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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1754

03/01/2021

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The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

1.1 A bill for an act

1.2 relating to human services; adding standards for customized living services

1.3 providers; authorizing long-term care consultation services for a resident's spouse

1.4 or legal partner; modifying definitions relating to nursing facility rates; expanding

1.5 criteria for adequate nursing facility documentation; modifying payroll record

1.6 requirements; expanding confidentiality of nursing facility financial statements;

1.7 adding requirements for accrued expense reimbursements; changing scholarship

1.8 per diems for nursing facility employees; repealing an adult foster care resident

1.9 rule; making technical changes; amending Minnesota Statutes 2020, sections

1.10 245A.02, by adding a subdivision; 245A.03, subdivision 7; 245C.07; 256.975,

1.11 subdivision 7; 256B.0911, subdivision 3c; 256B.439, by adding a subdivision;

1.12 256R.02, subdivisions 4, 17, 18, 19, 29, 42a, 48a, by adding a subdivision; 256R.07,

1.13 subdivisions 1, 2, 3; 256R.08, subdivision 1; 256R.09, subdivisions 2, 5; 256R.13,

1.14 subdivision 4; 256R.16, subdivision 1; 256R.17, subdivision 3; 256R.26,

1.15 subdivision 1; 256R.37; 256R.39; repealing Minnesota Statutes 2020, sections

1.16 245A.03, subdivision 5; 256R.08, subdivision 2; 256R.49; 256S.20, subdivision

1.17 2; Minnesota Rules, part 9555.6255.

1.18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.19 Section 1. Minnesota Statutes 2020, section 245A.02, is amended by adding a subdivision  
1.20 to read:

1.21 Subd. 6d. Family adult foster care home. "Family adult foster care home" means an  
1.22 adult foster care home:

1.23 (1) that is licensed by the Department of Human Services;

1.24 (2) that is the primary residence of the license holder; and

1.25 (3) in which the license holder is the primary caregiver.

2.1 Sec. 2. Minnesota Statutes 2020, section 245A.03, subdivision 7, is amended to read:

2.2 Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license  
2.3 for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult  
2.4 foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter  
2.5 for a physical location that will not be the primary residence of the license holder for the  
2.6 entire period of licensure. If a family child foster care home or family adult foster care home  
2.7 license is issued during this moratorium, and the license holder changes the license holder's  
2.8 primary residence away from the physical location of the foster care license, the  
2.9 commissioner shall revoke the license according to section 245A.07. The commissioner  
2.10 shall not issue an initial license for a community residential setting licensed under chapter  
2.11 245D. When approving an exception under this paragraph, the commissioner shall consider  
2.12 the resource need determination process in paragraph (h), the availability of foster care  
2.13 licensed beds in the geographic area in which the licensee seeks to operate, the results of a  
2.14 person's choices during their annual assessment and service plan review, and the  
2.15 recommendation of the local county board. The determination by the commissioner is final  
2.16 and not subject to appeal. Exceptions to the moratorium include:

2.17 (1) foster care settings ~~that are required to be registered under chapter 144D~~ where at  
2.18 least 80 percent of the residents are 55 years of age or older;

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

2.23 (3) new foster care licenses or community residential setting licenses determined to be  
2.24 needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD,  
2.25 or regional treatment center; restructuring of state-operated services that limits the capacity  
2.26 of state-operated facilities; or allowing movement to the community for people who no  
2.27 longer require the level of care provided in state-operated facilities as provided under section  
2.28 256B.092, subdivision 13, or 256B.49, subdivision 24;

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

2.32 (5) new foster care licenses or community residential setting licenses for people receiving  
2.33 services under chapter 245D and residing in an unlicensed setting before May 1, 2017, and  
2.34 for which a license is required. This exception does not apply to people living in their own

3.1 home. For purposes of this clause, there is a presumption that a foster care or community  
3.2 residential setting license is required for services provided to three or more people in a  
3.3 dwelling unit when the setting is controlled by the provider. A license holder subject to this  
3.4 exception may rebut the presumption that a license is required by seeking a reconsideration  
3.5 of the commissioner's determination. The commissioner's disposition of a request for  
3.6 reconsideration is final and not subject to appeal under chapter 14. The exception is available  
3.7 until June 30, 2018. This exception is available when:

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

3.11 (ii) the person's services provided in the licensed foster care or community residential  
3.12 setting are less than or equal to the cost of the person's services delivered in the unlicensed  
3.13 setting as determined by the lead agency.

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

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

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

3.29 (e) A resource need determination process, managed at the state level, using the available  
3.30 reports required by section 144A.351, and other data and information shall be used to  
3.31 determine where the reduced capacity determined under section 256B.493 will be  
3.32 implemented. The commissioner shall consult with the stakeholders described in section  
3.33 144A.351, and employ a variety of methods to improve the state's capacity to meet the  
3.34 informed decisions of those people who want to move out of corporate foster care or

4.1 community residential settings, long-term service needs within budgetary limits, including  
4.2 seeking proposals from service providers or lead agencies to change service type, capacity,  
4.3 or location to improve services, increase the independence of residents, and better meet  
4.4 needs identified by the long-term services and supports reports and statewide data and  
4.5 information.

4.6 (f) At the time of application and reapplication for licensure, the applicant and the license  
4.7 holder that are subject to the moratorium or an exclusion established in paragraph (a) are  
4.8 required to inform the commissioner whether the physical location where the foster care  
4.9 will be provided is or will be the primary residence of the license holder for the entire period  
4.10 of licensure. If the primary residence of the applicant or license holder changes, the applicant  
4.11 or license holder must notify the commissioner immediately. The commissioner shall print  
4.12 on the foster care license certificate whether or not the physical location is the primary  
4.13 residence of the license holder.

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

4.20 (h) The commissioner may adjust capacity to address needs identified in section  
4.21 144A.351. Under this authority, the commissioner may approve new licensed settings or  
4.22 delicense existing settings. Delicensing of settings will be accomplished through a process  
4.23 identified in section 256B.493. Annually, by August 1, the commissioner shall provide  
4.24 information and data on capacity of licensed long-term services and supports, actions taken  
4.25 under the subdivision to manage statewide long-term services and supports resources, and  
4.26 any recommendations for change to the legislative committees with jurisdiction over the  
4.27 health and human services budget.

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

5.1 reconsideration is made by personal service, it must be received by the commissioner within  
5.2 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

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

5.12 Sec. 3. Minnesota Statutes 2020, section 245C.07, is amended to read:

5.13 **245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.**

5.14 (a) Subject to the conditions in paragraph (d), when a license holder, applicant, or other  
5.15 entity owns multiple programs or services that are licensed by the Department of Human  
5.16 Services, Department of Health, or Department of Corrections, only one background study  
5.17 is required for an individual who provides direct contact services in one or more of the  
5.18 licensed programs or services if:

5.19 (1) the license holder designates one individual with one address and telephone number  
5.20 as the person to receive sensitive background study information for the multiple licensed  
5.21 programs or services that depend on the same background study; and

5.22 (2) the individual designated to receive the sensitive background study information is  
5.23 capable of determining, upon request of the department, whether a background study subject  
5.24 is providing direct contact services in one or more of the license holder's programs or services  
5.25 and, if so, at which location or locations.

5.26 (b) When a license holder maintains background study compliance for multiple licensed  
5.27 programs according to paragraph (a), and one or more of the licensed programs closes, the  
5.28 license holder shall immediately notify the commissioner which staff must be transferred  
5.29 to an active license so that the background studies can be electronically paired with the  
5.30 license holder's active program.

5.31 (c) When a background study is being initiated by a licensed program or service or a  
5.32 foster care provider that is also ~~registered~~ licensed as an assisted living facility under chapter  
5.33 ~~144D~~ 144G, a study subject affiliated with multiple licensed programs or services may

6.1 attach to the background study form a cover letter indicating the additional names of the  
6.2 programs or services, addresses, and background study identification numbers.

6.3 When the commissioner receives a notice, the commissioner shall notify each program  
6.4 or service identified by the background study subject of the study results.

6.5 The background study notice the commissioner sends to the subsequent agencies shall  
6.6 satisfy those programs' or services' responsibilities for initiating a background study on that  
6.7 individual.

6.8 (d) If a background study was conducted on an individual related to child foster care  
6.9 and the requirements under paragraph (a) are met, the background study is transferable  
6.10 across all licensed programs. If a background study was conducted on an individual under  
6.11 a license other than child foster care and the requirements under paragraph (a) are met, the  
6.12 background study is transferable to all licensed programs except child foster care.

6.13 (e) The provisions of this section that allow a single background study in one or more  
6.14 licensed programs or services do not apply to background studies submitted by adoption  
6.15 agencies, supplemental nursing services agencies, personnel agencies, educational programs,  
6.16 professional services agencies, and unlicensed personal care provider organizations.

6.17 (f) For an entity operating under NETStudy 2.0, the entity's active roster must be the  
6.18 system used to document when a background study subject is affiliated with multiple entities.  
6.19 For a background study to be transferable:

6.20 (1) the background study subject must be on and moving to a roster for which the person  
6.21 designated to receive sensitive background study information is the same; and

6.22 (2) the same entity must own or legally control both the roster from which the transfer  
6.23 is occurring and the roster to which the transfer is occurring. For an entity that holds or  
6.24 controls multiple licenses, or unlicensed personal care provider organizations, there must  
6.25 be a common highest level entity that has a legally identifiable structure that can be verified  
6.26 through records available from the secretary of state.

6.27 Sec. 4. Minnesota Statutes 2020, section 256.975, subdivision 7, is amended to read:

6.28 Subd. 7. **Consumer information and assistance and long-term care options**  
6.29 **counseling; Senior LinkAge Line.** (a) The Minnesota Board on Aging shall operate a  
6.30 statewide service to aid older Minnesotans and their families in making informed choices  
6.31 about long-term care options and health care benefits. Language services to persons with  
6.32 limited English language skills may be made available. The service, known as Senior  
6.33 LinkAge Line, shall serve older adults as the designated Aging and Disability Resource

7.1 Center under United States Code, title 42, section 3001, the Older Americans Act  
7.2 Amendments of 2006 in partnership with the Disability Hub under section 256.01,  
7.3 subdivision 24, and must be available during business hours through a statewide toll-free  
7.4 number and the Internet. The Minnesota Board on Aging shall consult with, and when  
7.5 appropriate work through, the area agencies on aging counties, and other entities that serve  
7.6 aging and disabled populations of all ages, to provide and maintain the telephone  
7.7 infrastructure and related support for the Aging and Disability Resource Center partners  
7.8 which agree by memorandum to access the infrastructure, including the designated providers  
7.9 of the Senior LinkAge Line and the Disability Hub.

7.10 (b) The service must provide long-term care options counseling by assisting older adults,  
7.11 caregivers, and providers in accessing information and options counseling about choices in  
7.12 long-term care services that are purchased through private providers or available through  
7.13 public options. The service must:

7.14 (1) develop and provide for regular updating of a comprehensive database that includes  
7.15 detailed listings in both consumer- and provider-oriented formats that can provide search  
7.16 results down to the neighborhood level;

7.17 (2) make the database accessible on the Internet and through other telecommunication  
7.18 and media-related tools;

7.19 (3) link callers to interactive long-term care screening tools and make these tools available  
7.20 through the Internet by integrating the tools with the database;

7.21 (4) develop community education materials with a focus on planning for long-term care  
7.22 and evaluating independent living, housing, and service options;

7.23 (5) conduct an outreach campaign to assist older adults and their caregivers in finding  
7.24 information on the Internet and through other means of communication;

7.25 (6) implement a messaging system for overflow callers and respond to these callers by  
7.26 the next business day;

7.27 (7) link callers with county human services and other providers to receive more in-depth  
7.28 assistance and consultation related to long-term care options;

7.29 (8) link callers with quality profiles for nursing facilities and other home and  
7.30 community-based services providers developed by the commissioners of health and human  
7.31 services;

7.32 (9) develop an outreach plan to seniors and their caregivers with a particular focus on  
7.33 establishing a clear presence in places that seniors recognize and:

8.1 (i) place a significant emphasis on improved outreach and service to seniors and their  
8.2 caregivers by establishing annual plans by neighborhood, city, and county, as necessary, to  
8.3 address the unique needs of geographic areas in the state where there are dense populations  
8.4 of seniors;

8.5 (ii) establish an efficient workforce management approach and assign community living  
8.6 specialist staff and volunteers to geographic areas as well as aging and disability resource  
8.7 center sites so that seniors and their caregivers and professionals recognize the Senior  
8.8 LinkAge Line as the place to call for aging services and information;

8.9 (iii) recognize the size and complexity of the metropolitan area service system by working  
8.10 with metropolitan counties to establish a clear partnership with them, including seeking  
8.11 county advice on the establishment of local aging and disabilities resource center sites; and

8.12 (iv) maintain dashboards with metrics that demonstrate how the service is expanding  
8.13 and extending or enhancing its outreach efforts in dispersed or hard to reach locations in  
8.14 varied population centers;

8.15 (10) incorporate information about the availability of housing options, as well as  
8.16 registered housing with services and consumer rights within the MinnesotaHelp.info network  
8.17 long-term care database to facilitate consumer comparison of services and costs among  
8.18 housing with services establishments and with other in-home services and to support financial  
8.19 self-sufficiency as long as possible. Housing with services establishments and their arranged  
8.20 home care providers shall provide information that will facilitate price comparisons, including  
8.21 delineation of charges for rent and for services available. The commissioners of health and  
8.22 human services shall align the data elements required by ~~section 144G.06, the Uniform~~  
8.23 ~~Consumer Information Guide~~ under the uniform checklist disclosure of services authorized  
8.24 by section 144G.09, subdivision 3, and this section to provide consumers standardized  
8.25 information and ease of comparison of long-term care options. The commissioner of human  
8.26 services shall provide the data to the Minnesota Board on Aging for inclusion in the  
8.27 MinnesotaHelp.info network long-term care database;

8.28 (11) provide long-term care options counseling. Long-term care options counselors shall:

8.29 (i) for individuals not eligible for case management under a public program or public  
8.30 funding source, provide interactive decision support under which consumers, family  
8.31 members, or other helpers are supported in their deliberations to determine appropriate  
8.32 long-term care choices in the context of the consumer's needs, preferences, values, and  
8.33 individual circumstances, including implementing a community support plan;



9.1 (ii) provide web-based educational information and collateral written materials to  
9.2 familiarize consumers, family members, or other helpers with the long-term care basics,  
9.3 issues to be considered, and the range of options available in the community;

9.4 (iii) provide long-term care futures planning, which means providing assistance to  
9.5 individuals who anticipate having long-term care needs to develop a plan for the more  
9.6 distant future; and

9.7 (iv) provide expertise in benefits and financing options for long-term care, including  
9.8 Medicare, long-term care insurance, tax or employer-based incentives, reverse mortgages,  
9.9 private pay options, and ways to access low or no-cost services or benefits through  
9.10 volunteer-based or charitable programs;

9.11 (12) using risk management and support planning protocols, provide long-term care  
9.12 options counseling under clause (13) to current residents of nursing homes deemed  
9.13 appropriate for discharge by the commissioner who meet a profile that demonstrates that  
9.14 the consumer is either at risk of readmission to a nursing home or hospital, or would benefit  
9.15 from long-term care options counseling to age in place. The Senior LinkAge Line shall  
9.16 identify and contact residents or patients deemed appropriate by developing targeting criteria  
9.17 and creating a profile in consultation with the commissioner. The commissioner shall provide  
9.18 designated Senior LinkAge Line contact centers with a list of current or former nursing  
9.19 home residents or people discharged from a hospital or for whom Medicare home care has  
9.20 ended, that meet the criteria as being appropriate for long-term care options counseling  
9.21 through a referral via a secure web portal. Senior LinkAge Line shall provide these residents,  
9.22 if they indicate a preference to receive long-term care options counseling, with initial  
9.23 assessment and, if appropriate, a referral to:

9.24 (i) long-term care consultation services under section 256B.0911;

9.25 (ii) designated care coordinators of contracted entities under section 256B.035 for persons  
9.26 who are enrolled in a managed care plan; or

9.27 (iii) the long-term care consultation team for those who are eligible for relocation service  
9.28 coordination due to high-risk factors or psychological or physical disability; and

9.29 (13) develop referral protocols and processes that will assist certified health care homes,  
9.30 Medicare home care, and hospitals to identify at-risk older adults and determine when to  
9.31 refer these individuals to the Senior LinkAge Line for long-term care options counseling  
9.32 under this section. The commissioner is directed to work with the commissioner of health  
9.33 to develop protocols that would comply with the health care home designation criteria and  
9.34 protocols available at the time of hospital discharge or the end of Medicare home care. The

10.1 commissioner shall keep a record of the number of people who choose long-term care  
10.2 options counseling as a result of this section.

10.3 (c) Nursing homes shall provide contact information to the Senior LinkAge Line for  
10.4 residents identified in paragraph (b), clause (12), to provide long-term care options counseling  
10.5 pursuant to paragraph (b), clause (11). The contact information for residents shall include  
10.6 all information reasonably necessary to contact residents, including first and last names,  
10.7 permanent and temporary addresses, telephone numbers, and e-mail addresses.

10.8 (d) The Senior LinkAge Line shall determine when it is appropriate to refer a consumer  
10.9 who receives long-term care options counseling under paragraph (b), clause (12) or (13),  
10.10 and who uses an unpaid caregiver to the self-directed caregiver service under subdivision  
10.11 12.

10.12 Sec. 5. Minnesota Statutes 2020, section 256B.0911, subdivision 3c, is amended to read:

10.13 Subd. 3c. **Consultation for housing with services.** (a) The purpose of long-term care  
10.14 consultation for registered housing with services is to support persons with current or  
10.15 anticipated long-term care needs in making informed choices among options that include  
10.16 the most cost-effective and least restrictive settings. Prospective residents maintain the right  
10.17 to choose housing with services or assisted living if that option is their preference.

10.18 (b) Registered housing with services establishments shall inform each prospective resident  
10.19 or the prospective resident's designated or legal representative of the availability of long-term  
10.20 care consultation and the need to receive and verify the consultation prior to signing a lease  
10.21 or contract. Long-term care consultation for registered housing with services is provided  
10.22 as determined by the commissioner of human services. The service is delivered under a  
10.23 partnership between lead agencies as defined in subdivision 1a, paragraph (d), and the Area  
10.24 Agencies on Aging, and is a point of entry to a combination of telephone-based long-term  
10.25 care options counseling provided by Senior LinkAge Line and in-person long-term care  
10.26 consultation provided by lead agencies. The point of entry service must be provided within  
10.27 five working days of the request of the prospective resident as follows:

10.28 (1) the consultation shall be conducted with the prospective resident, ~~or in the alternative,~~  
10.29 the prospective resident's designated or legal representative, or the prospective resident's  
10.30 spouse or legal partner, if:

10.31 (i) the prospective resident verbally requests; or

10.32 (ii) the registered housing with services provider has documentation of the authority of  
10.33 the prospective resident's spouse or legal partner or designated or legal representative's

11.1 ~~authority representative~~ to enter into a lease or contract on behalf of the prospective resident  
 11.2 and accepts the documentation in good faith;

11.3 (2) the consultation shall be performed in a manner that provides objective and complete  
 11.4 information;

11.5 (3) the consultation must include a review of the prospective resident's reasons for  
 11.6 considering housing with services, the prospective resident's personal goals, a discussion  
 11.7 of the prospective resident's immediate and projected long-term care needs, and alternative  
 11.8 community services or housing with services settings that may meet the prospective resident's  
 11.9 needs;

11.10 (4) the prospective resident shall be informed of the availability of a face-to-face visit  
 11.11 at no charge to the prospective resident to assist the prospective resident in assessment and  
 11.12 planning to meet the prospective resident's long-term care needs; and

11.13 (5) verification of counseling shall be generated and provided to the prospective resident  
 11.14 by Senior LinkAge Line upon completion of the telephone-based counseling.

11.15 (c) Housing with services establishments registered under chapter 144D shall:

11.16 (1) inform each prospective resident or the prospective resident's spouse or legal partner  
 11.17 or designated or legal representative of the availability of and contact information for  
 11.18 consultation services under this subdivision;

11.19 (2) receive a copy of the verification of counseling prior to executing a lease or service  
 11.20 contract with the prospective resident, and prior to executing a service contract with  
 11.21 individuals who have previously entered into lease-only arrangements; and

11.22 (3) retain a copy of the verification of counseling as part of the resident's file.

11.23 (d) Emergency admissions to registered housing with services establishments prior to  
 11.24 consultation under paragraph (b) are permitted according to policies established by the  
 11.25 commissioner.

11.26 Sec. 6. Minnesota Statutes 2020, section 256B.439, is amended by adding a subdivision  
 11.27 to read:

11.28 **Subd. 3c. Contact information for consumer surveys for nursing facilities and home**  
 11.29 **and community-based services.** For purposes of conducting the consumer surveys under  
 11.30 subdivisions 3 and 3a, the commissioner may request contact information of clients and  
 11.31 associated key representatives. Providers must furnish the contact information available to  
 11.32 the provider.

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

12.2 Sec. 7. Minnesota Statutes 2020, section 256R.02, subdivision 4, is amended to read:

12.3 Subd. 4. **Administrative costs.** "Administrative costs" means the identifiable costs for  
 12.4 administering the overall activities of the nursing home. These costs include salaries and  
 12.5 wages of the administrator, assistant administrator, business office employees, security  
 12.6 guards, purchasing and inventory employees, and associated fringe benefits and payroll  
 12.7 taxes, fees, contracts, or purchases related to business office functions, licenses, permits  
 12.8 except as provided in the external fixed costs category, employee recognition, travel including  
 12.9 meals and lodging, all training except as specified in subdivision 17, voice and data  
 12.10 communication or transmission, office supplies, property and liability insurance and other  
 12.11 forms of insurance except insurance that is a fringe benefit under subdivision 22, personnel  
 12.12 recruitment, legal services, accounting services, management or business consultants, data  
 12.13 processing, information technology, website, central or home office costs, business meetings  
 12.14 and seminars, postage, fees for professional organizations, subscriptions, security services,  
 12.15 nonpromotional advertising, board of directors fees, working capital interest expense, bad  
 12.16 debts, bad debt collection fees, and costs incurred for travel and ~~housing~~ lodging for persons  
 12.17 employed by a Minnesota-registered supplemental nursing services agency as defined in  
 12.18 section 144A.70, subdivision 6.

12.19 Sec. 8. Minnesota Statutes 2020, section 256R.02, subdivision 17, is amended to read:

12.20 Subd. 17. **Direct care costs.** "Direct care costs" means costs for the wages of nursing  
 12.21 administration, direct care registered nurses, licensed practical nurses, certified nursing  
 12.22 assistants, trained medication aides, employees conducting training in resident care topics  
 12.23 and associated fringe benefits and payroll taxes; services from a Minnesota-registered  
 12.24 supplemental nursing services agency up to the maximum allowable charges under section  
 12.25 144A.74, excluding associated lodging and travel costs; supplies that are stocked at nursing  
 12.26 stations or on the floor and distributed or used individually, including, but not limited to:  
 12.27 rubbing alcohol or alcohol swabs, applicators, cotton balls, incontinence pads, disposable  
 12.28 ice bags, dressings, bandages, water pitchers, tongue depressors, disposable gloves, enemas,  
 12.29 enema equipment, personal hygiene soap, medication cups, diapers, ~~plastic waste bags~~,  
 12.30 sanitary products, disposable thermometers, hypodermic needles and syringes, ~~clinical~~  
 12.31 ~~reagents or similar diagnostic agents~~, drugs that are not paid not payable on a separate fee  
 12.32 schedule by the medical assistance program or any other payer, and ~~technology related~~  
 12.33 clinical software costs specific to the provision of nursing care to residents, such as electronic  
 12.34 charting systems; costs of materials used for resident care training, and training courses

13.1 outside of the facility attended by direct care staff on resident care topics; and costs for  
 13.2 nurse consultants, pharmacy consultants, and medical directors. Salaries and payroll taxes  
 13.3 for nurse consultants who work out of a central office must be allocated proportionately by  
 13.4 total resident days or by direct identification to the nursing facilities served by those  
 13.5 consultants.

13.6 Sec. 9. Minnesota Statutes 2020, section 256R.02, subdivision 18, is amended to read:

13.7 Subd. 18. **Employer health insurance costs.** "Employer health insurance costs" means  
 13.8 premium expenses for group coverage; and actual expenses incurred for self-insured plans,  
 13.9 including reinsurance; actual claims paid, stop-loss premiums, plan fees, and employer  
 13.10 contributions to employee health reimbursement and health savings accounts. Actual costs  
 13.11 of self-insurance plans must not include any allowance for future funding unless the plan  
 13.12 meets the Medicare requirements for reporting on a premium basis when the Medicare  
 13.13 regulations define the actual costs. Premium and expense costs and contributions are  
 13.14 allowable for (1) all employees and (2) the spouse and dependents of those employees who  
 13.15 are employed on average at least 30 hours per week.

13.16 Sec. 10. Minnesota Statutes 2020, section 256R.02, subdivision 19, is amended to read:

13.17 Subd. 19. **External fixed costs.** "External fixed costs" means costs related to the nursing  
 13.18 home surcharge under section 256.9657, subdivision 1; licensure fees under section 144.122;  
 13.19 family advisory council fee under section 144A.33; scholarships under section 256R.37;  
 13.20 planned closure rate adjustments under section 256R.40; consolidation rate adjustments  
 13.21 under section 144A.071, subdivisions 4c, paragraph (a), clauses (5) and (6), and 4d;  
 13.22 single-bed room incentives under section 256R.41; property taxes, special assessments, and  
 13.23 payments in lieu of taxes; employer health insurance costs; quality improvement incentive  
 13.24 payment rate adjustments under section 256R.39; performance-based incentive payments  
 13.25 under section 256R.38; special dietary needs under section 256R.51; ~~rate adjustments for~~  
 13.26 ~~compensation-related costs for minimum wage changes under section 256R.49 provided~~  
 13.27 ~~on or after January 1, 2018;~~ Public Employees Retirement Association employer costs; and  
 13.28 border city rate adjustments under section 256R.481.

13.29 Sec. 11. Minnesota Statutes 2020, section 256R.02, subdivision 29, is amended to read:

13.30 Subd. 29. **Maintenance and plant operations costs.** "Maintenance and plant operations  
 13.31 costs" means the costs for the salaries and wages of the maintenance supervisor, engineers,  
 13.32 heating-plant employees, and other maintenance employees and associated fringe benefits  
 13.33 and payroll taxes. It also includes identifiable costs for maintenance and operation of the

14.1 building and grounds, including, but not limited to, fuel, electricity, plastic waste bags,  
 14.2 medical waste and garbage removal, water, sewer, supplies, tools, and repairs, and minor  
 14.3 equipment not requiring capitalization under Medicare guidelines.

14.4 Sec. 12. Minnesota Statutes 2020, section 256R.02, is amended by adding a subdivision  
 14.5 to read:

14.6 Subd. 32a. **Minor equipment.** "Minor equipment" means equipment that does not qualify  
 14.7 as either fixed equipment or depreciable movable equipment defined in section 256R.261.

14.8 Sec. 13. Minnesota Statutes 2020, section 256R.02, subdivision 42a, is amended to read:

14.9 Subd. 42a. **Real estate taxes.** "Real estate taxes" means the real estate tax liability shown  
 14.10 on the annual property tax ~~statement~~ statements of the nursing facility for the reporting  
 14.11 period. The term does not include personnel costs or fees for late payment.

14.12 Sec. 14. Minnesota Statutes 2020, section 256R.02, subdivision 48a, is amended to read:

14.13 Subd. 48a. **Special assessments.** "Special assessments" means the actual special  
 14.14 assessments and related interest paid during the reporting period that are not voluntary costs.  
 14.15 The term does not include personnel costs or, fees for late payment, or special assessments  
 14.16 for projects that are reimbursed in the property rate.

14.17 Sec. 15. Minnesota Statutes 2020, section 256R.07, subdivision 1, is amended to read:

14.18 Subdivision 1. **Criteria.** A nursing facility ~~shall~~ must keep adequate documentation. In  
 14.19 order to be adequate, documentation must:

14.20 (1) be maintained in orderly, well-organized files;

14.21 (2) not include documentation of more than one nursing facility in one set of files unless  
 14.22 transactions may be traced by the commissioner to the nursing facility's annual cost report;

14.23 (3) include a paid invoice or copy of a paid invoice with date of purchase, vendor name  
 14.24 and address, purchaser name and delivery destination address, listing of items or services  
 14.25 purchased, cost of items purchased, account number to which the cost is posted, and a  
 14.26 breakdown of any allocation of costs between accounts or nursing facilities. If any of the  
 14.27 information is not available, the nursing facility ~~shall~~ must document its good faith attempt  
 14.28 to obtain the information;

15.1 (4) include contracts, agreements, amortization schedules, mortgages, other debt  
 15.2 instruments, and all other documents necessary to explain the nursing facility's costs or  
 15.3 revenues; ~~and~~

15.4 (5) include signed and dated position descriptions; and

15.5 (6) be retained by the nursing facility to support the five most recent annual cost reports.  
 15.6 The commissioner may extend the period of retention if the field audit was postponed  
 15.7 because of inadequate record keeping or accounting practices as in section 256R.13,  
 15.8 subdivisions 2 and 4, the records are necessary to resolve a pending appeal, or the records  
 15.9 are required for the enforcement of sections 256R.04; 256R.05, subdivision 2; 256R.06,  
 15.10 subdivisions 2, 6, and 7; 256R.08, subdivisions 1 ~~to~~ and 3; and 256R.09, subdivisions 3 and  
 15.11 4.

15.12 Sec. 16. Minnesota Statutes 2020, section 256R.07, subdivision 2, is amended to read:

15.13 Subd. 2. **Documentation of compensation.** Compensation for personal services,  
 15.14 regardless of whether treated as identifiable costs or costs that are not identifiable, must be  
 15.15 documented on payroll records. Payrolls must be supported by time and attendance or  
 15.16 equivalent records for individual employees. Salaries and wages of employees which are  
 15.17 allocated to more than one cost category must be supported by time distribution records.  
 15.18 ~~The method used must produce a proportional distribution of actual time spent, or an accurate~~  
 15.19 ~~estimate of time spent performing assigned duties. The nursing facility that chooses to~~  
 15.20 ~~estimate time spent must use a statistically valid method. The compensation must reflect~~  
 15.21 ~~an amount proportionate to a full-time basis if the services are rendered on less than a~~  
 15.22 ~~full-time basis. Salary allocations are allowable using the Medicare-approved allocation~~  
 15.23 basis and methodology only if the salary costs cannot be directly determined, including  
 15.24 when employees provide shared services to noncovered operations.

15.25 Sec. 17. Minnesota Statutes 2020, section 256R.07, subdivision 3, is amended to read:

15.26 Subd. 3. **Adequate documentation supporting nursing facility payrolls.** Payroll  
 15.27 records supporting compensation costs claimed by nursing facilities must be supported by  
 15.28 affirmative time and attendance records prepared by each individual at intervals of not more  
 15.29 than one month. The requirements of this subdivision are met when documentation is  
 15.30 provided under either clause (1) or (2) ~~as follows:~~

15.31 (1) the affirmative time and attendance record must identify the individual's name; the  
 15.32 days worked during each pay period; the number of hours worked each day; and the number  
 15.33 of hours taken each day by the individual for vacation, sick, and other leave. The affirmative

16.1 time and attendance record must include a signed verification by the individual and the  
 16.2 individual's supervisor, if any, that the entries reported on the record are correct; or

16.3 (2) if the affirmative time and attendance records identifying the individual's name, the  
 16.4 days worked each pay period, the number of hours worked each day, and the number of  
 16.5 hours taken each day by the individual for vacation, sick, and other leave are ~~placed on~~  
 16.6 ~~microfilm~~ stored electronically, equipment must be made available for viewing and printing  
 16.7 ~~them, or if the records are stored as automated data, summary data must be available for~~  
 16.8 ~~viewing and printing~~ the records.

16.9 Sec. 18. Minnesota Statutes 2020, section 256R.08, subdivision 1, is amended to read:

16.10 Subdivision 1. **Reporting of financial statements.** (a) No later than February 1 of each  
 16.11 year, a nursing facility ~~shall~~ must:

16.12 (1) provide the state agency with a copy of its audited financial statements or its working  
 16.13 trial balance;

16.14 (2) provide the state agency with a statement of ownership for the facility;

16.15 (3) provide the state agency with separate, audited financial statements or working trial  
 16.16 balances for every other facility owned in whole or in part by an individual or entity that  
 16.17 has an ownership interest in the facility;

16.18 (4) upon request, provide the state agency with separate, audited financial statements or  
 16.19 working trial balances for every organization with which the facility conducts business and  
 16.20 which is owned in whole or in part by an individual or entity which has an ownership interest  
 16.21 in the facility;

16.22 (5) provide the state agency with copies of leases, purchase agreements, and other  
 16.23 documents related to the lease or purchase of the nursing facility; and

16.24 (6) upon request, provide the state agency with copies of leases, purchase agreements,  
 16.25 and other documents related to the acquisition of equipment, goods, and services which are  
 16.26 claimed as allowable costs.

16.27 (b) Audited financial statements submitted under paragraph (a) must include a balance  
 16.28 sheet, income statement, statement of the rate or rates charged to private paying residents,  
 16.29 statement of retained earnings, statement of cash flows, notes to the financial statements,  
 16.30 audited applicable supplemental information, and the public accountant's report. Public  
 16.31 accountants must conduct audits in accordance with chapter 326A. The cost of an audit  
 16.32 ~~shall~~ must not be an allowable cost unless the nursing facility submits its audited financial



17.1 statements in the manner otherwise specified in this subdivision. A nursing facility must  
 17.2 permit access by the state agency to the public accountant's audit work papers that support  
 17.3 the audited financial statements submitted under paragraph (a).

17.4 (c) Documents or information provided to the state agency pursuant to this subdivision  
 17.5 ~~shall~~ must be public unless prohibited by the Health Insurance Portability and Accountability  
 17.6 Act or any other federal or state regulation. Data, notes, and preliminary drafts of reports  
 17.7 created, collected, and maintained by the audit offices of government entities, or persons  
 17.8 performing audits for government entities, and relating to an audit or investigation are  
 17.9 confidential data on individuals or protected nonpublic data until the final report has been  
 17.10 published or the audit or investigation is no longer being pursued actively, except that the  
 17.11 data must be disclosed as required to comply with section 6.67 or 609.456.

17.12 (d) If the requirements of paragraphs (a) and (b) are not met, the reimbursement rate  
 17.13 may be reduced to 80 percent of the rate in effect on the first day of the fourth calendar  
 17.14 month after the close of the reporting period and the reduction ~~shall~~ must continue until the  
 17.15 requirements are met.

17.16 Sec. 19. Minnesota Statutes 2020, section 256R.09, subdivision 2, is amended to read:

17.17 Subd. 2. **Reporting of statistical and cost information.** All nursing facilities ~~shall~~ must  
 17.18 provide information annually to the commissioner on a form and in a manner determined  
 17.19 by the commissioner. The commissioner may separately require facilities to submit in a  
 17.20 manner specified by the commissioner documentation of statistical and cost information  
 17.21 included in the report to ensure accuracy in establishing payment rates and to perform audit  
 17.22 and appeal review functions under this chapter. The commissioner may also require nursing  
 17.23 facilities to provide statistical and cost information for a subset of the items in the annual  
 17.24 report on a semiannual basis. Nursing facilities ~~shall~~ must report only costs directly related  
 17.25 to the operation of the nursing facility. The facility ~~shall~~ must not include costs which are  
 17.26 separately reimbursed or reimbursable by residents, medical assistance, or other payors.  
 17.27 Allocations of costs from central, affiliated, or corporate office and related organization  
 17.28 transactions shall be reported according to sections 256R.07, subdivision 3, and 256R.12,  
 17.29 subdivisions 1 to 7. The commissioner shall not grant facilities extensions to the filing  
 17.30 deadline.

17.31 Sec. 20. Minnesota Statutes 2020, section 256R.09, subdivision 5, is amended to read:

17.32 Subd. 5. **Method of accounting.** The accrual method of accounting in accordance with  
 17.33 generally accepted accounting principles is the only method acceptable for purposes of

18.1 satisfying the reporting requirements of this chapter. If a governmentally owned nursing  
18.2 facility demonstrates that the accrual method of accounting is not applicable to its accounts  
18.3 and that a cash or modified accrual method of accounting more accurately reports the nursing  
18.4 facility's financial operations, the commissioner shall permit the governmentally owned  
18.5 nursing facility to use a cash or modified accrual method of accounting. For reimbursement  
18.6 purposes, the accrued expense must be paid by the providers within 90 days following the  
18.7 end of the reporting period. An expense disallowed by the commissioner under this section  
18.8 in any cost report period must not be claimed by a provider on a subsequent cost report.  
18.9 Specific exemptions to the 90-day rule may be granted by the commissioner for documented  
18.10 contractual arrangements such as receivership, property tax installment payments, and  
18.11 pension contributions.

18.12 Sec. 21. Minnesota Statutes 2020, section 256R.13, subdivision 4, is amended to read:

18.13 Subd. 4. **Extended record retention requirements.** The commissioner shall extend the  
18.14 period for retention of records under section 256R.09, subdivision 3, for purposes of  
18.15 performing field audits as necessary to enforce sections 256R.04; 256R.05, subdivision 2;  
18.16 256R.06, subdivisions 2, 6, and 7; 256R.08, subdivisions 1 ~~to~~ and 3; and 256R.09,  
18.17 subdivisions 3 and 4, with written notice to the facility postmarked no later than 90 days  
18.18 prior to the expiration of the record retention requirement.

18.19 Sec. 22. Minnesota Statutes 2020, section 256R.16, subdivision 1, is amended to read:

18.20 Subdivision 1. **Calculation of a quality score.** (a) The commissioner shall determine  
18.21 a quality score for each nursing facility using quality measures established in section  
18.22 256B.439, according to methods determined by the commissioner in consultation with  
18.23 stakeholders and experts, and using the most recently available data as provided in the  
18.24 Minnesota Nursing Home Report Card. These methods ~~shall~~ must be exempt from the  
18.25 rulemaking requirements under chapter 14.

18.26 (b) For each quality measure, a score ~~shall~~ must be determined with the number of points  
18.27 assigned as determined by the commissioner using the methodology established according  
18.28 to this subdivision. The determination of the quality measures to be used and the methods  
18.29 of calculating scores may be revised annually by the commissioner.

18.30 (c) The quality score ~~shall~~ must include up to 50 points related to the Minnesota quality  
18.31 indicators score derived from the minimum data set, up to 40 points related to the resident  
18.32 quality of life score derived from the consumer survey conducted under section 256B.439,  
18.33 subdivision 3, and up to ten points related to the state inspection results score.

19.1 (d) The commissioner, in cooperation with the commissioner of health, may adjust the  
 19.2 formula in paragraph (c), or the methodology for computing the total quality score, ~~effective~~  
 19.3 ~~July 1 of any year~~, with five months advance public notice. In changing the formula, the  
 19.4 commissioner shall consider quality measure priorities registered by report card users, advice  
 19.5 of stakeholders, and available research.

19.6 Sec. 23. Minnesota Statutes 2020, section 256R.17, subdivision 3, is amended to read:

19.7 Subd. 3. **Resident assessment schedule.** (a) Nursing facilities ~~shall~~ must conduct and  
 19.8 submit case mix classification assessments according to the schedule established by the  
 19.9 commissioner of health under section 144.0724, subdivisions 4 and 5.

19.10 (b) The case mix classifications established under section 144.0724, subdivision 3a,  
 19.11 ~~shall~~ must be effective the day of admission for new admission assessments. The effective  
 19.12 date for significant change assessments ~~shall~~ must be the assessment reference date. The  
 19.13 effective date for annual and quarterly assessments ~~shall~~ and significant corrections  
 19.14 assessments must be the first day of the month following assessment reference date.

19.15 Sec. 24. Minnesota Statutes 2020, section 256R.26, subdivision 1, is amended to read:

19.16 Subdivision 1. **Determination of limited undepreciated replacement cost.** A facility's  
 19.17 limited URC is the lesser of:

19.18 (1) the facility's recognized URC from the appraisal; or

19.19 (2) the product of (i) the number of the facility's licensed beds three months prior to the  
 19.20 beginning of the rate year, (ii) the construction cost per square foot value, and (iii) 1,000  
 19.21 square feet.

19.22 Sec. 25. Minnesota Statutes 2020, section 256R.37, is amended to read:

19.23 **256R.37 SCHOLARSHIPS.**

19.24 ~~(a) For the 27-month period beginning October 1, 2015, through December 31, 2017,~~  
 19.25 ~~the commissioner shall allow a scholarship per diem of up to 25 cents for each nursing~~  
 19.26 ~~facility with no scholarship per diem that is requesting a scholarship per diem to be added~~  
 19.27 ~~to the external fixed payment rate to be used:~~

19.28 ~~(1) for employee scholarships that satisfy the following requirements:~~

19.29 ~~(i) scholarships are available to all employees who work an average of at least ten hours~~  
 19.30 ~~per week at the facility except the administrator, and to reimburse student loan expenses~~  
 19.31 ~~for newly hired registered nurses and licensed practical nurses, and training expenses for~~

20.1 ~~nursing assistants as specified in section 144A.611, subdivisions 2 and 4, who are newly~~  
 20.2 ~~hired; and~~

20.3 ~~(ii) the course of study is expected to lead to career advancement with the facility or in~~  
 20.4 ~~long-term care, including medical care interpreter services and social work; and~~

20.5 ~~(2) to provide job-related training in English as a second language.~~

20.6 ~~(b) All facilities may annually request a rate adjustment under this section by submitting~~  
 20.7 ~~information to the commissioner on a schedule and in a form supplied by the commissioner.~~

20.8 ~~The commissioner shall allow a scholarship payment rate equal to the reported and allowable~~  
 20.9 ~~costs divided by resident days.~~

20.10 ~~(c) In calculating the per diem under paragraph (b), the commissioner shall allow costs~~  
 20.11 ~~related to tuition, direct educational expenses, and reasonable costs as defined by the~~  
 20.12 ~~commissioner for child care costs and transportation expenses related to direct educational~~  
 20.13 ~~expenses.~~

20.14 ~~(d) The rate increase under this section is an optional rate add-on that the facility must~~  
 20.15 ~~request from the commissioner in a manner prescribed by the commissioner. The rate~~  
 20.16 ~~increase must be used for scholarships as specified in this section.~~

20.17 ~~(e) For instances in which a rate adjustment will be 15 cents or greater, nursing facilities~~  
 20.18 ~~that close beds during a rate year may request to have their scholarship adjustment under~~  
 20.19 ~~paragraph (b) recalculated by the commissioner for the remainder of the rate year to reflect~~  
 20.20 ~~the reduction in resident days compared to the cost report year.~~

20.21 (a) The commissioner shall provide a scholarship per diem rate calculated using the  
 20.22 criteria in paragraphs (b) to (d). The per diem rate must be based on the allowable costs the  
 20.23 facility paid for employee scholarships for any eligible employee, except the facility  
 20.24 administrator, who works an average of at least ten hours per week in the licensed nursing  
 20.25 facility building when the facility has paid expenses related to:

20.26 (1) an employee's course of study that is expected to lead to career advancement with  
 20.27 the facility or in the field of long-term care;

20.28 (2) an employee's job-related training in English as a second language;

20.29 (3) the reimbursement of student loan expenses for newly hired registered nurses and  
 20.30 licensed practical nurses; and

20.31 (4) the reimbursement of training, testing, and associated expenses for newly hired  
 20.32 nursing assistants as specified in section 144A.611, subdivisions 2 and 4. The reimbursement

21.1 of nursing assistant expenses under this clause is not subject to the ten-hour minimum work  
 21.2 requirement under this paragraph.

21.3 (b) Allowable scholarship costs include: tuition; student loan reimbursement; other direct  
 21.4 educational expenses; and reasonable costs for child care and transportation expenses directly  
 21.5 related to education, as defined by the commissioner.

21.6 (c) The commissioner shall provide a scholarship per diem rate equal to the allowable  
 21.7 scholarship costs divided by resident days. The commissioner shall compute the scholarship  
 21.8 per diem rate annually and include the scholarship per diem rate in the external fixed costs  
 21.9 payment rate.

21.10 (d) When the resulting scholarship per diem rate is 15 cents or more, nursing facilities  
 21.11 that close beds during a rate year may request to have the scholarship rate recalculated. This  
 21.12 recalculation is effective from the date of the bed closure through the remainder of the rate  
 21.13 year and reflects the estimated reduction in resident days compared to the previous cost  
 21.14 report year.

21.15 (e) Facilities seeking to have the facility's scholarship expenses recognized for the  
 21.16 payment rate computation in section 256R.25 may apply annually by submitting information  
 21.17 to the commissioner on a schedule and in a form supplied by the commissioner.

21.18 Sec. 26. Minnesota Statutes 2020, section 256R.39, is amended to read:

21.19 **256R.39 QUALITY IMPROVEMENT INCENTIVE PROGRAM.**

21.20 The commissioner shall develop a quality improvement incentive program in consultation  
 21.21 with stakeholders. The annual funding pool available for quality improvement incentive  
 21.22 payments ~~shall~~ must be equal to 0.8 percent of all operating payments, not including any  
 21.23 rate components resulting from equitable cost-sharing for publicly owned nursing facility  
 21.24 program participation under section 256R.48, critical access nursing facility program  
 21.25 participation under section 256R.47, or performance-based incentive payment program  
 21.26 participation under section 256R.38. ~~For the period from October 1, 2015, to December 31,~~  
 21.27 ~~2016, rate adjustments provided under this section shall be effective for 15 months. Beginning~~  
 21.28 ~~January 1, 2017, An~~ annual rate ~~adjustments~~ adjustment provided under this section ~~shall~~  
 21.29 must be effective for one rate year.

21.30 Sec. 27. **REPEALER.**

21.31 Minnesota Statutes 2020, sections 245A.03, subdivision 5; 256R.08, subdivision 2;  
 21.32 256R.49; and 256S.20, subdivision 2, and Minnesota Rules, part 9555.6255, are repealed.

**245A.03 WHO MUST BE LICENSED.**

Subd. 5. **Excluded housing with services programs; right to seek licensure.** Nothing in this section shall prohibit a housing with services program that is excluded from licensure under subdivision 2, paragraph (a), clause (25), from seeking a license under this chapter. The commissioner shall ensure that any application received from such an excluded provider is processed in the same manner as all other applications for licensed adult foster care.

**256R.08 REPORTING OF FINANCIAL STATEMENTS.**

Subd. 2. **Extensions.** The commissioner may grant up to a 15-day extension of the reporting deadline to a nursing facility for good cause. To receive such an extension, a nursing facility shall submit a written request by January 1. The commissioner shall notify the nursing facility of the decision by January 15. Between January 1 and February 1, the nursing facility may request a reporting extension for good cause by telephone and followed by a written request.

**256R.49 RATE ADJUSTMENTS FOR COMPENSATION-RELATED COSTS FOR MINIMUM WAGE CHANGES.**

Subdivision 1. **Rate adjustments for compensation-related costs.** (a) Rate increases provided under this section before October 1, 2016, expire effective January 1, 2018, and rate increases provided on or after October 1, 2016, expire effective January 1, 2019.

(b) Nursing facilities that receive approval of the applications in subdivision 2 must receive rate adjustments according to subdivision 4. The rate adjustments must be used to pay compensation costs for nursing facility employees paid less than \$14 per hour.

Subd. 2. **Application process.** To receive a rate adjustment, nursing facilities must submit applications to the commissioner in a form and manner determined by the commissioner. The applications for the rate adjustments shall include specified data, and spending plans that describe how the funds from the rate adjustments will be allocated for compensation to employees paid less than \$14 per hour. The applications must be submitted within three months of the effective date of any operating payment rate adjustment under this section. The commissioner may request any additional information needed to determine the rate adjustment within three weeks of receiving a complete application. The nursing facility must provide any additional information requested by the commissioner within six months of the effective date of any operating payment rate adjustment under this section. The commissioner may waive the deadlines in this section under extraordinary circumstances.

Subd. 3. **Additional application requirements for facilities with employees represented by an exclusive bargaining representative.** For nursing facilities in which employees are represented by an exclusive bargaining representative, the commissioner shall approve the applications submitted under subdivision 2 only upon receipt of a letter or letters of acceptance of the spending plans in regard to members of the bargaining unit, signed by the exclusive bargaining agent and dated after May 31, 2014. Upon receipt of the letter or letters of acceptance, the commissioner shall deem all requirements of this section as having been met in regard to the members of the bargaining unit.

Subd. 4. **Determination of the rate adjustments for compensation-related costs.** Based on the application in subdivision 2, the commissioner shall calculate the allowable annualized compensation costs by adding the totals of clauses (1), (2), and (3). The result must be divided by the standardized or resident days from the most recently available cost report to determine per day amounts, which must be included in the operating portion of the total payment rate and allocated to direct care or other operating as determined by the commissioner:

(1) the sum of the difference between \$9.50 and any hourly wage rate less than \$9.50 for October 1, 2016; and between the indexed value of the minimum wage, as defined in section 177.24, subdivision 1, paragraph (f), and any hourly wage less than that indexed value for rate years beginning on and after October 1, 2017; multiplied by the number of compensated hours at that wage rate;

(2) using wages and hours in effect during the first three months of calendar year 2014, beginning with the first pay period beginning on or after January 1, 2014; 22.2 percent of the sum of items (i) to (viii) for October 1, 2016;

(i) for all compensated hours from \$8 to \$8.49 per hour, the number of compensated hours is multiplied by \$0.13;

(ii) for all compensated hours from \$8.50 to \$8.99 per hour, the number of compensated hours is multiplied by \$0.25;

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(iii) for all compensated hours from \$9 to \$9.49 per hour, the number of compensated hours is multiplied by \$0.38;

(iv) for all compensated hours from \$9.50 to \$10.49 per hour, the number of compensated hours is multiplied by \$0.50;

(v) for all compensated hours from \$10.50 to \$10.99 per hour, the number of compensated hours is multiplied by \$0.40;

(vi) for all compensated hours from \$11 to \$11.49 per hour, the number of compensated hours is multiplied by \$0.30;

(vii) for all compensated hours from \$11.50 to \$11.99 per hour, the number of compensated hours is multiplied by \$0.20; and

(viii) for all compensated hours from \$12 to \$13 per hour, the number of compensated hours is multiplied by \$0.10; and

(3) the sum of the employer's share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation, pensions, and contributions to employee retirement accounts attributable to the amounts in clauses (1) and (2).

**256S.20 CUSTOMIZED LIVING SERVICES; POLICY.**

Subd. 2. **Customized living services requirements.** Customized living services and 24-hour customized living services may only be provided in a building that is registered as a housing with services establishment under chapter 144D.

**9555.6255 RESIDENT'S RIGHTS.**

Subpart 1. **Information about rights.** The operator shall ensure that a resident and a resident's legal representative are given, at admission:

- A. an explanation and copy of the resident's rights specified in subparts 2 to 7;
- B. a written summary of the Vulnerable Adults Act prepared by the department;

and

- C. the name, address, and telephone number of the local agency to which a resident or a resident's legal representative may submit an oral or written complaint.

Subp. 2. **Right to use telephone.** A resident has the right to daily, private access to and use of a non-coin operated telephone for local calls and long distance calls made collect or paid for by the resident.

Subp. 3. **Right to receive and send mail.** A resident has the right to receive and send uncensored, unopened mail.

Subp. 4. **Right to privacy.** A resident has the right to personal privacy and privacy for visits from others, and the respect of individuality and cultural identity. Privacy must be respected by operators, caregivers, household members, and volunteers by knocking on the door of a resident's bedroom and seeking consent before entering, except in an emergency, and during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance as noted in the resident's individual record.

Subp. 5. **Right to use personal property.** A resident has the right to keep and use personal clothing and possessions as space permits, unless to do so would infringe on the health, safety, or rights of other residents or household members.

Subp. 6. **Right to associate.** A resident has the right to meet with or refuse to meet with visitors and participate in activities of commercial, religious, political, and community groups without interference if the activities do not infringe on the rights of other residents or household members.

Subp. 7. **Married residents.** Married residents have the right to privacy for visits by their spouses, and, if both spouses are residents of the adult foster home, they have the right to share a bedroom and bed.