minnesota Rules, parts 2960.3000 to 2960.3100, when the child foster care license holder complies with the requirements under section 245D.06, subdivisions 5, 6, 7, and 8, or successor provisions; and section 245D.061 or successor provisions, which must be stipulated in the statement of intended use required under Minnesota Rules, part 2960.3000, subpart 4;

(2) adult companion services as defined under the ~~brain injury, community access for disability inclusion, community alternative care, and~~ elderly waiver ~~plans~~ plan, excluding

adult companion services provided under the Corporation for National and Community Services Senior Companion Program established under the Domestic Volunteer Service Act of 1973, Public Law 98-288;

~~(3) personal support as defined under the developmental disabilities waiver plan;~~

~~(4)~~ (3) 24-hour emergency assistance, personal emergency response as defined under the community access for disability inclusion and developmental disabilities waiver plans;

~~(5)~~ (4) night supervision services as defined under the brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans;

~~(6)~~ (5) homemaker services as defined under the community access for disability inclusion, brain injury, community alternative care, developmental disabilities, and elderly waiver plans, excluding providers licensed by the Department of Health under chapter 144A and those providers providing cleaning services only;

~~(7)~~ (6) individual community living support under section 256S.13; and

~~(8)~~ (7) individualized home supports without training services as defined under the brain injury, community alternative care, and community access for disability inclusion, and developmental disabilities waiver plans.

(c) Intensive support services provide assistance, supervision, and care that is necessary to ensure the health and welfare of the person and services specifically directed toward the training, habilitation, or rehabilitation of the person. Intensive support services include:

(1) intervention services, including:

(i) positive support services as defined under the brain injury and community access for disability inclusion, community alternative care, and developmental disabilities waiver plans;

(ii) in-home or out-of-home crisis respite services as defined under the brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans; and

(iii) specialist services as defined under the current brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans;

(2) in-home support services, including:

~~(i) in-home family support and supported living services as defined under the developmental disabilities waiver plan;~~

~~(ii) independent living services training as defined under the brain injury and community access for disability inclusion waiver plans;~~

~~(iii)~~ (i) semi-independent living services;

~~(iv)~~ (ii) individualized home support with training services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans; and

~~(v)~~ (iii) individualized home support with family training services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans;

(3) residential supports and services, including:

~~(i) supported living services as defined under the developmental disabilities waiver plan provided in a family or corporate child foster care residence, a family adult foster care residence, a community residential setting, or a supervised living facility;~~

~~(ii) foster care services as defined in the brain injury, community alternative care, and community access for disability inclusion waiver plans provided in a family or corporate child foster care residence, a family adult foster care residence, or a community residential setting;~~

~~(iii)~~ (i) community residential services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans provided in a corporate child foster care residence, a community residential setting, or a supervised living facility;

~~(iv)~~ (ii) family residential services as defined in the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans provided in a family child foster care residence or a family adult foster care residence; and

~~(v)~~ (iii) residential services provided to more than four persons with developmental disabilities in a supervised living facility, including ICFs/DD;

(4) day services, including:

~~(i) structured day services as defined under the brain injury waiver plan;~~

~~(ii)~~ (i) day services under sections 252.41 to 252.46, and as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans; and

~~(iii) day training and habilitation services under sections 252.41 to 252.46, and as defined under the developmental disabilities waiver plan; and~~

~~(iv)~~ (ii) prevocational services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans; and

(5) employment exploration services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans;

(6) employment development services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans;

(7) employment support services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans; and

(8) integrated community support as defined under the brain injury and community access for disability inclusion waiver plans beginning January 1, 2021, and community alternative care and developmental disabilities waiver plans beginning January 1, 2023.

Sec. 18. Minnesota Statutes 2022, section 246.0135, is amended to read:

246.0135 OPERATION OF REGIONAL TREATMENT CENTERS.

(a) The commissioner of human services is prohibited from closing any regional treatment center or state-operated nursing home or any program at any of the regional treatment centers or state-operated nursing homes, without specific legislative authorization. ~~For persons with developmental disabilities who move from one regional treatment center to another regional treatment center, the provisions of section 256B.092, subdivision 10, must be followed for both the discharge from one regional treatment center and admission to another regional treatment center, except that the move is not subject to the consensus requirement of section 256B.092, subdivision 10, paragraph (b).~~

(b) Prior to closing or downsizing a regional treatment center, the commissioner of human services shall be responsible for assuring that community-based alternatives developed

in response are adequate to meet the program needs identified by each county within the catchment area and do not require additional local county property tax expenditures.

(c) The nonfederal share of the cost of alternative treatment or care developed as the result of the closure of a regional treatment center, including costs associated with fulfillment of responsibilities under chapter 253B shall be paid from state funds appropriated for purposes specified in section 246.013.

(d) The commissioner may not divert state funds used for providing for care or treatment of persons residing in a regional treatment center for purposes unrelated to the care and treatment of such persons.

Sec. 19. Minnesota Statutes 2022, section 254A.035, subdivision 2, is amended to read:

Subd. 2. **Membership terms, compensation, removal and expiration.** The membership of this council shall be composed of 17 persons who are American Indians and who are appointed by the commissioner. The commissioner shall appoint one representative from each of the following groups: Red Lake Band of Chippewa Indians; Fond du Lac Band, Minnesota Chippewa Tribe; Grand Portage Band, Minnesota Chippewa Tribe; Leech Lake Band, Minnesota Chippewa Tribe; Mille Lacs Band, Minnesota Chippewa Tribe; Bois Forte Band, Minnesota Chippewa Tribe; White Earth Band, Minnesota Chippewa Tribe; Lower Sioux Indian Reservation; Prairie Island Sioux Indian Reservation; Shakopee Mdewakanton Sioux Indian Reservation; Upper Sioux Indian Reservation; International Falls Northern Range; Duluth Urban Indian Community; and two representatives from the Minneapolis Urban Indian Community and two from the St. Paul Urban Indian Community. The terms, compensation, and removal of American Indian Advisory Council members shall be as provided in section 15.059. ~~The council expires June 30, 2023.~~

Sec. 20. Minnesota Statutes 2022, section 254B.05, subdivision 1a, is amended to read:

Subd. 1a. **Room and board provider requirements.** (a) Effective January 1, 2000, vendors of room and board are eligible for behavioral health fund payment if the vendor:

(1) has rules prohibiting residents bringing chemicals into the facility or using chemicals while residing in the facility and provide consequences for infractions of those rules;

(2) is determined to meet applicable health and safety requirements;

(3) is not a jail or prison;

(4) is not concurrently receiving funds under chapter 256I for the recipient;

(5) admits individuals who are 18 years of age or older;

(6) is registered as a board and lodging or lodging establishment according to section 157.17;

(7) has awake staff on site ~~24 hours per day~~ whenever a client is present;

(8) has staff who are at least 18 years of age and meet the requirements of section 245G.11, subdivision 1, paragraph (b);

(9) has emergency behavioral procedures that meet the requirements of section 245G.16;

(10) meets the requirements of section 245G.08, subdivision 5, if administering medications to clients;

(11) meets the abuse prevention requirements of section 245A.65, including a policy on fraternization and the mandatory reporting requirements of section 626.557;

(12) documents coordination with the treatment provider to ensure compliance with section 254B.03, subdivision 2;

(13) protects client funds and ensures freedom from exploitation by meeting the provisions of section 245A.04, subdivision 13;

(14) has a grievance procedure that meets the requirements of section 245G.15, subdivision 2; and

(15) has sleeping and bathroom facilities for men and women separated by a door that is locked, has an alarm, or is supervised by awake staff.

(b) Programs licensed according to Minnesota Rules, chapter 2960, are exempt from paragraph (a), clauses (5) to (15).

(c) Programs providing children's mental health crisis admissions and stabilization under section 245.4882, subdivision 6, are eligible vendors of room and board.

(d) Licensed programs providing intensive residential treatment services or residential crisis stabilization services pursuant to section 256B.0622 or 256B.0624 are eligible vendors of room and board and are exempt from paragraph (a), clauses (6) to (15).

(e) A vendor that is not licensed as a residential treatment program must have a policy to address staffing coverage when a client may unexpectedly need to be present at the room and board site.

Sec. 21. Minnesota Statutes 2022, section 254B.05, subdivision 5, is amended to read:

Subd. 5. **Rate requirements.** (a) The commissioner shall establish rates for substance use disorder services and service enhancements funded under this chapter.

(b) Eligible substance use disorder treatment services include:

(1) outpatient treatment services that are licensed according to sections 245G.01 to 245G.17, or applicable tribal license;

(2) comprehensive assessments provided according to sections 245.4863, paragraph (a), and 245G.05;

(3) care coordination services provided according to section 245G.07, subdivision 1, paragraph (a), clause (5);

(4) peer recovery support services provided according to section 245G.07, subdivision 2, clause (8);

(5) on July 1, 2019, or upon federal approval, whichever is later, withdrawal management services provided according to chapter 245F;

(6) substance use disorder treatment services with medications for opioid use disorder that are licensed according to sections 245G.01 to 245G.17 and 245G.22, or applicable tribal license;

(7) substance use disorder treatment with medications for opioid use disorder plus enhanced treatment services that meet the requirements of clause (6) and provide nine hours of clinical services each week;

(8) high, medium, and low intensity residential treatment services that are licensed according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license which provide, respectively, 30, 15, and five hours of clinical services each week;

(9) hospital-based treatment services that are licensed according to sections 245G.01 to 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to 144.56;

(10) adolescent treatment programs that are licensed as outpatient treatment programs according to sections 245G.01 to 245G.18 or as residential treatment programs according to Minnesota Rules, parts 2960.0010 to 2960.0220, and 2960.0430 to 2960.0490, or applicable tribal license;

(11) high-intensity residential treatment services that are licensed according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license, which provide 30 hours of

clinical services each week provided by a state-operated vendor or to clients who have been civilly committed to the commissioner, present the most complex and difficult care needs, and are a potential threat to the community; and

(12) room and board facilities that meet the requirements of subdivision 1a.

(c) The commissioner shall establish higher rates for programs that meet the requirements of paragraph (b) and one of the following additional requirements:

(1) programs that serve parents with their children if the program:

(i) provides on-site child care during the hours of treatment activity that:

(A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter 9503; or

(B) ~~meets the licensure exclusion criteria of section 245A.03, subdivision 2, paragraph (a), clause (6), and meets the requirements~~ is licensed under ~~section~~ chapter 245A and sections 245G.01 to 245G.19~~, subdivision 4~~; or

(ii) arranges for off-site child care during hours of treatment activity at a facility that is licensed under chapter 245A as:

(A) a child care center under Minnesota Rules, chapter 9503; or

(B) a family child care home under Minnesota Rules, chapter 9502;

(2) culturally specific or culturally responsive programs as defined in section 254B.01, subdivision 4a;

(3) disability responsive programs as defined in section 254B.01, subdivision 4b;

(4) programs that offer medical services delivered by appropriately credentialed health care staff in an amount equal to two hours per client per week if the medical needs of the client and the nature and provision of any medical services provided are documented in the client file; or

(5) programs that offer services to individuals with co-occurring mental health and substance use disorder problems if:

(i) the program meets the co-occurring requirements in section 245G.20;

(ii) 25 percent of the counseling staff are licensed mental health professionals under section 245I.04, subdivision 2, or are students or licensing candidates under the supervision of a licensed alcohol and drug counselor supervisor and mental health professional under section 245I.04, subdivision 2, except that no more than 50 percent of the mental health

staff may be students or licensing candidates with time documented to be directly related to provisions of co-occurring services;

(iii) clients scoring positive on a standardized mental health screen receive a mental health diagnostic assessment within ten days of admission;

(iv) the program has standards for multidisciplinary case review that include a monthly review for each client that, at a minimum, includes a licensed mental health professional and licensed alcohol and drug counselor, and their involvement in the review is documented;

(v) family education is offered that addresses mental health and substance use disorder and the interaction between the two; and

(vi) co-occurring counseling staff shall receive eight hours of co-occurring disorder training annually.

(d) In order to be eligible for a higher rate under paragraph (c), clause (1), a program that provides arrangements for off-site child care must maintain current documentation at the substance use disorder facility of the child care provider's current licensure to provide child care services. ~~Programs that provide child care according to paragraph (c), clause (1), must be deemed in compliance with the licensing requirements in section 245G.19.~~

(e) Adolescent residential programs that meet the requirements of Minnesota Rules, parts 2960.0430 to 2960.0490 and 2960.0580 to 2960.0690, are exempt from the requirements in paragraph (c), clause (4), items (i) to (iv).

(f) Subject to federal approval, substance use disorder services that are otherwise covered as direct face-to-face services may be provided via telehealth as defined in section 256B.0625, subdivision 3b. The use of telehealth to deliver services must be medically appropriate to the condition and needs of the person being served. Reimbursement shall be at the same rates and under the same conditions that would otherwise apply to direct face-to-face services.

(g) For the purpose of reimbursement under this section, substance use disorder treatment services provided in a group setting without a group participant maximum or maximum client to staff ratio under chapter 245G shall not exceed a client to staff ratio of 48 to one. At least one of the attending staff must meet the qualifications as established under this chapter for the type of treatment service provided. A recovery peer may not be included as part of the staff ratio.

(h) Payment for outpatient substance use disorder services that are licensed according to sections 245G.01 to 245G.17 is limited to six hours per day or 30 hours per week unless prior authorization of a greater number of hours is obtained from the commissioner.

Sec. 22. Minnesota Statutes 2022, section 256.01, is amended by adding a subdivision to read:

Subd. 12b. **Department of Human Services systemic critical incident review team.** (a) The commissioner may establish a Department of Human Services systemic critical incident review team to review critical incidents reported as required under section 626.557 for which the Department of Human Services is responsible under section 626.5572, subdivision 13; chapter 245D; or Minnesota Rules, chapter 9544. When reviewing a critical incident, the systemic critical incident review team shall identify systemic influences to the incident rather than determine the culpability of any actors involved in the incident. The systemic critical incident review may assess the entire critical incident process from the point of an entity reporting the critical incident through the ongoing case management process. Department staff shall lead and conduct the reviews and may utilize county staff as reviewers. The systemic critical incident review process may include but is not limited to:

(1) data collection about the incident and actors involved. Data may include the relevant critical services; the service provider's policies and procedures applicable to the incident; the coordinated service and support plan as defined in section 245D.02, subdivision 4b, for the person receiving services; or an interview of an actor involved in the critical incident or the review of the critical incident. Actors may include:

(i) staff of the provider agency;

(ii) lead agency staff administering home and community-based services delivered by the provider;

(iii) Department of Human Services staff with oversight of home and community-based services;

(iv) Department of Health staff with oversight of home and community-based services;

(v) members of the community including advocates, legal representatives, health care providers, pharmacy staff, or others with knowledge of the incident or the actors in the incident; and

(vi) staff from the Office of the Ombudsman for Mental Health and Developmental Disabilities;

(2) systemic mapping of the critical incident. The team conducting the systemic mapping of the incident may include any actors identified in clause (1), designated representatives of other provider agencies, regional teams, and representatives of the local regional quality council identified in section 256B.097; and

(3) analysis of the case for systemic influences.

Data collected by the critical incident review team shall be aggregated and provided to regional teams, participating regional quality councils, and the commissioner. The regional teams and quality councils shall analyze the data and make recommendations to the commissioner regarding systemic changes that would decrease the number and severity of critical incidents in the future or improve the quality of the home and community-based service system.

(b) Cases selected for the systemic critical incident review process shall be selected by a selection committee among the following critical incident categories:

(1) cases of caregiver neglect identified in section 626.5572, subdivision 17;

(2) cases involving financial exploitation identified in section 626.5572, subdivision 9;

(3) incidents identified in section 245D.02, subdivision 11;

(4) behavior interventions identified in Minnesota Rules, part 9544.0110; and

(5) service terminations reported to the department in accordance with section 245D.10, subdivision 3a.

(c) The systemic critical incident review under this section shall not replace the process for screening or investigating cases of alleged maltreatment of an adult under section 626.557. The department may select cases for systemic critical incident review, under the jurisdiction of the commissioner, reported for suspected maltreatment and closed following initial or final disposition.

(d) The proceedings and records of the review team are confidential data on individuals or protected nonpublic data as defined in section 13.02, subdivisions 3 and 13. Data that document a person's opinions formed as a result of the review are not subject to discovery or introduction into evidence in a civil or criminal action against a professional, the state, or a county agency arising out of the matters that the team is reviewing. Information, documents, and records otherwise available from other sources are not immune from discovery or use in a civil or criminal action solely because the information, documents, and records were assessed or presented during proceedings of the review team. A person who presented information before the systemic critical incident review team or who is a member of the team shall not be prevented from testifying about matters within the person's knowledge. In a civil or criminal proceeding, a person shall not be questioned about opinions formed by the person as a result of the review.

(e) By October 1 of each year, the commissioner shall prepare an annual public report containing the following information:

(1) the number of cases reviewed under each critical incident category identified in paragraph (b) and a geographical description of where cases under each category originated;

(2) an aggregate summary of the systemic themes from the critical incidents examined by the critical incident review team during the previous year;

(3) a synopsis of the conclusions, incident analyses, or exploratory activities taken in regard to the critical incidents examined by the critical incident review team; and

(4) recommendations made to the commissioner regarding systemic changes that could decrease the number and severity of critical incidents in the future or improve the quality of the home and community-based service system.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 23. Minnesota Statutes 2022, section 256B.0911, subdivision 23, is amended to read:

Subd. 23. **MnCHOICES reassessments; option for alternative and self-directed waiver services.** (a) At the time of reassessment, the certified assessor shall assess a person receiving waiver residential supports and services and currently residing in a setting listed in clauses (1) to (5) to determine if the person would prefer to be served in a community-living setting as defined in section ~~256B.49, subdivision 23~~ 256B.492, subdivision 1, paragraph (b), or in a setting not controlled by a provider, or to receive integrated community supports as described in section 245D.03, subdivision 1, paragraph (c), clause (8). The certified assessor shall offer the person through a person-centered planning process the option to receive alternative housing and service options. This paragraph applies to those currently residing in a:

(1) community residential setting;

(2) licensed adult foster care home that is either not the primary residence of the license holder or in which the license holder is not the primary caregiver;

(3) family adult foster care residence;

(4) customized living setting; or

(5) supervised living facility.

(b) At the time of reassessment, the certified assessor shall assess each person receiving waiver day services to determine if that person would prefer to receive employment services

as described in section 245D.03, subdivision 1, paragraph (c), clauses (5) to (7). The certified assessor shall describe to the person through a person-centered planning process the option to receive employment services.

(c) At the time of reassessment, the certified assessor shall assess each person receiving non-self-directed waiver services to determine if that person would prefer an available service and setting option that would permit self-directed services and supports. The certified assessor shall describe to the person through a person-centered planning process the option to receive self-directed services and supports.

EFFECTIVE DATE. This section is effective upon federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 24. Minnesota Statutes 2022, section 256B.092, subdivision 10, is amended to read:

Subd. 10. **Admission of persons to and discharge of persons from regional treatment centers.** (a) Prior to the admission of a person to a regional treatment center program for persons with developmental disabilities, the case manager shall make efforts to secure community-based alternatives. If these alternatives are rejected by the person, the person's legal guardian or conservator, or the county agency in favor of a regional treatment center placement, the case manager shall document the reasons why the alternatives were rejected.

~~(b) When discharge of a person from a regional treatment center to a community-based service is proposed, the case manager shall convene the screening team and in addition to members of the team identified in subdivision 7, the case manager shall invite to the meeting the person's parents and near relatives, and the ombudsman established under section 245.92 if the person is under public guardianship. The meeting shall be convened at a time and place that allows for participation of all team members and invited individuals who choose to attend. The notice of the meeting shall inform the person's parents and near relatives about the screening team process, and their right to request a review if they object to the discharge, and shall provide the names and functions of advocacy organizations, and information relating to assistance available to individuals interested in establishing private guardianships under the provisions of section 252A.03. The screening team meeting shall be conducted according to subdivisions 7 and 8. Discharge of the person shall not go forward without consensus of the screening team.~~

~~(c) The results of the screening team meeting and individual service plan developed according to subdivision 1b shall be used by the interdisciplinary team assembled in accordance with Code of Federal Regulations, title 42, section 483.440, to evaluate and make recommended modifications to the individual service plan as proposed. The individual~~

~~service plan shall specify postplacement monitoring to be done by the case manager according to section 253B.15, subdivision 1a.~~

~~(d) Notice of the meeting of the interdisciplinary team assembled in accordance with Code of Federal Regulations, title 42, section 483.440, shall be sent to all team members 15 days prior to the meeting, along with a copy of the proposed individual service plan. The case manager shall request that proposed providers visit the person and observe the person's program at the regional treatment center prior to the discharge. Whenever possible, preplacement visits by the person to proposed service sites should also be scheduled in advance of the meeting. Members of the interdisciplinary team assembled for the purpose of discharge planning shall include but not be limited to the case manager, the person, the person's legal guardian or conservator, parents and near relatives, the person's advocate, representatives of proposed community service providers, representatives of the regional treatment center residential and training and habilitation services, a registered nurse if the person has overriding medical needs that impact the delivery of services, and a qualified developmental disability professional specializing in behavior management if the person to be discharged has behaviors that may result in injury to self or others. The case manager may also invite other service providers who have expertise in an area related to specific service needs of the person to be discharged.~~

~~(e) The interdisciplinary team shall review the proposed plan to assure that it identifies service needs, availability of services, including support services, and the proposed providers' abilities to meet the service needs identified in the person's individual service plan. The interdisciplinary team shall review the most recent licensing reports of the proposed providers and corrective action taken by the proposed provider, if required. The interdisciplinary team shall review the current individual program plans for the person and agree to an interim individual program plan to be followed for the first 30 days in the person's new living arrangement. The interdisciplinary team may suggest revisions to the service plan, and all team suggestions shall be documented. If the person is to be discharged to a community intermediate care facility for persons with developmental disabilities, the team shall give preference to facilities with a licensed capacity of 15 or fewer beds. Thirty days prior to the date of discharge, the case manager shall send a final copy of the service plan to all invited members of the team, the ombudsman, if the person is under public guardianship, and the advocacy system established under United States Code, title 42, section 6042.~~

(b) Assessment and support planning must be completed in accordance with requirements identified in section 256B.0911.

~~(f)~~ (c) No discharge shall take place until disputes are resolved under section 256.045, subdivision 4a, or until a review by the commissioner is completed upon request of the chief executive officer or program director of the regional treatment center, or the county agency. For persons under public guardianship, the ombudsman may request a review or hearing under section 256.045. ~~Notification schedules required under this subdivision may be waived by members of the team when judged urgent and with agreement of the parents or near relatives participating as members of the interdisciplinary team.~~

Sec. 25. Minnesota Statutes 2022, section 256B.093, subdivision 1, is amended to read:

Subdivision 1. **State traumatic brain injury program.** (a) The commissioner of human services shall:

(1) maintain a statewide traumatic brain injury program;

(2) supervise and coordinate services and policies for persons with traumatic brain injuries;

(3) contract with qualified agencies or employ staff to provide statewide administrative case management and consultation;

(4) maintain an advisory committee to provide recommendations in reports to the commissioner regarding program and service needs of persons with brain injuries;

(5) investigate the need for the development of rules or statutes for the brain injury home and community-based services waiver; and

(6) investigate present and potential models of service coordination which can be delivered at the local level.

(b) The advisory committee required by paragraph (a), clause (4), must consist of no fewer than ten members and no more than 30 members. The commissioner shall appoint all advisory committee members to one- or two-year terms and appoint one member as chair. ~~The advisory committee expires on June 30, 2023.~~

Sec. 26. Minnesota Statutes 2022, section 256B.439, subdivision 3c, is amended to read:

Subd. 3c. **Contact and demographic information for consumer surveys for home and community-based services.** For purposes of conducting the consumer surveys under subdivision 3a, the commissioner may request contact information of clients and associated key representatives and aggregate, de-identified demographic information of clients served by the provider. The commissioner may request the following demographic information:

(1) age; (2) race; (3) ethnicity; and (4) gender identity. Providers must furnish the contact and demographic information available to the provider and must provide notice to clients and associated key representatives that their contact information and aggregate demographic information has been provided to the commissioner.

Sec. 27. Minnesota Statutes 2022, section 256B.439, subdivision 3d, is amended to read:

Subd. 3d. **Resident experience survey and family survey for assisted living facilities.** The commissioner shall develop and administer a resident experience survey for assisted living facility residents and a family survey for families of assisted living facility residents. Money appropriated to the commissioner to administer the resident experience survey and family survey is available in either fiscal year of the biennium in which it is appropriated. Assisted living facilities licensed under chapter 144G must participate in the surveys when the commissioner requests their participation.

Sec. 28. Minnesota Statutes 2022, section 256B.492, is amended to read:

256B.492 HOME AND COMMUNITY-BASED SETTINGS FOR PEOPLE WITH DISABILITIES.

Subdivision 1. **Definitions.** (a) For the purposes of this section the following terms have the meanings given.

(b) "Community-living setting" means a single-family home or multifamily dwelling unit where a service recipient or a service recipient's family owns or rents and maintains control over the individual unit as demonstrated by a lease agreement. Community-living setting does not include a home or dwelling unit that the service provider owns, operates, or leases or in which the service provider has a direct or indirect financial interest.

(c) "Controlling individual" has the meaning given in section 245A.02, subdivision 5a.

(d) "License holder" has the meaning given in section 245A.02, subdivision 9.

Subd. 2. **Home and community-based waiver settings.** (a) Individuals receiving services under a home and community-based waiver under section 256B.092 or 256B.49 may receive services in the following settings:

(1) home and community-based settings that comply with all requirements identified by the federal Centers for Medicare and Medicaid Services in the Code of Federal Regulations, title 42, section 441.301(c), and with the requirements of the federally approved transition plan and waiver plans for each home and community-based services waiver; and

(2) settings required by the Housing Opportunities for Persons with AIDS Program.

(b) The settings in paragraph (a) must not have the qualities of an institution which include, but are not limited to: regimented meal and sleep times, limitations on visitors, and lack of privacy. Restrictions agreed to and documented in the person's individual service plan shall not result in a residence having the qualities of an institution as long as the restrictions for the person are not imposed upon others in the same residence and are the least restrictive alternative, imposed for the shortest possible time to meet the person's needs.

Subd. 3. **Community-living settings.** (a) Individuals receiving services under a home and community-based waiver under section 256B.092 or 256B.49 may receive services in community-living settings. Community-living settings must meet the requirements of subdivision 2, paragraph (a), clause (1).

(b) For the purposes of this section, direct financial interest exists if payment passes between the license holder or any controlling individual of a licensed program and the service recipient or an entity acting on the service recipient's behalf for the purpose of obtaining or maintaining a dwelling. For the purposes of this section, indirect financial interest exists if the license holder or any controlling individual of a licensed program has an ownership or investment interest in the entity that owns, operates, leases, or otherwise receives payment from the service recipient or an entity acting on the service recipient's behalf for the purpose of obtaining or maintaining a dwelling.

(c) To ensure a service recipient or the service recipient's family maintains control over the home or dwelling unit, community-living settings are subject to the following requirements:

(1) service recipients must not be required to receive services or share services;

(2) service recipients must not be required to have a disability or specific diagnosis to live in the community-living setting;

(3) service recipients may hire service providers of their choice;

(4) service recipients may choose whether to share their household and with whom;

(5) the home or multifamily dwelling unit must include living, sleeping, bathing, and cooking areas;

(6) service recipients must have lockable access and egress;

(7) service recipients must be free to receive visitors and leave the settings at times and for durations of their own choosing;

(8) leases must comply with chapter 504B;

(9) landlords must not charge different rents to tenants who are receiving home and community-based services; and

(10) access to the greater community must be easily facilitated based on the service recipient's needs and preferences.

(d) Nothing in this section prohibits a service recipient from having another person or entity not affiliated with the service provider cosign a lease. Nothing in this section prohibits a service recipient, during any period in which a service provider has cosigned the service recipient's lease, from modifying services with an existing cosigning service provider and, subject to the approval of the landlord, maintaining a lease cosigned by the service provider. Nothing in this section prohibits a service recipient, during any period in which a service provider has cosigned the service recipient's lease, from terminating services with the cosigning service provider, receiving services from a new service provider, or, subject to the approval of the landlord, maintaining a lease cosigned by the new service provider.

(e) A lease cosigned by a service provider meets the requirements of paragraph (b) if the service recipient and service provider develop and implement a transition plan which must provide that, within two years of cosigning the initial lease, the service provider shall transfer the lease to the service recipient and other cosigners, if any.

(f) In the event the landlord has not approved the transfer of the lease within two years of the service provider cosigning the initial lease, the service provider must submit a time-limited extension request to the commissioner of human services to continue the cosigned lease arrangement. The extension request must include:

(1) the reason the landlord denied the transfer;

(2) the plan to overcome the denial to transfer the lease;

(3) the length of time needed to successfully transfer the lease, not to exceed an additional two years;

(4) a description of how the transition plan was followed, what occurred that led to the landlord denying the transfer, and what changes in circumstances or condition, if any, the service recipient experienced; and

(5) a revised transition plan to transfer the cosigned lease between the service provider and the service recipient to the service recipient.

(g) The commissioner must approve an extension under paragraph (f) within sufficient time to ensure the continued occupancy by the service recipient.

EFFECTIVE DATE. This section is effective upon federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 29. Minnesota Statutes 2022, section 256B.493, subdivision 2a, is amended to read:

Subd. 2a. **Closure process.** (a) The commissioner shall work with stakeholders to establish a process for the application, review, approval, and implementation of setting closures. Voluntary proposals from license holders for consolidation and closure of adult foster care or community residential settings are encouraged. Whether voluntary or involuntary, all closure plans must include:

(1) a description of the proposed closure plan, identifying the home or homes and occupied beds;

(2) the proposed timetable for the proposed closure, including the proposed dates for notification to people living there and the affected lead agencies, commencement of closure, and completion of closure;

(3) the proposed relocation plan jointly developed by the counties of financial responsibility, the people living there and their legal representatives, if any, who wish to continue to receive services from the provider, and the providers for current residents of any adult foster care home designated for closure; and

(4) documentation from the provider in a format approved by the commissioner that all the adult foster care homes or community residential settings receiving a planned closure rate adjustment under the plan have accepted joint and severable for recovery of overpayments under section 256B.0641, subdivision 2, for the facilities designated for closure under this plan.

(b) The commissioner shall give first priority to closure plans which:

(1) target counties and geographic areas which have:

(i) need for other types of services;

(ii) need for specialized services;

(iii) higher than average per capita use of licensed corporate foster care or community residential settings; or

(iv) residents not living in the geographic area of their choice;

(2) demonstrate savings of medical assistance expenditures; and

(3) demonstrate that alternative services are based on the recipient's choice of provider and are consistent with federal law, state law, and federally approved waiver plans.

The commissioner shall also consider any information provided by people using services, their legal representatives, family members, or the lead agency on the impact of the planned closure on people and the services they need.

~~(c) For each closure plan approved by the commissioner, a contract must be established between the commissioner, the counties of financial responsibility, and the participating license holder.~~

Sec. 30. Minnesota Statutes 2022, section 256B.493, subdivision 4, is amended to read:

Subd. 4. **Review and approval process.** (a) To be considered for approval, an application must include:

(1) a description of the proposed closure plan, which must identify the home or homes and occupied beds for which a planned closure rate adjustment is requested;

(2) the proposed timetable for any proposed closure, including the proposed dates for notification to residents and the affected lead agencies, commencement of closure, and completion of closure;

(3) the proposed relocation plan jointly developed by the counties of financial responsibility, the residents and their legal representatives, if any, who wish to continue to receive services from the provider, and the providers for current residents of any adult foster care home designated for closure; and

(4) documentation in a format approved by the commissioner that all the adult foster care homes receiving a planned closure rate adjustment under the plan have accepted joint and several liability for recovery of overpayments under section 256B.0641, subdivision 2, for the facilities designated for closure under this plan.

(b) In reviewing and approving closure proposals, the commissioner shall give first priority to proposals that:

(1) target counties and geographic areas which have:

(i) need for other types of services;

(ii) need for specialized services;

(iii) higher than average per capita use of foster care settings where the license holder does not reside; or

(iv) residents not living in the geographic area of their choice;

(2) demonstrate savings of medical assistance expenditures; and

(3) demonstrate that alternative services are based on the recipient's choice of provider and are consistent with federal law, state law, and federally approved waiver plans.

The commissioner shall also consider any information provided by service recipients, their legal representatives, family members, or the lead agency on the impact of the planned closure on the recipients and the services they need.

(c) The commissioner shall select proposals that best meet the criteria established in this subdivision for planned closure of adult foster care settings. The commissioner shall notify license holders of the selections approved by the commissioner.

~~(d) For each proposal approved by the commissioner, a contract must be established between the commissioner, the counties of financial responsibility, and the participating license holder.~~

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 31. Minnesota Statutes 2022, section 256S.202, subdivision 1, is amended to read:

Subdivision 1. **Customized living monthly service rate limits.** (a) Except for a participant assigned to case mix classification L, as described in section 256S.18, subdivision 1, paragraph (b), the customized living monthly service rate limit shall not exceed 50 percent of the monthly case mix budget cap, ~~less the maintenance needs allowance,~~ adjusted at least annually in the manner described under section 256S.18, subdivisions 5 and 6.

(b) The customized living monthly service rate limit for participants assigned to case mix classification L must be the monthly service rate limit for participants assigned to case mix classification A, reduced by 25 percent.

Sec. 32. Minnesota Statutes 2022, section 524.5-104, is amended to read:

524.5-104 FACILITY OF TRANSFER.

(a) A person who may transfer money or personal property to a minor may do so, as to an amount or value not exceeding the amount allowable as a tax exclusion gift under section 2503(b) of the Internal Revenue Code or a different amount that is approved by the court, by transferring it to:

(1) a person who has the care and custody of the minor and with whom the minor resides;

(2) a guardian of the minor;

(3) a custodian under the Uniform Transfers To Minors Act or custodial trustee under the Uniform Custodial Trust Act;

(4) a financial institution as a deposit in an interest-bearing account or certificate in the sole name of the minor and giving notice of the deposit to the minor; or

(5) an ABLE account. A guardian only has the authority to establish an ABLE account. The guardian may not administer the ABLE account in the guardian's capacity as guardian. The guardian may appoint or name a person to exercise signature authority over an ABLE account, including the individual selected by the eligible individual or the eligible individual's agent under a power of attorney, conservator, spouse, parent, sibling, grandparent, or representative payee, whether an individual or organization, appointed by the Social Security Administration, in that order.

(b) This section does not apply if the person making payment or delivery knows that a conservator has been appointed or that a proceeding for appointment of a conservator of the minor is pending.

(c) A person who transfers money or property in compliance with this section is not responsible for its proper application.

(d) A guardian or other person who receives money or property for a minor under paragraph (a), clause (1) or (2), may only apply it to the support, care, education, health, and welfare of the minor, and may not derive a personal financial benefit except for reimbursement for necessary expenses. Any excess must be preserved for the future support, care, education, health, and welfare of the minor and any balance must be transferred to the minor upon emancipation or attaining majority.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 33. Minnesota Statutes 2022, section 524.5-313, is amended to read:

524.5-313 POWERS AND DUTIES OF GUARDIAN.

(a) A guardian shall be subject to the control and direction of the court at all times and in all things.

(b) The court shall grant to a guardian only those powers necessary to provide for the demonstrated needs of the person subject to guardianship.

(c) The court may appoint a guardian if it determines that all the powers and duties listed in this section are needed to provide for the needs of the incapacitated person. The court may also appoint a guardian if it determines that a guardian is needed to provide for the needs of the incapacitated person through the exercise of some, but not all, of the powers and duties listed in this section. The duties and powers of a guardian or those which the court may grant to a guardian include, but are not limited to:

(1) the power to have custody of the person subject to guardianship and the power to establish a place of abode within or outside the state, except as otherwise provided in this clause. The person subject to guardianship or any interested person may petition the court to prevent or to initiate a change in abode. A person subject to guardianship may not be admitted to a regional treatment center by the guardian except:

(i) after a hearing under chapter 253B;

(ii) for outpatient services; or

(iii) for the purpose of receiving temporary care for a specific period of time not to exceed 90 days in any calendar year;

(2) the duty to provide for the care, comfort, and maintenance needs of the person subject to guardianship, including food, clothing, shelter, health care, social and recreational requirements, and, whenever appropriate, training, education, and habilitation or rehabilitation. The guardian has no duty to pay for these requirements out of personal funds. Whenever possible and appropriate, the guardian should meet these requirements through governmental benefits or services to which the person subject to guardianship is entitled, rather than from the estate of the person subject to guardianship. Failure to satisfy the needs and requirements of this clause shall be grounds for removal of a private guardian, but the guardian shall have no personal or monetary liability;

(3) the duty to take reasonable care of the clothing, furniture, vehicles, and other personal effects of the person subject to guardianship, and, if other property requires protection, the power to seek appointment of a conservator of the estate. The guardian must give notice by mail to interested persons prior to the disposition of the clothing, furniture, vehicles, or other personal effects of the person subject to guardianship. The notice must inform the person of the right to object to the disposition of the property within ten days of the date of mailing and to petition the court for a review of the guardian's proposed actions. Notice of the objection must be served by mail or personal service on the guardian and the person subject to guardianship unless the person subject to guardianship is the objector. The guardian

served with notice of an objection to the disposition of the property may not dispose of the property unless the court approves the disposition after a hearing;

(4)(i) the power to give any necessary consent to enable the person subject to guardianship to receive necessary medical or other professional care, counsel, treatment, or service, except that no guardian may give consent for psychosurgery, electroshock, sterilization, or experimental treatment of any kind unless the procedure is first approved by order of the court as provided in this clause. The guardian shall not consent to any medical care for the person subject to guardianship which violates the known conscientious, religious, or moral belief of the person subject to guardianship;

(ii) a guardian who believes a procedure described in item (i) requiring prior court approval to be necessary for the proper care of the person subject to guardianship, shall petition the court for an order and, in the case of a public guardianship under chapter 252A, obtain the written recommendation of the commissioner of human services. The court shall fix the time and place for the hearing and shall give notice to the person subject to guardianship in such manner as specified in section 524.5-308 and to interested persons. The court shall appoint an attorney to represent the person subject to guardianship who is not represented by counsel, provided that such appointment shall expire upon the expiration of the appeal time for the order issued by the court under this section or the order dismissing a petition, or upon such other time or event as the court may direct. In every case the court shall determine if the procedure is in the best interest of the person subject to guardianship. In making its determination, the court shall consider a written medical report which specifically considers the medical risks of the procedure, whether alternative, less restrictive methods of treatment could be used to protect the best interest of the person subject to guardianship, and any recommendation of the commissioner of human services for a public person subject to guardianship. The standard of proof is that of clear and convincing evidence;

(iii) in the case of a petition for sterilization of a person with developmental disabilities subject to guardianship, the court shall appoint a licensed physician, a psychologist who is qualified in the diagnosis and treatment of developmental disability, and a social worker who is familiar with the social history and adjustment of the person subject to guardianship or the case manager for the person subject to guardianship to examine or evaluate the person subject to guardianship and to provide written reports to the court. The reports shall indicate why sterilization is being proposed, whether sterilization is necessary and is the least intrusive method for alleviating the problem presented, and whether it is in the best interest of the person subject to guardianship. The medical report shall specifically consider the medical risks of sterilization, the consequences of not performing the sterilization, and whether

alternative methods of contraception could be used to protect the best interest of the person subject to guardianship;

(iv) any person subject to guardianship whose right to consent to a sterilization has not been restricted under this section or section 252A.101 may be sterilized only if the person subject to guardianship consents in writing or there is a sworn acknowledgment by an interested person of a nonwritten consent by the person subject to guardianship. The consent must certify that the person subject to guardianship has received a full explanation from a physician or registered nurse of the nature and irreversible consequences of the sterilization;

(v) a guardian or the public guardian's designee who acts within the scope of authority conferred by letters of guardianship under section 252A.101, subdivision 7, and according to the standards established in this chapter or in chapter 252A shall not be civilly or criminally liable for the provision of any necessary medical care, including, but not limited to, the administration of psychotropic medication or the implementation of aversive and deprivation procedures to which the guardian or the public guardian's designee has consented;

(5) in the event there is no duly appointed conservator of the estate of the person subject to guardianship, the guardian shall have the power to approve or withhold approval of any contract, except for necessities, which the person subject to guardianship may make or wish to make;

(6) the duty and power to exercise supervisory authority over the person subject to guardianship in a manner which limits civil rights and restricts personal freedom only to the extent necessary to provide needed care and services. A guardian may not restrict the ability of the person subject to guardianship to communicate, visit, or interact with others, including receiving visitors or making or receiving telephone calls, personal mail, or electronic communications including through social media, or participating in social activities, unless the guardian has good cause to believe restriction is necessary because interaction with the person poses a risk of significant physical, psychological, or financial harm to the person subject to guardianship, and there is no other means to avoid such significant harm. In all cases, the guardian shall provide written notice of the restrictions imposed to the court, to the person subject to guardianship, and to the person subject to restrictions. The person subject to guardianship or the person subject to restrictions may petition the court to remove or modify the restrictions;

(7) if there is no acting conservator of the estate for the person subject to guardianship, the guardian has the power to apply on behalf of the person subject to guardianship for any

assistance, services, or benefits available to the person subject to guardianship through any unit of government;

(8) unless otherwise ordered by the court, the person subject to guardianship retains the right to vote;

(9) the power to establish an ABLE account for a person subject to guardianship or conservatorship. By this provision a guardian only has the authority to establish an ABLE account, but may not administer the ABLE account in the guardian's capacity as guardian. The guardian may appoint or name a person to exercise signature authority over an ABLE account, including the individual selected by the eligible individual or the eligible individual's agent under a power of attorney; conservator; spouse; parent; sibling; grandparent; or representative payee, whether an individual or organization, appointed by the SSA, in that order; and

(10) if there is no conservator appointed for the person subject to guardianship, the guardian has the duty and power to institute suit on behalf of the person subject to guardianship and represent the person subject to guardianship in expungement proceedings, harassment proceedings, and all civil court proceedings, including but not limited to restraining orders, orders for protection, name changes, conciliation court, housing court, family court, probate court, and juvenile court, provided that a guardian may not settle or compromise any claim or debt owed to the estate without court approval.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 34. Laws 2021, First Special Session chapter 7, article 17, section 20, is amended to read:

Sec. 20. **HCBS WORKFORCE DEVELOPMENT GRANT.**

Subdivision 1. **Appropriation.** (a) This act includes $0 in fiscal year 2022 and $5,588,000 in fiscal year 2023 to address challenges related to attracting and maintaining direct care workers who provide home and community-based services for people with disabilities and older adults. The general fund base included in this act for this purpose is $5,588,000 in fiscal year 2024 and $0 in fiscal year 2025.

(b) At least 90 percent of funding for this provision must be directed to workers who earn ~~200~~ 300 percent or less of the most current federal poverty level issued by the United States Department of Health and Human Services.

(c) The commissioner must consult with stakeholders to finalize a report detailing the final plan for use of the funds. The commissioner must publish the report by March 1, 2022, and notify the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance.

Subd. 2. **Public assistance eligibility.** Notwithstanding any law to the contrary, workforce development grant money received under this section is not income, assets, or personal property for purposes of determining eligibility or recertifying eligibility for:

(1) child care assistance programs under Minnesota Statutes, chapter 119B;

(2) general assistance, Minnesota supplemental aid, and food support under Minnesota Statutes, chapter 256D;

(3) housing support under Minnesota Statutes, chapter 256I;

(4) Minnesota family investment program and diversionary work program under Minnesota Statutes, chapter 256J; and

(5) economic assistance programs under Minnesota Statutes, chapter 256P.

Subd. 3. **Medical assistance eligibility.** Notwithstanding any law to the contrary, workforce development grant money received under this section is not income or assets for the purposes of determining eligibility for medical assistance under Minnesota Statutes, section 256B.056, subdivision 1a, paragraph (a); 3; or 3c; or 256B.057, subdivision 3, 3a, or 3b.

Sec. 35. **REPEALER.**

Minnesota Statutes 2022, sections 254B.13, subdivisions 1, 2, 2a, 4, 5, 6, 7, and 8; 254B.16; 256.041, subdivision 10; 256B.49, subdivision 23; and 260.835, subdivision 2, are repealed.

EFFECTIVE DATE. This section is effective the day following final enactment.

ARTICLE 2
SUBSTANCE USE DISORDER DIRECT ACCESS

Section 1. Minnesota Statutes 2022, section 62N.25, subdivision 5, is amended to read:

Subd. 5. **Benefits.** Community integrated service networks must offer the health maintenance organization benefit set, as defined in chapter 62D, and other laws applicable to entities regulated under chapter 62D. Community networks and chemical dependency facilities under contract with a community network shall use the assessment criteria in

~~Minnesota Rules, parts 9530.6600 to 9530.6655,~~ section 245G.05 when assessing enrollees for chemical dependency treatment.

Sec. 2. Minnesota Statutes 2022, section 62Q.1055, is amended to read:

62Q.1055 CHEMICAL DEPENDENCY.

All health plan companies shall use the assessment criteria in ~~Minnesota Rules, parts 9530.6600 to 9530.6655,~~ section 245G.05 when assessing and ~~placing~~ treating enrollees for chemical dependency treatment.

Sec. 3. Minnesota Statutes 2022, section 62Q.47, is amended to read:

62Q.47 ALCOHOLISM, MENTAL HEALTH, AND CHEMICAL DEPENDENCY SERVICES.

(a) All health plans, as defined in section 62Q.01, that provide coverage for alcoholism, mental health, or chemical dependency services, must comply with the requirements of this section.

(b) Cost-sharing requirements and benefit or service limitations for outpatient mental health and outpatient chemical dependency and alcoholism services, except for persons ~~placed in~~ seeking chemical dependency services under ~~Minnesota Rules, parts 9530.6600 to 9530.6655~~ section 245G.05, must not place a greater financial burden on the insured or enrollee, or be more restrictive than those requirements and limitations for outpatient medical services.

(c) Cost-sharing requirements and benefit or service limitations for inpatient hospital mental health and inpatient hospital and residential chemical dependency and alcoholism services, except for persons ~~placed in~~ seeking chemical dependency services under ~~Minnesota Rules, parts 9530.6600 to 9530.6655~~ section 245G.05, must not place a greater financial burden on the insured or enrollee, or be more restrictive than those requirements and limitations for inpatient hospital medical services.

(d) A health plan company must not impose an NQTL with respect to mental health and substance use disorders in any classification of benefits unless, under the terms of the health plan as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the NQTL to mental health and substance use disorders in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the NQTL with respect to medical and surgical benefits in the same classification.

(e) All health plans must meet the requirements of the federal Mental Health Parity Act of 1996, Public Law 104-204; Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008; the Affordable Care Act; and any amendments to, and federal guidance or regulations issued under, those acts.

(f) The commissioner may require information from health plan companies to confirm that mental health parity is being implemented by the health plan company. Information required may include comparisons between mental health and substance use disorder treatment and other medical conditions, including a comparison of prior authorization requirements, drug formulary design, claim denials, rehabilitation services, and other information the commissioner deems appropriate.

(g) Regardless of the health care provider's professional license, if the service provided is consistent with the provider's scope of practice and the health plan company's credentialing and contracting provisions, mental health therapy visits and medication maintenance visits shall be considered primary care visits for the purpose of applying any enrollee cost-sharing requirements imposed under the enrollee's health plan.

(h) By June 1 of each year, beginning June 1, 2021, the commissioner of commerce, in consultation with the commissioner of health, shall submit a report on compliance and oversight to the chairs and ranking minority members of the legislative committees with jurisdiction over health and commerce. The report must:

(1) describe the commissioner's process for reviewing health plan company compliance with United States Code, title 42, section 18031(j), any federal regulations or guidance relating to compliance and oversight, and compliance with this section and section 62Q.53;

(2) identify any enforcement actions taken by either commissioner during the preceding 12-month period regarding compliance with parity for mental health and substance use disorders benefits under state and federal law, summarizing the results of any market conduct examinations. The summary must include: (i) the number of formal enforcement actions taken; (ii) the benefit classifications examined in each enforcement action; and (iii) the subject matter of each enforcement action, including quantitative and nonquantitative treatment limitations;

(3) detail any corrective action taken by either commissioner to ensure health plan company compliance with this section, section 62Q.53, and United States Code, title 42, section 18031(j); and

(4) describe the information provided by either commissioner to the public about alcoholism, mental health, or chemical dependency parity protections under state and federal law.

The report must be written in nontechnical, readily understandable language and must be made available to the public by, among other means as the commissioners find appropriate, posting the report on department websites. Individually identifiable information must be excluded from the report, consistent with state and federal privacy protections.

Sec. 4. Minnesota Statutes 2022, section 169A.70, subdivision 3, is amended to read:

Subd. 3. **Assessment report.** (a) The assessment report must be on a form prescribed by the commissioner and shall contain an evaluation of the convicted defendant concerning the defendant's prior traffic and criminal record, characteristics and history of alcohol and chemical use problems, and amenability to rehabilitation through the alcohol safety program. The report is classified as private data on individuals as defined in section 13.02, subdivision 12.

(b) The assessment report must include:

(1) a diagnosis of the nature of the offender's chemical and alcohol involvement;

(2) an assessment of the severity level of the involvement;

(3) a recommended level of care for the offender in accordance with the criteria contained in ~~rules adopted by the commissioner of human services under section 254A.03, subdivision 3 (substance use disorder treatment rules)~~ section 245G.05;

(4) an assessment of the offender's placement needs;

(5) recommendations for other appropriate remedial action or care, including aftercare services in section 254B.01, subdivision 3, that may consist of educational programs, one-on-one counseling, a program or type of treatment that addresses mental health concerns, or a combination of them; and

(6) a specific explanation why no level of care or action was recommended, if applicable.

Sec. 5. Minnesota Statutes 2022, section 169A.70, subdivision 4, is amended to read:

Subd. 4. **Assessor standards; rules; assessment time limits.** A chemical use assessment required by this section must be conducted by an assessor appointed by the court. The assessor must meet the training and qualification requirements of ~~rules adopted by the commissioner of human services under section 254A.03, subdivision 3 (substance use~~

~~disorder treatment rules)~~ section 245G.11, subdivisions 1 and 5. Notwithstanding section 13.82 (law enforcement data), the assessor shall have access to any police reports, laboratory test results, and other law enforcement data relating to the current offense or previous offenses that are necessary to complete the evaluation. ~~An assessor providing an assessment under this section may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider, except as authorized under section 254A.19, subdivision 3. If an independent assessor is not available, the court may use the services of an assessor authorized to perform assessments for the county social services agency under a variance granted under rules adopted by the commissioner of human services under section 254A.03, subdivision 3.~~ An appointment for the defendant to undergo the assessment must be made by the court, a court services probation officer, or the court administrator as soon as possible but in no case more than one week after the defendant's court appearance. The assessment must be completed no later than three weeks after the defendant's court appearance. If the assessment is not performed within this time limit, the county where the defendant is to be sentenced shall perform the assessment. The county of financial responsibility must be determined under chapter 256G.

Sec. 6. Minnesota Statutes 2022, section 245A.043, subdivision 3, is amended to read:

Subd. 3. **Change of ownership process.** (a) When a change in ownership is proposed and the party intends to assume operation without an interruption in service longer than 60 days after acquiring the program or service, the license holder must provide the commissioner with written notice of the proposed change on a form provided by the commissioner at least 60 days before the anticipated date of the change in ownership. For purposes of this subdivision and subdivision 4, "party" means the party that intends to operate the service or program.

(b) The party must submit a license application under this chapter on the form and in the manner prescribed by the commissioner at least 30 days before the change in ownership is complete, and must include documentation to support the upcoming change. The party must comply with background study requirements under chapter 245C and shall pay the application fee required under section 245A.10. A party that intends to assume operation without an interruption in service longer than 60 days after acquiring the program or service is exempt from the requirements of sections 245G.03, subdivision 2, paragraph (b), and 254B.03, subdivision 2, paragraphs (c) and (d) ~~and (e)~~.

(c) The commissioner may streamline application procedures when the party is an existing license holder under this chapter and is acquiring a program licensed under this chapter or

service in the same service class as one or more licensed programs or services the party operates and those licenses are in substantial compliance. For purposes of this subdivision, "substantial compliance" means within the previous 12 months the commissioner did not (1) issue a sanction under section 245A.07 against a license held by the party, or (2) make a license held by the party conditional according to section 245A.06.

(d) Except when a temporary change in ownership license is issued pursuant to subdivision 4, the existing license holder is solely responsible for operating the program according to applicable laws and rules until a license under this chapter is issued to the party.

(e) If a licensing inspection of the program or service was conducted within the previous 12 months and the existing license holder's license record demonstrates substantial compliance with the applicable licensing requirements, the commissioner may waive the party's inspection required by section 245A.04, subdivision 4. The party must submit to the commissioner (1) proof that the premises was inspected by a fire marshal or that the fire marshal deemed that an inspection was not warranted, and (2) proof that the premises was inspected for compliance with the building code or that no inspection was deemed warranted.

(f) If the party is seeking a license for a program or service that has an outstanding action under section 245A.06 or 245A.07, the party must submit a letter as part of the application process identifying how the party has or will come into full compliance with the licensing requirements.

(g) The commissioner shall evaluate the party's application according to section 245A.04, subdivision 6. If the commissioner determines that the party has remedied or demonstrates the ability to remedy the outstanding actions under section 245A.06 or 245A.07 and has determined that the program otherwise complies with all applicable laws and rules, the commissioner shall issue a license or conditional license under this chapter. The conditional license remains in effect until the commissioner determines that the grounds for the action are corrected or no longer exist.

(h) The commissioner may deny an application as provided in section 245A.05. An applicant whose application was denied by the commissioner may appeal the denial according to section 245A.05.

(i) This subdivision does not apply to a licensed program or service located in a home where the license holder resides.

Sec. 7. Minnesota Statutes 2022, section 245G.05, subdivision 2, is amended to read:

Subd. 2. **Assessment summary.** (a) An alcohol and drug counselor must complete an assessment summary within three calendar days from the day of service initiation for a residential program and within three calendar days on which a treatment session has been provided from the day of service initiation for a client in a nonresidential program. The comprehensive assessment summary is complete upon a qualified staff member's dated signature. If the comprehensive assessment is used to authorize the treatment service, the alcohol and drug counselor must prepare an assessment summary on the same date the comprehensive assessment is completed. If the comprehensive assessment and assessment summary are to authorize treatment services, the assessor must determine appropriate level of care and services for the client using the ~~dimensions in Minnesota Rules, part 9530.6622,~~ criteria established in section 254B.04, subdivision 4, and document the recommendations.

(b) An assessment summary must include:

(1) a risk description according to section 245G.05 for each dimension listed in paragraph (c);

(2) a narrative summary supporting the risk descriptions; and

(3) a determination of whether the client has a substance use disorder.

(c) An assessment summary must contain information relevant to treatment service planning and recorded in the dimensions in clauses (1) to (6). The license holder must consider:

(1) Dimension 1, acute intoxication/withdrawal potential; the client's ability to cope with withdrawal symptoms and current state of intoxication;

(2) Dimension 2, biomedical conditions and complications; the degree to which any physical disorder of the client would interfere with treatment for substance use, and the client's ability to tolerate any related discomfort. The license holder must determine the impact of continued substance use on the unborn child, if the client is pregnant;

(3) Dimension 3, emotional, behavioral, and cognitive conditions and complications; the degree to which any condition or complication is likely to interfere with treatment for substance use or with functioning in significant life areas and the likelihood of harm to self or others;

(4) Dimension 4, readiness for change; the support necessary to keep the client involved in treatment service;

(5) Dimension 5, relapse, continued use, and continued problem potential; the degree to which the client recognizes relapse issues and has the skills to prevent relapse of either substance use or mental health problems; and

(6) Dimension 6, recovery environment; whether the areas of the client's life are supportive of or antagonistic to treatment participation and recovery.

Sec. 8. Minnesota Statutes 2022, section 245G.22, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Diversion" means the use of a medication for the treatment of opioid addiction being diverted from intended use of the medication.

(c) "Guest dose" means administration of a medication used for the treatment of opioid addiction to a person who is not a client of the program that is administering or dispensing the medication.

(d) "Medical director" means a practitioner licensed to practice medicine in the jurisdiction that the opioid treatment program is located who assumes responsibility for administering all medical services performed by the program, either by performing the services directly or by delegating specific responsibility to a practitioner of the opioid treatment program.

(e) "Medication used for the treatment of opioid use disorder" means a medication approved by the Food and Drug Administration for the treatment of opioid use disorder.

(f) "Minnesota health care programs" has the meaning given in section 256B.0636.

(g) "Opioid treatment program" has the meaning given in Code of Federal Regulations, title 42, section 8.12, and includes programs licensed under this chapter.

~~(h) "Placing authority" has the meaning given in Minnesota Rules, part 9530.6605, subpart 21a.~~

~~(i)~~ (h) "Practitioner" means a staff member holding a current, unrestricted license to practice medicine issued by the Board of Medical Practice or nursing issued by the Board of Nursing and is currently registered with the Drug Enforcement Administration to order or dispense controlled substances in Schedules II to V under the Controlled Substances Act, United States Code, title 21, part B, section 821. Practitioner includes an advanced practice registered nurse and physician assistant if the staff member receives a variance by the state

opioid treatment authority under section 254A.03 and the federal Substance Abuse and Mental Health Services Administration.

~~(j)~~ (i) "Unsupervised use" means the use of a medication for the treatment of opioid use disorder dispensed for use by a client outside of the program setting.

Sec. 9. Minnesota Statutes 2022, section 254A.03, subdivision 3, is amended to read:

Subd. 3. **Rules for substance use disorder care.** (a) ~~The commissioner of human services shall establish by rule criteria to be used in determining the appropriate level of substance use disorder care for each recipient of public assistance seeking treatment for substance misuse or substance use disorder. Upon federal approval of a comprehensive assessment as a Medicaid benefit, or on July 1, 2018, whichever is later, and notwithstanding the criteria in Minnesota Rules, parts 9530.6600 to 9530.6655,~~ An eligible vendor of comprehensive assessments under section 254B.05 may determine ~~and approve~~ the appropriate level of substance use disorder treatment for a recipient of public assistance. The process for determining an individual's financial eligibility for the behavioral health fund or determining an individual's enrollment in or eligibility for a publicly subsidized health plan is not affected by the individual's choice to access a comprehensive assessment for placement.

(b) The commissioner shall develop and implement a utilization review process for publicly funded treatment placements to monitor and review the clinical appropriateness and timeliness of all publicly funded placements in treatment.

(c) If a screen result is positive for alcohol or substance misuse, a brief screening for alcohol or substance use disorder that is provided to a recipient of public assistance within a primary care clinic, hospital, or other medical setting or school setting establishes medical necessity and approval for an initial set of substance use disorder services identified in section 254B.05, subdivision 5. The initial set of services approved for a recipient whose screen result is positive may include any combination of up to four hours of individual or group substance use disorder treatment, two hours of substance use disorder treatment coordination, or two hours of substance use disorder peer support services provided by a qualified individual according to chapter 245G. A recipient must obtain an assessment pursuant to paragraph (a) to be approved for additional treatment services. ~~Minnesota Rules, parts 9530.6600 to 9530.6655, and~~ A comprehensive assessment pursuant to section 245G.05 ~~are not applicable~~ is not required to receive the initial set of services allowed under this subdivision. A positive screen result establishes eligibility for the initial set of services allowed under this subdivision.

~~(d) Notwithstanding Minnesota Rules, parts 9530.6600 to 9530.6655, An individual may choose to obtain a comprehensive assessment as provided in section 245G.05. Individuals obtaining a comprehensive assessment may access any enrolled provider that is licensed to provide the level of service authorized pursuant to section 254A.19, subdivision 3, paragraph (d). If the individual is enrolled in a prepaid health plan, the individual must comply with any provider network requirements or limitations. This paragraph expires July 1, 2022.~~

(d) An individual may choose to obtain a comprehensive assessment as provided in section 245G.05. Individuals obtaining a comprehensive assessment may access any enrolled provider that is licensed to provide the level of service authorized pursuant to section 254A.19, subdivision 3. If the individual is enrolled in a prepaid health plan, the individual must comply with any provider network requirements or limitations.

Sec. 10. Minnesota Statutes 2022, section 254A.19, subdivision 1, is amended to read:

Subdivision 1. **Persons arrested outside of home county.** When a chemical use assessment is required ~~under Minnesota Rules, parts 9530.6600 to 9530.6655,~~ for a person who is arrested and taken into custody by a peace officer outside of the person's county of residence, the ~~assessment must be completed by the person's county of residence no later than three weeks after the assessment is initially requested. If the assessment is not performed within this time limit, the county where the person is to be sentenced shall perform the assessment~~ county where the person is detained must give access to an assessor qualified under section 254A.19, subdivision 3. The county of financial responsibility is determined under chapter 256G.

Sec. 11. Minnesota Statutes 2022, section 254A.19, subdivision 3, is amended to read:

Subd. 3. ~~**Financial conflicts of interest.**~~ **Comprehensive assessments.** ~~(a) Except as provided in paragraph (b), (c), or (d), an assessor conducting a chemical use assessment under Minnesota Rules, parts 9530.6600 to 9530.6655, may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider.~~

~~(b) A county may contract with an assessor having a conflict described in paragraph (a) if the county documents that:~~

~~(1) the assessor is employed by a culturally specific service provider or a service provider with a program designed to treat individuals of a specific age, sex, or sexual preference;~~

~~(2) the county does not employ a sufficient number of qualified assessors and the only qualified assessors available in the county have a direct or shared financial interest or a referral relationship resulting in shared financial gain with a treatment provider; or~~

~~(3) the county social service agency has an existing relationship with an assessor or service provider and elects to enter into a contract with that assessor to provide both assessment and treatment under circumstances specified in the county's contract, provided the county retains responsibility for making placement decisions.~~

~~(c) The county may contract with a hospital to conduct chemical assessments if the requirements in subdivision 1a are met.~~

~~An assessor under this paragraph may not place clients in treatment. The assessor shall gather required information and provide it to the county along with any required documentation. The county shall make all placement decisions for clients assessed by assessors under this paragraph.~~

~~(d)~~ An eligible vendor under section 254B.05 conducting a comprehensive assessment for an individual seeking treatment shall approve the nature, intensity level, and duration of treatment service if a need for services is indicated, but the individual assessed can access any enrolled provider that is licensed to provide the level of service authorized, including the provider or program that completed the assessment. If an individual is enrolled in a prepaid health plan, the individual must comply with any provider network requirements or limitations.

Sec. 12. Minnesota Statutes 2022, section 254A.19, subdivision 4, is amended to read:

Subd. 4. **Civil commitments.** ~~A Rule 25 assessment, under Minnesota Rules, part 9530.6615,~~ For the purposes of determining level of care, a comprehensive assessment does not need to be completed for an individual being committed as a chemically dependent person, as defined in section 253B.02, and for the duration of a civil commitment under section 253B.065, 253B.09, or 253B.095 in order for a county to access the behavioral health fund under section 254B.04. The county must determine if the individual meets the financial eligibility requirements for the behavioral health fund under section 254B.04. ~~Nothing in this subdivision prohibits placement in a treatment facility or treatment program governed under this chapter or Minnesota Rules, parts 9530.6600 to 9530.6655.~~

Sec. 13. Minnesota Statutes 2022, section 254A.19, is amended by adding a subdivision to read:

Subd. 6. **Assessments for detoxification programs.** For detoxification programs licensed under chapter 245A according to Minnesota Rules, parts 9530.6510 to 9530.6590, a "chemical use assessment" is a comprehensive assessment and assessment summary completed according to the requirements of section 245G.05 and a "chemical dependency assessor" or "assessor" is an individual who meets the qualifications of section 245G.11, subdivisions 1 and 5.

Sec. 14. Minnesota Statutes 2022, section 254A.19, is amended by adding a subdivision to read:

Subd. 7. **Assessments for children's residential facilities.** For children's residential facilities licensed under chapter 245A according to Minnesota Rules, parts 2960.0010 to 2960.0220 and 2960.0430 to 2960.0490, a "chemical use assessment" is a comprehensive assessment and assessment summary completed according to the requirements of section 245G.05 and must be completed by an individual who meets the qualifications of section 245G.11, subdivisions 1 and 5.

Sec. 15. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision to read:

Subd. 2a. **Behavioral health fund.** "Behavioral health fund" means money allocated for payment of treatment services under chapter 254B.

Sec. 16. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision to read:

Subd. 2b. **Client.** "Client" means an individual who has requested substance use disorder services or for whom substance use disorder services have been requested.

Sec. 17. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision to read:

Subd. 2c. **Co-payment.** "Co-payment" means:

(1) the amount an insured person is obligated to pay before the person's third-party payment source is obligated to make a payment; or

(2) the amount an insured person is obligated to pay in addition to the amount the person's third-party payment source is obligated to pay.

Sec. 18. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision to read:

Subd. 4c. **Department.** "Department" means the Department of Human Services.

Sec. 19. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision to read:

Subd. 4d. **Drug and Alcohol Abuse Normative Evaluation System or DAANES.** "Drug and Alcohol Abuse Normative Evaluation System" or "DAANES" means the reporting system used to collect all substance use disorder treatment data across all levels of care and providers.

Sec. 20. Minnesota Statutes 2022, section 254B.01, subdivision 5, is amended to read:

Subd. 5. **Local agency.** "Local agency" means the agency designated by a board of county commissioners, a local social services agency, or a human services board ~~to make placements and submit state invoices according to Laws 1986, chapter 394, sections 8 to 20~~ authorized under section 254B.03, subdivision 1, to determine financial eligibility for the behavioral health fund.

Sec. 21. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision to read:

Subd. 6a. **Minor child.** "Minor child" means an individual under the age of 18 years.

Sec. 22. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision to read:

Subd. 6b. **Policyholder.** "Policyholder" means a person who has a third-party payment policy under which a third-party payment source has an obligation to pay all or part of a client's treatment costs.

Sec. 23. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision to read:

Subd. 9. **Responsible relative.** "Responsible relative" means a person who is a member of the client's household and is the client's spouse or the parent of a minor child who is a client.

Sec. 24. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision to read:

Subd. 10. **Third-party payment source** "Third-party payment source" means a person, entity, or public or private agency other than medical assistance or general assistance medical care that has a probable obligation to pay all or part of the costs of a client's substance use disorder treatment.

Sec. 25. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision to read:

Subd. 11. **Vendor.** "Vendor" means a provider of substance use disorder treatment services that meets the criteria established in section 254B.05, and that has applied to participate as a provider in the medical assistance program according to Minnesota Rules, part 9505.0195.

Sec. 26. Minnesota Statutes 2022, section 254B.03, subdivision 1, is amended to read:

Subdivision 1. **Local agency duties.** (a) Every local agency ~~shall~~ must determine financial eligibility for substance use disorder services and provide substance use disorder services to persons residing within its jurisdiction who meet criteria established by the commissioner ~~for placement in a substance use disorder residential or nonresidential treatment service~~. Substance use disorder money must be administered by the local agencies according to law and rules adopted by the commissioner under sections 14.001 to 14.69.

(b) In order to contain costs, the commissioner of human services shall select eligible vendors of substance use disorder services who can provide economical and appropriate treatment. Unless the local agency is a social services department directly administered by a county or human services board, the local agency shall not be an eligible vendor under section 254B.05. The commissioner may approve proposals from county boards to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. If a county implements a demonstration or experimental medical services funding plan, the commissioner shall transfer the money as appropriate.

~~(c) A culturally specific vendor that provides assessments under a variance under Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to persons not covered by the variance.~~

~~(d) Notwithstanding Minnesota Rules, parts 9530.6600 to 9530.6655,~~ (c) An individual may choose to obtain a comprehensive assessment as provided in section 245G.05. Individuals obtaining a comprehensive assessment may access any enrolled provider that is licensed to provide the level of service authorized pursuant to section 254A.19, subdivision 3~~, paragraph (d)~~. If the individual is enrolled in a prepaid health plan, the individual must comply with any provider network requirements or limitations.

~~(c)~~ (d) Beginning July 1, 2022, local agencies shall not make placement location determinations.

Sec. 27. Minnesota Statutes 2022, section 254B.03, subdivision 2, is amended to read:

Subd. 2. **Behavioral health fund payment.** (a) Payment from the behavioral health fund is limited to payments for services identified in section 254B.05, other than detoxification licensed under Minnesota Rules, parts 9530.6510 to 9530.6590, and detoxification provided in another state that would be required to be licensed as a substance use disorder program if the program were in the state. Out of state vendors must also provide the commissioner with assurances that the program complies substantially with state licensing requirements and possesses all licenses and certifications required by the host state to provide substance use disorder treatment. Vendors receiving payments from the behavioral health fund must not require co-payment from a recipient of benefits for services provided under this subdivision. The vendor is prohibited from using the client's public benefits to offset the cost of services paid under this section. The vendor shall not require the client to use public benefits for room or board costs. This includes but is not limited to cash assistance benefits under chapters 119B, 256D, and 256J, or SNAP benefits. Retention of SNAP benefits is a right of a client receiving services through the behavioral health fund or through state contracted managed care entities. Payment from the behavioral health fund shall be made for necessary room and board costs provided by vendors meeting the criteria under section 254B.05, subdivision 1a, or in a community hospital licensed by the commissioner of health according to sections 144.50 to 144.56 to a client who is:

(1) determined to meet the criteria for placement in a residential substance use disorder treatment program according to rules adopted under section 254A.03, subdivision 3; and

(2) concurrently receiving a substance use disorder treatment service in a program licensed by the commissioner and reimbursed by the behavioral health fund.

~~(b) A county may, from its own resources, provide substance use disorder services for which state payments are not made. A county may elect to use the same invoice procedures and obtain the same state payment services as are used for substance use disorder services for which state payments are made under this section if county payments are made to the state in advance of state payments to vendors. When a county uses the state system for payment, the commissioner shall make monthly billings to the county using the most recent available information to determine the anticipated services for which payments will be made in the coming month. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the estimate for any succeeding month.~~

~~(c)~~ (b) The commissioner shall coordinate substance use disorder services and determine whether there is a need for any proposed expansion of substance use disorder treatment services. The commissioner shall deny vendor certification to any provider that has not received prior approval from the commissioner for the creation of new programs or the expansion of existing program capacity. The commissioner shall consider the provider's capacity to obtain clients from outside the state based on plans, agreements, and previous utilization history, when determining the need for new treatment services.

~~(d)~~ (c) At least 60 days prior to submitting an application for new licensure under chapter 245G, the applicant must notify the county human services director in writing of the applicant's intent to open a new treatment program. The written notification must include, at a minimum:

(1) a description of the proposed treatment program; and

(2) a description of the target population to be served by the treatment program.

~~(e)~~ (d) The county human services director may submit a written statement to the commissioner, within 60 days of receiving notice from the applicant, regarding the county's support of or opposition to the opening of the new treatment program. The written statement must include documentation of the rationale for the county's determination. The commissioner shall consider the county's written statement when determining whether there is a need for the treatment program as required by paragraph (c).

Sec. 28. Minnesota Statutes 2022, section 254B.03, subdivision 5, is amended to read:

Subd. 5. **Rules; appeal.** The commissioner shall adopt rules as necessary to implement this chapter. ~~The commissioner shall establish an appeals process for use by recipients when services certified by the county are disputed. The commissioner shall adopt rules and~~

~~standards for the appeal process to assure adequate redress for persons referred to inappropriate services.~~

Sec. 29. Minnesota Statutes 2022, section 254B.04, subdivision 1, is amended to read:

Subdivision 1. ~~**Eligibility.**~~ **Scope and applicability.** ~~(a) Persons eligible for benefits under Code of Federal Regulations, title 25, part 20, who meet the income standards of section 256B.056, subdivision 4, and are not enrolled in medical assistance, are entitled to behavioral health fund services. State money appropriated for this paragraph must be placed in a separate account established for this purpose.~~

~~(b) Persons with dependent children who are determined to be in need of chemical dependency treatment pursuant to an assessment under section 260E.20, subdivision 1, or a case plan under section 260C.201, subdivision 6, or 260C.212, shall be assisted by the local agency to access needed treatment services. Treatment services must be appropriate for the individual or family, which may include long-term care treatment or treatment in a facility that allows the dependent children to stay in the treatment facility. The county shall pay for out-of-home placement costs, if applicable.~~

~~(c) Notwithstanding paragraph (a), persons enrolled in medical assistance are eligible for room and board services under section 254B.05, subdivision 5, paragraph (b), clause (12).~~

This section governs the administration of the behavioral health fund, establishes the criteria to be applied by local agencies to determine a client's financial eligibility under the behavioral health fund, and determines a client's obligation to pay for substance use disorder treatment services.

Sec. 30. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision to read:

Subd. 1a. **Client eligibility.** (a) Persons eligible for benefits under Code of Federal Regulations, title 25, part 20, who meet the income standards of section 256B.056, subdivision 4, and are not enrolled in medical assistance, are entitled to behavioral health fund services. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

(b) Persons with dependent children who are determined to be in need of chemical dependency treatment pursuant to an assessment under section 260E.20, subdivision 1, or a case plan under section 260C.201, subdivision 6, or 260C.212, shall be assisted by the

local agency to access needed treatment services. Treatment services must be appropriate for the individual or family, which may include long-term care treatment or treatment in a facility that allows the dependent children to stay in the treatment facility. The county shall pay for out-of-home placement costs, if applicable.

(c) Notwithstanding paragraph (a), persons enrolled in medical assistance are eligible for room and board services under section 254B.05, subdivision 5, paragraph (b), clause (12).

(d) A client is eligible to have substance use disorder treatment paid for with funds from the behavioral health fund when the client:

(1) is eligible for MFIP as determined under chapter 256J;

(2) is eligible for medical assistance as determined under Minnesota Rules, parts 9505.0010 to 9505.0150;

(3) is eligible for general assistance, general assistance medical care, or work readiness as determined under Minnesota Rules, parts 9500.1200 to 9500.1318; or

(4) has income that is within current household size and income guidelines for entitled persons, as defined in this subdivision and subdivision 7.

(e) Clients who meet the financial eligibility requirement in paragraph (a) and who have a third-party payment source are eligible for the behavioral health fund if the third-party payment source pays less than 100 percent of the cost of treatment services for eligible clients.

(f) A client is ineligible to have substance use disorder treatment services paid for with behavioral health fund money if the client:

(1) has an income that exceeds current household size and income guidelines for entitled persons as defined in this subdivision and subdivision 7; or

(2) has an available third-party payment source that will pay the total cost of the client's treatment.

(g) A client who is disenrolled from a state prepaid health plan during a treatment episode is eligible for continued treatment service that is paid for by the behavioral health fund until the treatment episode is completed or the client is re-enrolled in a state prepaid health plan if the client:

(1) continues to be enrolled in MinnesotaCare, medical assistance, or general assistance medical care; or

(2) is eligible according to paragraphs (a) and (b) and is determined eligible by a local agency under section 254B.04.

(h) When a county commits a client under chapter 253B to a regional treatment center for substance use disorder services and the client is ineligible for the behavioral health fund, the county is responsible for the payment to the regional treatment center according to section 254B.05, subdivision 4.

Sec. 31. Minnesota Statutes 2022, section 254B.04, subdivision 2a, is amended to read:

Subd. 2a. **Eligibility for ~~treatment in residential settings~~ room and board services for persons in outpatient substance use disorder treatment.** ~~Notwithstanding provisions of Minnesota Rules, part 9530.6622, subparts 5 and 6, related to an assessor's discretion in making placements to residential treatment settings,~~ A person eligible for room and board services under ~~this~~ section 254B.05, subdivision 5, paragraph (b), clause (12), must score at level 4 on assessment dimensions related to readiness to change, relapse, continued use, or recovery environment in order to be assigned to services with a room and board component reimbursed under this section. Whether a treatment facility has been designated an institution for mental diseases under United States Code, title 42, section 1396d, shall not be a factor in making placements.

Sec. 32. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision to read:

Subd. 4. **Assessment criteria and risk descriptions.** (a) The level of care determination must follow criteria approved by the commissioner.

(b) Dimension 1: Acute intoxication/withdrawal potential. A vendor must use the criteria in Dimension 1 to determine a client's acute intoxication and withdrawal potential, the client's ability to cope with withdrawal symptoms, and the client's current state of intoxication.

"0" The client displays full functioning with good ability to tolerate and cope with withdrawal discomfort, and the client shows no signs or symptoms of intoxication or withdrawal or diminishing signs or symptoms.

"1" The client can tolerate and cope with withdrawal discomfort. The client displays mild to moderate intoxication or signs and symptoms interfering with daily functioning but does not immediately endanger self or others. The client poses a minimal risk of severe withdrawal.

"2" The client has some difficulty tolerating and coping with withdrawal discomfort. The client's intoxication may be severe but responds to support and treatment such that the client does not immediately endanger self or others. The client displays moderate signs and symptoms of withdrawal with moderate risk of severe withdrawal.

"3" The client tolerates and copes with withdrawal discomfort poorly. The client has severe intoxication, such that the client endangers self or others, or intoxication has not abated with less intensive services. The client displays severe signs and symptoms of withdrawal, has a risk of severe but manageable withdrawal, or has worsening withdrawal despite detoxification at less intensive level.

"4" The client is incapacitated with severe signs and symptoms. The client displays severe withdrawal and is a danger to self or others.

(c) Dimension 2: biomedical conditions and complications. The vendor must use the criteria in Dimension 2 to determine a client's biomedical conditions and complications, the degree to which any physical disorder of the client would interfere with treatment for substance use, and the client's ability to tolerate any related discomfort. If the client is pregnant, the provider must determine the impact of continued substance use on the unborn child.

"0" The client displays full functioning with good ability to cope with physical discomfort.

"1" The client tolerates and copes with physical discomfort and is able to get the services that the client needs.

"2" The client has difficulty tolerating and coping with physical problems or has other biomedical problems that interfere with recovery and treatment. The client neglects or does not seek care for serious biomedical problems.

"3" The client tolerates and copes poorly with physical problems or has poor general health. The client neglects the client's medical problems without active assistance.

"4" The client is unable to participate in substance use disorder treatment and has severe medical problems, a condition that requires immediate intervention, or is incapacitated.

(d) Dimension 3: Emotional, behavioral, and cognitive conditions and complications. The vendor must use the criteria in Dimension 3 to determine a client's: emotional, behavioral, and cognitive conditions and complications; the degree to which any condition or complication is likely to interfere with treatment for substance use or with functioning in significant life areas; and the likelihood of harm to self or others.

"0" The client has good impulse control and coping skills and presents no risk of harm to self or others. The client functions in all life areas and displays no emotional, behavioral, or cognitive problems or the problems are stable.

"1" The client has impulse control and coping skills. The client presents a mild to moderate risk of harm to self or others or displays symptoms of emotional, behavioral, or cognitive problems. The client has a mental health diagnosis and is stable. The client functions adequately in significant life areas.

"2" The client has difficulty with impulse control and lacks coping skills. The client has thoughts of suicide or harm to others without means; however, the thoughts may interfere with participation in some activities. The client has difficulty functioning in significant life areas. The client has moderate symptoms of emotional, behavioral, or cognitive problems. The client is able to participate in most treatment activities.

"3" The client has a severe lack of impulse control and coping skills. The client also has frequent thoughts of suicide or harm to others including a plan and the means to carry out the plan. In addition, the client is severely impaired in significant life areas and has severe symptoms of emotional, behavioral, or cognitive problems that interfere with the client's participation in treatment activities.

"4" The client has severe emotional or behavioral symptoms that place the client or others at acute risk of harm. The client also has intrusive thoughts of harming self or others. The client is unable to participate in treatment activities.

(e) Dimension 4: Readiness for change. The vendor must use the criteria in Dimension 4 to determine a client's readiness for change and the support necessary to keep the client involved in treatment services.

"0" The client is cooperative, motivated, ready to change, admits problems, committed to change, and engaged in treatment as a responsible participant.

"1" The client is motivated with active reinforcement to explore treatment and strategies for change but ambivalent about illness or need for change.

"2" The client displays verbal compliance, but lacks consistent behaviors; has low motivation for change; and is passively involved in treatment.

"3" The client displays inconsistent compliance, minimal awareness of either the client's addiction or mental disorder, and is minimally cooperative.

"4" The client is:

(i) noncompliant with treatment and has no awareness of addiction or mental disorder and does not want or is unwilling to explore change or is in total denial of the client's illness and its implications; or

(ii) the client is dangerously oppositional to the extent that the client is a threat of imminent harm to self and others.

(f) Dimension 5: Relapse, continued use, and continued problem potential. The vendor must use the criteria in Dimension 5 to determine a client's relapse, continued use, and continued problem potential and the degree to which the client recognizes relapse issues and has the skills to prevent relapse of either substance use or mental health problems.

"0" The client recognizes risk well and is able to manage potential problems.

"1" The client recognizes relapse issues and prevention strategies but displays some vulnerability for further substance use or mental health problems.

"2" The client has:

(i) minimal recognition and understanding of relapse and recidivism issues and displays moderate vulnerability for further substance use or mental health problems; or

(ii) some coping skills inconsistently applied.

"3" The client has poor recognition and understanding of relapse and recidivism issues and displays moderately high vulnerability for further substance use or mental health problems. The client has few coping skills and rarely applies coping skills.

"4" The client has no coping skills to arrest mental health or addiction illnesses or prevent relapse. The client has no recognition or understanding of relapse and recidivism issues and displays high vulnerability for further substance use disorder or mental health problems.

(g) Dimension 6: Recovery environment. The vendor must use the criteria in Dimension 6 to determine a client's recovery environment, whether the areas of the client's life are supportive of or antagonistic to treatment participation and recovery.

"0" The client is engaged in structured meaningful activity and has a supportive significant other, family, and living environment.

"1" The client has passive social network support, or family and significant other are not interested in the client's recovery. The client is engaged in structured meaningful activity.

"2" The client is engaged in structured, meaningful activity, but peers, family, significant other, and living environment are unsupportive, or there is criminal justice involvement by the client or among the client's peers, significant other, or in the client's living environment.

"3" The client is not engaged in structured meaningful activity and the client's peers, family, significant other, and living environment are unsupportive, or there is significant criminal justice system involvement.

"4" The client has:

(i) a chronically antagonistic significant other, living environment, family, peer group, or long-term criminal justice involvement that is harmful to recovery or treatment progress; or

(ii) the client has an actively antagonistic significant other, family, work, or living environment that poses an immediate threat to the client's safety and well-being.

Sec. 33. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision to read:

Subd. 5. **Local agency responsibility to provide services.** The local agency may employ individuals to conduct administrative activities and facilitate access to substance use disorder treatment services.

Sec. 34. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision to read:

Subd. 6. **Local agency to determine client financial eligibility.** (a) The local agency shall determine a client's financial eligibility for the behavioral health fund according to section 254B.04, subdivision 1a, with the income calculated prospectively for one year from the date of comprehensive assessment. The local agency shall pay for eligible clients according to chapter 256G. The local agency shall enter the financial eligibility span within ten calendar days of request. Client eligibility must be determined using forms prescribed by the department. To determine a client's eligibility, the local agency must determine the client's income, the size of the client's household, the availability of a third-party payment source, and a responsible relative's ability to pay for the client's substance use disorder treatment.

(b) A client who is a minor child must not be deemed to have income available to pay for substance use disorder treatment, unless the minor child is responsible for payment under section 144.347 for substance use disorder treatment services sought under section 144.343, subdivision 1.

(c) The local agency must determine the client's household size as follows:

(1) if the client is a minor child, the household size includes the following persons living in the same dwelling unit:

(i) the client;

(ii) the client's birth or adoptive parents; and

(iii) the client's siblings who are minors; and

(2) if the client is an adult, the household size includes the following persons living in the same dwelling unit:

(i) the client;

(ii) the client's spouse;

(iii) the client's minor children; and

(iv) the client's spouse's minor children.

For purposes of this paragraph, household size includes a person listed in clauses (1) and (2) who is in an out-of-home placement if a person listed in clause (1) or (2) is contributing to the cost of care of the person in out-of-home placement.

(d) The local agency must determine the client's current prepaid health plan enrollment, the availability of a third-party payment source, including the availability of total payment, partial payment, and amount of co-payment.

(e) The local agency must provide the required eligibility information to the department in the manner specified by the department.

(f) The local agency shall require the client and policyholder to conditionally assign to the department the client and policyholder's rights and the rights of minor children to benefits or services provided to the client if the department is required to collect from a third-party pay source.

(g) The local agency must redetermine a client's eligibility for the behavioral health fund every 12 months.

(h) A client, responsible relative, and policyholder must provide income or wage verification, household size verification, and must make an assignment of third-party payment rights under paragraph (f). If a client, responsible relative, or policyholder does not comply with the provisions of this subdivision, the client is ineligible for behavioral health fund payment for substance use disorder treatment, and the client and responsible relative must

be obligated to pay for the full cost of substance use disorder treatment services provided to the client.

Sec. 35. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision to read:

Subd. 7. **Client fees.** A client whose household income is within current household size and income guidelines for entitled persons as defined in section 254B.04, subdivision 1a, must pay no fee for care related to substance use disorder, including drug screens.

Sec. 36. Minnesota Statutes 2022, section 254B.04, is amended by adding a subdivision to read:

Subd. 8. **Vendor must participate in DAANES system.** To be eligible for payment under the behavioral health fund, a vendor must participate in the Drug and Alcohol Abuse Normative Evaluation System (DAANES) or submit to the commissioner the information required in the DAANES in the format specified by the commissioner.

Sec. 37. Minnesota Statutes 2022, section 256D.09, subdivision 2a, is amended to read:

Subd. 2a. **Vendor payments for drug dependent persons.** If, at the time of application or at any other time, there is a reasonable basis for questioning whether a person applying for or receiving financial assistance is drug dependent, as defined in section 254A.02, subdivision 5, the person shall be referred for a chemical health assessment, and only emergency assistance payments or general assistance vendor payments may be provided until the assessment is complete and the results of the assessment made available to the county agency. A reasonable basis for referring an individual for an assessment exists when:

(1) the person has required detoxification two or more times in the past 12 months;

(2) the person appears intoxicated at the county agency as indicated by two or more of the following:

(i) the odor of alcohol;

(ii) slurred speech;

(iii) disconjugate gaze;

(iv) impaired balance;

(v) difficulty remaining awake;

(vi) consumption of alcohol;

(vii) responding to sights or sounds that are not actually present;

(viii) extreme restlessness, fast speech, or unusual belligerence;

(3) the person has been involuntarily committed for drug dependency at least once in the past 12 months; or

(4) the person has received treatment, including domiciliary care, for drug abuse or dependency at least twice in the past 12 months.

The assessment and determination of drug dependency, if any, must be made by an assessor qualified under ~~Minnesota Rules, part 9530.6615, subpart 2~~ section 245G.11, subdivisions 1 and 5, to perform an assessment of chemical use. The county shall only provide emergency general assistance or vendor payments to an otherwise eligible applicant or recipient who is determined to be drug dependent, except up to 15 percent of the grant amount the person would otherwise receive may be paid in cash. Notwithstanding subdivision 1, the commissioner of human services shall also require county agencies to provide assistance only in the form of vendor payments to all eligible recipients who assert substance use disorder as a basis for eligibility under section 256D.05, subdivision 1, paragraph (a), clauses (1) and (5).

The determination of drug dependency shall be reviewed at least every 12 months. If the county determines a recipient is no longer drug dependent, the county may cease vendor payments and provide the recipient payments in cash.

Sec. 38. Minnesota Statutes 2022, section 256L.03, subdivision 2, is amended to read:

Subd. 2. **Substance use disorder.** Beginning July 1, 1993, covered health services shall include individual outpatient treatment of substance use disorder by a qualified health professional or outpatient program.

Persons who may need substance use disorder services under the provisions of this chapter ~~shall be assessed by a local agency as defined under section 254B.01~~ must be assessed by a qualified professional as defined in section 245G.11, subdivisions 1 and 5, and under the assessment provisions of section 254A.03, subdivision 3. A local agency or managed care plan under contract with the Department of Human Services must ~~place~~ offer services to a person in need of substance use disorder services ~~as provided in Minnesota Rules, parts 9530.6600 to 9530.6655~~ based on the recommendations of section 245G.05. Persons who are recipients of medical benefits under the provisions of this chapter and who are financially eligible for behavioral health fund services provided under the provisions of

chapter 254B shall receive substance use disorder treatment services under the provisions of chapter 254B only if:

(1) they have exhausted the substance use disorder benefits offered under this chapter; or

(2) an assessment indicates that they need a level of care not provided under the provisions of this chapter.

Recipients of covered health services under the children's health plan, as provided in Minnesota Statutes 1990, section 256.936, and as amended by Laws 1991, chapter 292, article 4, section 17, and recipients of covered health services enrolled in the children's health plan or the MinnesotaCare program after October 1, 1992, pursuant to Laws 1992, chapter 549, article 4, sections 5 and 17, are eligible to receive substance use disorder benefits under this subdivision.

Sec. 39. Minnesota Statutes 2022, section 256L.12, subdivision 8, is amended to read:

Subd. 8. **Substance use disorder assessments.** The managed care plan shall be responsible for assessing the need and ~~placement for~~ provision of substance use disorder services according to criteria set forth in ~~Minnesota Rules, parts 9530.6600 to 9530.6655~~ section 245G.05.

Sec. 40. Minnesota Statutes 2022, section 260B.157, subdivision 1, is amended to read:

Subdivision 1. **Investigation.** Upon request of the court the local social services agency or probation officer shall investigate the personal and family history and environment of any minor coming within the jurisdiction of the court under section 260B.101 and shall report its findings to the court. The court may order any minor coming within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or psychologist appointed by the court.

The court shall order a chemical use assessment conducted when a child is (1) found to be delinquent for violating a provision of chapter 152, or for committing a felony-level violation of a provision of chapter 609 if the probation officer determines that alcohol or drug use was a contributing factor in the commission of the offense, or (2) alleged to be delinquent for violating a provision of chapter 152, if the child is being held in custody under a detention order. The assessor's qualifications must comply with section 245G.11, subdivisions 1 and 5, and the assessment criteria ~~shall~~ must comply with ~~Minnesota Rules, parts 9530.6600 to 9530.6655~~ section 245G.05. If funds under chapter 254B are to be used

to pay for the recommended treatment, the assessment ~~and placement~~ must comply with all provisions of ~~Minnesota Rules, parts 9530.6600 to 9530.6655 and 9530.7000 to 9530.7030~~ sections 245G.05 and 254B.04. The commissioner of human services shall reimburse the court for the cost of the chemical use assessment, up to a maximum of $100.

The court shall order a children's mental health screening conducted when a child is found to be delinquent. The screening shall be conducted with a screening instrument approved by the commissioner of human services and shall be conducted by a mental health practitioner as defined in section 245.4871, subdivision 26, or a probation officer who is trained in the use of the screening instrument. If the screening indicates a need for assessment, the local social services agency, in consultation with the child's family, shall have a diagnostic assessment conducted, including a functional assessment, as defined in section 245.4871.

With the consent of the commissioner of corrections and agreement of the county to pay the costs thereof, the court may, by order, place a minor coming within its jurisdiction in an institution maintained by the commissioner for the detention, diagnosis, custody and treatment of persons adjudicated to be delinquent, in order that the condition of the minor be given due consideration in the disposition of the case. Any funds received under the provisions of this subdivision shall not cancel until the end of the fiscal year immediately following the fiscal year in which the funds were received. The funds are available for use by the commissioner of corrections during that period and are hereby appropriated annually to the commissioner of corrections as reimbursement of the costs of providing these services to the juvenile courts.

Sec. 41. Minnesota Statutes 2022, section 260B.157, subdivision 3, is amended to read:

Subd. 3. **Juvenile treatment screening team.** (a) The local social services agency shall establish a juvenile treatment screening team to conduct screenings and prepare case plans under this subdivision. The team, which may be the team constituted under section 245.4885 or 256B.092 or ~~Minnesota Rules, parts 9530.6600 to 9530.6655~~ chapter 254B, shall consist of social workers, juvenile justice professionals, and persons with expertise in the treatment of juveniles who are emotionally disabled, chemically dependent, or have a developmental disability. The team shall involve parents or guardians in the screening process as appropriate. The team may be the same team as defined in section 260C.157, subdivision 3.

(b) If the court, prior to, or as part of, a final disposition, proposes to place a child:

(1) for the primary purpose of treatment for an emotional disturbance, and residential placement is consistent with section 260.012, a developmental disability, or chemical

dependency in a residential treatment facility out of state or in one which is within the state and licensed by the commissioner of human services under chapter 245A; or

(2) in any out-of-home setting potentially exceeding 30 days in duration, including a post-dispositional placement in a facility licensed by the commissioner of corrections or human services, the court shall notify the county welfare agency. The county's juvenile treatment screening team must either:

(i) screen and evaluate the child and file its recommendations with the court within 14 days of receipt of the notice; or

(ii) elect not to screen a given case, and notify the court of that decision within three working days.

(c) If the screening team has elected to screen and evaluate the child, the child may not be placed for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency, in a residential treatment facility out of state nor in a residential treatment facility within the state that is licensed under chapter 245A, unless one of the following conditions applies:

(1) a treatment professional certifies that an emergency requires the placement of the child in a facility within the state;

(2) the screening team has evaluated the child and recommended that a residential placement is necessary to meet the child's treatment needs and the safety needs of the community, that it is a cost-effective means of meeting the treatment needs, and that it will be of therapeutic value to the child; or

(3) the court, having reviewed a screening team recommendation against placement, determines to the contrary that a residential placement is necessary. The court shall state the reasons for its determination in writing, on the record, and shall respond specifically to the findings and recommendation of the screening team in explaining why the recommendation was rejected. The attorney representing the child and the prosecuting attorney shall be afforded an opportunity to be heard on the matter.

Sec. 42. Minnesota Statutes 2022, section 260C.157, subdivision 3, is amended to read:

Subd. 3. **Juvenile treatment screening team.** (a) The responsible social services agency shall establish a juvenile treatment screening team to conduct screenings under this chapter and chapter 260D, for a child to receive treatment for an emotional disturbance, a developmental disability, or related condition in a residential treatment facility licensed by the commissioner of human services under chapter 245A, or licensed or approved by a tribe.

A screening team is not required for a child to be in: (1) a residential facility specializing in prenatal, postpartum, or parenting support; (2) a facility specializing in high-quality residential care and supportive services to children and youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation; (3) supervised settings for youth who are 18 years of age or older and living independently; or (4) a licensed residential family-based treatment facility for substance abuse consistent with section 260C.190. Screenings are also not required when a child must be placed in a facility due to an emotional crisis or other mental health emergency.

(b) The responsible social services agency shall conduct screenings within 15 days of a request for a screening, unless the screening is for the purpose of residential treatment and the child is enrolled in a prepaid health program under section 256B.69, in which case the agency shall conduct the screening within ten working days of a request. The responsible social services agency shall convene the juvenile treatment screening team, which may be constituted under section 245.4885, 254B.05, or 256B.092 ~~or Minnesota Rules, parts 9530.6600 to 9530.6655~~. The team shall consist of social workers; persons with expertise in the treatment of juveniles who are emotionally disturbed, chemically dependent, or have a developmental disability; and the child's parent, guardian, or permanent legal custodian. The team may include the child's relatives as defined in section 260C.007, subdivisions 26b and 27, the child's foster care provider, and professionals who are a resource to the child's family such as teachers, medical or mental health providers, and clergy, as appropriate, consistent with the family and permanency team as defined in section 260C.007, subdivision 16a. Prior to forming the team, the responsible social services agency must consult with the child's parents, the child if the child is age 14 or older, and, if applicable, the child's tribe to obtain recommendations regarding which individuals to include on the team and to ensure that the team is family-centered and will act in the child's best interests. If the child, child's parents, or legal guardians raise concerns about specific relatives or professionals, the team should not include those individuals. This provision does not apply to paragraph (c).

(c) If the agency provides notice to tribes under section 260.761, and the child screened is an Indian child, the responsible social services agency must make a rigorous and concerted effort to include a designated representative of the Indian child's tribe on the juvenile treatment screening team, unless the child's tribal authority declines to appoint a representative. The Indian child's tribe may delegate its authority to represent the child to any other federally recognized Indian tribe, as defined in section 260.755, subdivision 12. The provisions of the Indian Child Welfare Act of 1978, United States Code, title 25, sections

1901 to 1963, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835, apply to this section.

(d) If the court, prior to, or as part of, a final disposition or other court order, proposes to place a child with an emotional disturbance or developmental disability or related condition in residential treatment, the responsible social services agency must conduct a screening. If the team recommends treating the child in a qualified residential treatment program, the agency must follow the requirements of sections 260C.70 to 260C.714.

The court shall ascertain whether the child is an Indian child and shall notify the responsible social services agency and, if the child is an Indian child, shall notify the Indian child's tribe as paragraph (c) requires.

(e) When the responsible social services agency is responsible for placing and caring for the child and the screening team recommends placing a child in a qualified residential treatment program as defined in section 260C.007, subdivision 26d, the agency must: (1) begin the assessment and processes required in section 260C.704 without delay; and (2) conduct a relative search according to section 260C.221 to assemble the child's family and permanency team under section 260C.706. Prior to notifying relatives regarding the family and permanency team, the responsible social services agency must consult with the child's parent or legal guardian, the child if the child is age 14 or older, and, if applicable, the child's tribe to ensure that the agency is providing notice to individuals who will act in the child's best interests. The child and the child's parents may identify a culturally competent qualified individual to complete the child's assessment. The agency shall make efforts to refer the assessment to the identified qualified individual. The assessment may not be delayed for the purpose of having the assessment completed by a specific qualified individual.

(f) When a screening team determines that a child does not need treatment in a qualified residential treatment program, the screening team must:

(1) document the services and supports that will prevent the child's foster care placement and will support the child remaining at home;

(2) document the services and supports that the agency will arrange to place the child in a family foster home; or

(3) document the services and supports that the agency has provided in any other setting.

(g) When the Indian child's tribe or tribal health care services provider or Indian Health Services provider proposes to place a child for the primary purpose of treatment for an emotional disturbance, a developmental disability, or co-occurring emotional disturbance

and chemical dependency, the Indian child's tribe or the tribe delegated by the child's tribe shall submit necessary documentation to the county juvenile treatment screening team, which must invite the Indian child's tribe to designate a representative to the screening team.

(h) The responsible social services agency must conduct and document the screening in a format approved by the commissioner of human services.

Sec. 43. Minnesota Statutes 2022, section 260E.20, subdivision 1, is amended to read:

Subdivision 1. **General duties.** (a) The local welfare agency shall offer services to prevent future maltreatment, safeguarding and enhancing the welfare of the maltreated child, and supporting and preserving family life whenever possible.

(b) If the report alleges a violation of a criminal statute involving maltreatment or child endangerment under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of the agency's investigation or assessment.

(c) In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred.

(d) When necessary, the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living.

(e) In performing any of these duties, the local welfare agency shall maintain an appropriate record.

(f) In conducting a family assessment or investigation, the local welfare agency shall gather information on the existence of substance abuse and domestic violence.

(g) If the family assessment or investigation indicates there is a potential for abuse of alcohol or other drugs by the parent, guardian, or person responsible for the child's care, the local welfare agency ~~shall conduct~~ must coordinate a ~~chemical use~~ comprehensive assessment pursuant to ~~Minnesota Rules, part 9530.6615~~ section 245G.05.

(h) The agency may use either a family assessment or investigation to determine whether the child is safe when responding to a report resulting from birth match data under section 260E.03, subdivision 23, paragraph (c). If the child subject of birth match data is determined to be safe, the agency shall consult with the county attorney to determine the appropriateness

of filing a petition alleging the child is in need of protection or services under section 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is determined not to be safe, the agency and the county attorney shall take appropriate action as required under section 260C.503, subdivision 2.

Sec. 44. Minnesota Statutes 2022, section 299A.299, subdivision 1, is amended to read:

Subdivision 1. **Establishment of team.** A county, a multicounty organization of counties formed by an agreement under section 471.59, or a city with a population of no more than 50,000, may establish a multidisciplinary chemical abuse prevention team. The chemical abuse prevention team may include, but not be limited to, representatives of health, mental health, public health, law enforcement, educational, social service, court service, community education, religious, and other appropriate agencies, and parent and youth groups. For purposes of this section, "chemical abuse" has the meaning given in ~~Minnesota Rules, part 9530.6605, subpart 6~~ section 254A.02, subdivision 6a. When possible the team must coordinate its activities with existing local groups, organizations, and teams dealing with the same issues the team is addressing.

Sec. 45. **REVISOR INSTRUCTION.**

The revisor of statutes shall renumber the subdivisions in Minnesota Statutes, section 254B.01, in alphabetical order and correct any cross-reference changes that result.

Sec. 46. **REPEALER.**

Minnesota Statutes 2022, sections 169A.70, subdivision 6; 245G.22, subdivision 19; 254A.02, subdivision 8a; 254A.16, subdivision 6; 254A.19, subdivisions 1a, 2, and 5; 254B.04, subdivisions 2b and 2c; and 254B.041, subdivision 2, are repealed.

ARTICLE 3
MISCELLANEOUS

Section 1. Minnesota Statutes 2022, section 245.50, subdivision 5, is amended to read:

Subd. 5. **Special contracts; bordering states.** (a) An individual who is detained, committed, or placed on an involuntary basis under chapter 253B may be confined or treated in a bordering state pursuant to a contract under this section. An individual who is detained, committed, or placed on an involuntary basis under the civil law of a bordering state may be confined or treated in Minnesota pursuant to a contract under this section. A peace or health officer who is acting under the authority of the sending state may transport an

individual to a receiving agency that provides services pursuant to a contract under this section and may transport the individual back to the sending state under the laws of the sending state. Court orders valid under the law of the sending state are granted recognition and reciprocity in the receiving state for individuals covered by a contract under this section to the extent that the court orders relate to confinement for treatment or care of mental illness, chemical dependency, or detoxification. Such treatment or care may address other conditions that may be co-occurring with the mental illness or chemical dependency. These court orders are not subject to legal challenge in the courts of the receiving state. Individuals who are detained, committed, or placed under the law of a sending state and who are transferred to a receiving state under this section continue to be in the legal custody of the authority responsible for them under the law of the sending state. Except in emergencies, those individuals may not be transferred, removed, or furloughed from a receiving agency without the specific approval of the authority responsible for them under the law of the sending state.

(b) While in the receiving state pursuant to a contract under this section, an individual shall be subject to the sending state's laws and rules relating to length of confinement, reexaminations, and extensions of confinement. No individual may be sent to another state pursuant to a contract under this section until the receiving state has enacted a law recognizing the validity and applicability of this section.

(c) If an individual receiving services pursuant to a contract under this section leaves the receiving agency without permission and the individual is subject to involuntary confinement under the law of the sending state, the receiving agency shall use all reasonable means to return the individual to the receiving agency. The receiving agency shall immediately report the absence to the sending agency. The receiving state has the primary responsibility for, and the authority to direct, the return of these individuals within its borders and is liable for the cost of the action to the extent that it would be liable for costs of its own resident.

(d) Responsibility for payment for the cost of care remains with the sending agency.

(e) This subdivision also applies to county contracts under subdivision 2 which include emergency care and treatment provided to a county resident in a bordering state.

(f) If a Minnesota resident is admitted to a facility in a bordering state under this chapter, ~~a physician, a licensed psychologist who has a doctoral degree in psychology, or an advanced practice registered nurse certified in mental health,~~ an individual who is licensed in the bordering state, may act as a court examiner under sections 253B.07, 253B.08, 253B.092,

253B.12, and 253B.17 subject to the same requirements and limitations in section 253B.02, ~~subdivision~~ subdivisions 4d and 7. An examiner under section 253B.02, subdivision 7, may initiate an emergency hold under section 253B.051 on a Minnesota resident who is in a hospital that is under contract with a Minnesota governmental entity under this section provided the resident, in the opinion of the examiner, meets the criteria in section 253B.051.

(g) This section shall apply to detoxification services that are unrelated to treatment whether the services are provided on a voluntary or involuntary basis.

Sec. 2. Laws 2021, First Special Session chapter 7, article 2, section 17, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective July 1, 2021, except ~~subdivision 6, paragraph (b), is effective upon federal approval and~~ subdivision 15 is effective the day following final enactment. ~~The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.~~

Sec. 3. Laws 2021, First Special Session chapter 7, article 6, section 12, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective July 1, 2021~~, or upon federal approval, whichever is later~~. ~~The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.~~

Sec. 4. Laws 2021, First Special Session chapter 7, article 11, section 18, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective July 1, 2021, ~~or upon federal approval, whichever is later,~~ except paragraph (f) is effective the day following final enactment. ~~The commissioner shall notify the revisor of statutes when federal approval is obtained.~~

Sec. 5. Laws 2021, First Special Session chapter 7, article 13, section 43, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective January 1, 2022~~, or upon federal approval, whichever is later, except the fifth sentence in paragraph (d) is effective January 1, 2022~~. ~~The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.~~

Sec. 6. Laws 2022, chapter 98, article 4, section 37, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective July 1, 2022~~, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.~~"

Amend the title accordingly