

1.1 A bill for an act

1.2 relating to human services; establishing a home and community-based services

1.3 systemic critical incident review team; clarifying adult foster care and community

1.4 residential setting licensing provisions; modifying substance use disorder treatment

1.5 requirements; extending certain councils and committees; clarifying

1.6 provider-controlled and own-home settings; making technical and conforming

1.7 changes; clarifying effective dates; repealing obsolete language related to chemical

1.8 health pilot program; amending Minnesota Statutes 2022, sections 245.462,

1.9 subdivisions 3, 12; 245.4711, subdivisions 3, 4; 245.477; 245.4835, subdivision

1.10 2; 245.4871, subdivisions 3, 19; 245.4873, subdivision 4; 245.4881, subdivisions

1.11 3, 4; 245.4885, subdivision 1; 245.4887; 245A.03, subdivision 7; 245A.11,

1.12 subdivision 7; 245A.16, subdivision 1; 245D.03, subdivision 1; 245G.07,

1.13 subdivision 3a; 246.0135; 254A.035, subdivision 2; 254B.05, subdivisions 1a, 5;

1.14 256.01, by adding a subdivision; 256B.0911, subdivision 23; 256B.092, subdivision

1.15 10; 256B.093, subdivision 1; 256B.492; 256B.493, subdivisions 2a, 4; 256S.202,

1.16 subdivision 1; 524.5-104; 524.5-313; Laws 2021, First Special Session chapter 7,

1.17 article 2, section 17; article 6, section 12; article 11, section 18; article 13, section

1.18 43; Laws 2022, chapter 98, article 4, section 37; repealing Minnesota Statutes

1.19 2022, sections 254B.13, subdivisions 1, 2, 2a, 4, 5, 6, 7, 8; 254B.16; 256B.49,

1.20 subdivision 23; 260.835, subdivision 2.

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

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

1.23 Subd. 3. **Case management services.** "Case management services" means activities

1.24 that are coordinated with the community support services program as defined in subdivision

1.25 6 and are designed to help adults with serious and persistent mental illness in gaining access

1.26 to needed medical, social, educational, vocational, and other necessary services as they

1.27 relate to the client's mental health needs. Case management services include developing a

1.28 functional assessment, an individual ~~assessment summary~~ community support plan, referring

1.29 and assisting the person to obtain needed mental health and other services, ensuring

1.30 coordination of services, and monitoring the delivery of services.

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

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

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

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

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

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

3.1 of development and implementation of the individual ~~or family assessment summary~~
3.2 community support plan.

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

3.4 (1) the goals of each service;

3.5 (2) the activities for accomplishing each goal;

3.6 (3) a schedule for each activity; and

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

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

3.11 **245.477 APPEALS.**

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

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

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

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

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

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

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

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

4.11 (iii) the services must be supervised by a mental health professional and provided by
4.12 staff who meet the staff qualifications defined in sections 256B.0943, subdivision 7, and
4.13 256B.0623, subdivision 5.

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

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

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

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

4.29 Subd. 19. **Individual family ~~assessment summary~~ community support**
4.30 **plan.** "Individual family ~~assessment summary~~ community support plan" means a written
4.31 plan developed by a case manager in conjunction with the family and the child with severe

5.1 emotional disturbance on the basis of a diagnostic assessment and a functional assessment.

5.2 The plan identifies specific services needed by a child and the child's family to:

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

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

5.6 (3) improve family functioning;

5.7 (4) enhance daily living skills;

5.8 (5) improve functioning in education and recreation settings;

5.9 (6) improve interpersonal and family relationships;

5.10 (7) enhance vocational development; and

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

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

5.13 Subd. 4. **Individual case coordination.** The case manager designated under section
5.14 245.4881 is responsible for ongoing coordination with any other person responsible for
5.15 planning, development, and delivery of social services, education, corrections, health, or
5.16 vocational services for the individual child. The individual family assessment summary
5.17 community support plan developed by the case manager shall reflect the coordination among
5.18 the local service system providers.

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

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

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

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

6.2 Subd. 4. **Individual family ~~assessment summary~~ community support plan.** (a) For
6.3 each child, the case manager must develop an individual family ~~assessment summary~~
6.4 community support plan that incorporates the child's individual treatment plan. The individual
6.5 treatment plan may not be a substitute for the development of an individual family ~~assessment~~
6.6 ~~summary~~ community support plan. The case manager is responsible for developing the
6.7 individual family ~~assessment summary~~ community support plan within 30 days of intake
6.8 based on a diagnostic assessment and for implementing and monitoring the delivery of
6.9 services according to the individual family ~~assessment summary~~ community support plan.
6.10 The case manager must review the plan at least every 180 calendar days after it is developed,
6.11 unless the case manager has received a written request from the child's family or an advocate
6.12 for the child for a review of the plan every 90 days after it is developed. To the extent
6.13 appropriate, the child with severe emotional disturbance, the child's family, advocates,
6.14 service providers, and significant others must be involved in all phases of development and
6.15 implementation of the individual family ~~assessment summary~~ community support plan.
6.16 Notwithstanding the lack of an individual family ~~assessment summary~~ community support
6.17 plan, the case manager shall assist the child and child's family in accessing the needed
6.18 services listed in section 245.4884, subdivision 1.

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

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

6.23 (2) the activities for accomplishing each goal;

6.24 (3) a schedule for each activity; and

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

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

6.29 Subdivision 1. **Admission criteria.** (a) Prior to admission or placement, except in the
6.30 case of an emergency, all children referred for treatment of severe emotional disturbance
6.31 in a treatment foster care setting, residential treatment facility, or informally admitted to a
6.32 regional treatment center shall undergo an assessment to determine the appropriate level of
6.33 care if county funds are used to pay for the child's services. An emergency includes when

7.1 a child is in need of and has been referred for crisis stabilization services under section
7.2 245.4882, subdivision 6. A child who has been referred to residential treatment for crisis
7.3 stabilization services in a residential treatment center is not required to undergo an assessment
7.4 under this section.

7.5 (b) The county board shall determine the appropriate level of care for a child when
7.6 county-controlled funds are used to pay for the child's residential treatment under this
7.7 chapter, including residential treatment provided in a qualified residential treatment program
7.8 as defined in section 260C.007, subdivision 26d. When a county board does not have
7.9 responsibility for a child's placement and the child is enrolled in a prepaid health program
7.10 under section 256B.69, the enrolled child's contracted health plan must determine the
7.11 appropriate level of care for the child. When Indian Health Services funds or funds of a
7.12 tribally owned facility funded under the Indian Self-Determination and Education Assistance
7.13 Act, Public Law 93-638, are used for the child, the Indian Health Services or 638 tribal
7.14 health facility must determine the appropriate level of care for the child. When more than
7.15 one entity bears responsibility for a child's coverage, the entities shall coordinate level of
7.16 care determination activities for the child to the extent possible.

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

7.18 (1) is necessary;

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

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

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

7.23 (d) When a level of care determination is conducted, the county board or other entity
7.24 may not determine that a screening of a child, referral, or admission to a residential treatment
7.25 facility is not appropriate solely because services were not first provided to the child in a
7.26 less restrictive setting and the child failed to make progress toward or meet treatment goals
7.27 in the less restrictive setting. The level of care determination must be based on a diagnostic
7.28 assessment of a child that evaluates the child's family, school, and community living
7.29 situations; and an assessment of the child's need for care out of the home using a validated
7.30 tool which assesses a child's functional status and assigns an appropriate level of care to the
7.31 child. The validated tool must be approved by the commissioner of human services and
7.32 may be the validated tool approved for the child's assessment under section 260C.704 if the
7.33 juvenile treatment screening team recommended placement of the child in a qualified
7.34 residential treatment program. If a diagnostic assessment has been completed by a mental

8.1 health professional within the past 180 days, a new diagnostic assessment need not be
8.2 completed unless in the opinion of the current treating mental health professional the child's
8.3 mental health status has changed markedly since the assessment was completed. The child's
8.4 parent shall be notified if an assessment will not be completed and of the reasons. A copy
8.5 of the notice shall be placed in the child's file. Recommendations developed as part of the
8.6 level of care determination process shall include specific community services needed by
8.7 the child and, if appropriate, the child's family, and shall indicate whether these services
8.8 are available and accessible to the child and the child's family. The child and the child's
8.9 family must be invited to any meeting where the level of care determination is discussed
8.10 and decisions regarding residential treatment are made. The child and the child's family
8.11 may invite other relatives, friends, or advocates to attend these meetings.

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

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

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

8.21 **245.4887 APPEALS.**

8.22 A child or a child's family, as appropriate, who requests mental health services under
8.23 sections 245.487 to 245.4889 must be advised of services available and the right to appeal
8.24 as described in this section at the time of the request and each time the individual family
8.25 ~~assessment summary~~ community support plan or individual treatment plan is reviewed. A
8.26 child whose request for mental health services under sections 245.487 to 245.4889 is denied,
8.27 not acted upon with reasonable promptness, or whose services are suspended, reduced, or
8.28 terminated by action or inaction for which the county board is responsible under sections
8.29 245.487 to 245.4889 may contest that action or inaction before the state agency according
8.30 to section 256.045. The commissioner shall monitor the nature and frequency of
8.31 administrative appeals under this section.

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

9.2 Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license
9.3 for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult
9.4 foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter
9.5 for a physical location that will not be the primary residence of the license holder for the
9.6 entire period of licensure. If a family child foster care home or family adult foster care home
9.7 license is issued during this moratorium, and the license holder changes the license holder's
9.8 primary residence away from the physical location of the foster care license, the
9.9 commissioner shall revoke the license according to section 245A.07. The commissioner
9.10 shall not issue an initial license for a community residential setting licensed under chapter
9.11 245D. When approving an exception under this paragraph, the commissioner shall consider
9.12 the resource need determination process in paragraph (h), the availability of foster care
9.13 licensed beds in the geographic area in which the licensee seeks to operate, the results of a
9.14 person's choices during their annual assessment and service plan review, and the
9.15 recommendation of the local county board. The determination by the commissioner is final
9.16 and not subject to appeal. Exceptions to the moratorium include:

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

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

9.24 (3) new foster care licenses or community residential setting licenses determined to be
9.25 needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD,
9.26 or regional treatment center; restructuring of state-operated services that limits the capacity
9.27 of state-operated facilities; or allowing movement to the community for people who no
9.28 longer require the level of care provided in state-operated facilities as provided under section
9.29 256B.092, subdivision 13, or 256B.49, subdivision 24;

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

9.33 (5) new foster care licenses or community residential setting licenses for people receiving
9.34 customized living or 24-hour customized living services under the brain injury or community

10.1 access for disability inclusion waiver plans under section 256B.49 and residing in the
10.2 customized living setting before July 1, 2022, for which a license is required. A customized
10.3 living service provider subject to this exception may rebut the presumption that a license
10.4 is required by seeking a reconsideration of the commissioner's determination. The
10.5 commissioner's disposition of a request for reconsideration is final and not subject to appeal
10.6 under chapter 14. The exception is available until June 30, 2023. This exception is available
10.7 when:

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

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

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

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

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

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

10.33 (e) A resource need determination process, managed at the state level, using the available
10.34 data required by section 144A.351, and other data and information shall be used to determine

11.1 where the reduced capacity determined under section 256B.493 will be implemented. The
11.2 commissioner shall consult with the stakeholders described in section 144A.351, and employ
11.3 a variety of methods to improve the state's capacity to meet the informed decisions of those
11.4 people who want to move out of corporate foster care or community residential settings,
11.5 long-term service needs within budgetary limits, including seeking proposals from service
11.6 providers or lead agencies to change service type, capacity, or location to improve services,
11.7 increase the independence of residents, and better meet needs identified by the long-term
11.8 services and supports reports and statewide data and information.

11.9 (f) At the time of application and reapplication for licensure, the applicant and the license
11.10 holder that are subject to the moratorium or an exclusion established in paragraph (a) are
11.11 required to inform the commissioner whether the physical location where the foster care
11.12 will be provided is or will be the primary residence of the license holder for the entire period
11.13 of licensure. If the primary residence of the applicant or license holder changes, the applicant
11.14 or license holder must notify the commissioner immediately. The commissioner shall print
11.15 on the foster care license certificate whether or not the physical location is the primary
11.16 residence of the license holder.

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

11.23 (h) The commissioner may adjust capacity to address needs identified in section
11.24 144A.351. Under this authority, the commissioner may approve new licensed settings or
11.25 delicense existing settings. Delicensing of settings will be accomplished through a process
11.26 identified in section 256B.493.

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

12.1 reconsideration is made by personal service, it must be received by the commissioner within
12.2 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

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

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

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

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

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

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

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

12.32 (b) To be eligible for a variance under paragraph (a), the adult foster care or community
12.33 residential setting license holder must not have had a conditional license issued under section

13.1 245A.06, or any other licensing sanction issued under section 245A.07 during the prior 24
13.2 months based on failure to provide adequate supervision, health care services, or resident
13.3 safety in the adult foster care home or community residential setting.

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

13.8 ~~(d) A variance granted by the commissioner according to this subdivision before January~~
13.9 ~~1, 2014, to a license holder for an adult foster care home must transfer with the license when~~
13.10 ~~the license converts to a community residential setting license under chapter 245D. The~~
13.11 ~~terms and conditions of the variance remain in effect as approved at the time the variance~~
13.12 ~~was granted.~~

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

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

13.15 Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and private
13.16 agencies that have been designated or licensed by the commissioner to perform licensing
13.17 functions and activities under section 245A.04 and background studies for family child care
13.18 under chapter 245C; to recommend denial of applicants under section 245A.05; to issue
13.19 correction orders, to issue variances, and recommend a conditional license under section
13.20 245A.06; or to recommend suspending or revoking a license or issuing a fine under section
13.21 245A.07, shall comply with rules and directives of the commissioner governing those
13.22 functions and with this section. The following variances are excluded from the delegation
13.23 of variance authority and may be issued only by the commissioner:

13.24 (1) dual licensure of family child care and child foster care, dual licensure of child foster
13.25 care and either adult foster care or a community residential setting, and dual licensure of
13.26 adult foster care and family child care;

13.27 (2) adult foster care maximum capacity;

13.28 (3) adult foster care minimum age requirement;

13.29 (4) child foster care maximum age requirement;

13.30 (5) variances regarding disqualified individuals except that, before the implementation
13.31 of NETStudy 2.0, county agencies may issue variances under section 245C.30 regarding
13.32 disqualified individuals when the county is responsible for conducting a consolidated

14.1 reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and
14.2 (b), of a county maltreatment determination and a disqualification based on serious or
14.3 recurring maltreatment;

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

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

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

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

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

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

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

14.20 (c) Before the implementation of NETStudy 2.0, county agencies must report information
14.21 about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision
14.22 2, paragraphs (a) and (b), and variances granted under paragraph (a), clause (5), to the
14.23 commissioner at least monthly in a format prescribed by the commissioner.

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

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

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

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

14.30 (1) the role of counties in quality assurance;

14.31 (2) the duties of county licensing staff; and

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

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

15.6 (h) Licensing authority specific to section 245D.06, subdivisions 5, 6, 7, and 8, or
15.7 successor provisions; and section 245D.061 or successor provisions, for family child foster
15.8 care programs providing out-of-home respite, as identified in section 245D.03, subdivision
15.9 1, paragraph (b), clause (1), is excluded from the delegation of authority to county and
15.10 private agencies.

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

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

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

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

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

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

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

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

15.29 (1) in-home and out-of-home respite care services as defined in section 245A.02,
15.30 subdivision 15, and under the brain injury, community alternative care, community access
15.31 for disability inclusion, developmental disabilities, and elderly waiver plans, excluding
15.32 out-of-home respite care provided to children in a family child foster care home licensed

16.1 under Minnesota Rules, parts 2960.3000 to 2960.3100, when the child foster care license
16.2 holder complies with the requirements under section 245D.06, subdivisions 5, 6, 7, and 8,
16.3 or successor provisions; and section 245D.061 or successor provisions, which must be
16.4 stipulated in the statement of intended use required under Minnesota Rules, part 2960.3000,
16.5 subpart 4;

16.6 (2) adult companion services as defined under the ~~brain injury, community access for~~
16.7 ~~disability inclusion, community alternative care, and elderly waiver plans~~ plan, excluding
16.8 adult companion services provided under the Corporation for National and Community
16.9 Services Senior Companion Program established under the Domestic Volunteer Service
16.10 Act of 1973, Public Law 98-288;

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

16.12 ~~(4)~~ (3) 24-hour emergency assistance, personal emergency response as defined under
16.13 the community access for disability inclusion and developmental disabilities waiver plans;

16.14 ~~(5)~~ (4) night supervision services as defined under the brain injury, community access
16.15 for disability inclusion, community alternative care, and developmental disabilities waiver
16.16 plans;

16.17 ~~(6)~~ (5) homemaker services as defined under the community access for disability
16.18 inclusion, brain injury, community alternative care, developmental disabilities, and elderly
16.19 waiver plans, excluding providers licensed by the Department of Health under chapter 144A
16.20 and those providers providing cleaning services only;

16.21 ~~(7)~~ (6) individual community living support under section 256S.13; and

16.22 ~~(8)~~ (7) individualized home supports without training services as defined under the brain
16.23 injury, community alternative care, and community access for disability inclusion, and
16.24 developmental disabilities waiver plans.

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

16.28 (1) intervention services, including:

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

- 17.1 (ii) in-home or out-of-home crisis respite services as defined under the brain injury,
17.2 community access for disability inclusion, community alternative care, and developmental
17.3 disabilities waiver plans; and
- 17.4 (iii) specialist services as defined under the current brain injury, community access for
17.5 disability inclusion, community alternative care, and developmental disabilities waiver
17.6 plans;
- 17.7 (2) in-home support services, including:
- 17.8 ~~(i) in-home family support and supported living services as defined under the~~
17.9 ~~developmental disabilities waiver plan;~~
- 17.10 ~~(ii) independent living services training as defined under the brain injury and community~~
17.11 ~~access for disability inclusion waiver plans;~~
- 17.12 ~~(iii)~~ (i) semi-independent living services;
- 17.13 ~~(iv)~~ (ii) individualized home support with training services as defined under the brain
17.14 injury, community alternative care, community access for disability inclusion, and
17.15 developmental disabilities waiver plans; and
- 17.16 ~~(v)~~ (iii) individualized home support with family training services as defined under the
17.17 brain injury, community alternative care, community access for disability inclusion, and
17.18 developmental disabilities waiver plans;
- 17.19 (3) residential supports and services, including:
- 17.20 ~~(i) supported living services as defined under the developmental disabilities waiver plan~~
17.21 ~~provided in a family or corporate child foster care residence, a family adult foster care~~
17.22 ~~residence, a community residential setting, or a supervised living facility;~~
- 17.23 ~~(ii) foster care services as defined in the brain injury, community alternative care, and~~
17.24 ~~community access for disability inclusion waiver plans provided in a family or corporate~~
17.25 ~~child foster care residence, a family adult foster care residence, or a community residential~~
17.26 ~~setting;~~
- 17.27 ~~(iii)~~ (i) community residential services as defined under the brain injury, community
17.28 alternative care, community access for disability inclusion, and developmental disabilities
17.29 waiver plans provided in a corporate child foster care residence, a community residential
17.30 setting, or a supervised living facility;

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

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

18.6 (4) day services, including:

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

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

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

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

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

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

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

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

18.28 Sec. 18. Minnesota Statutes 2022, section 245G.07, subdivision 3a, is amended to read:

18.29 Subd. 3a. **Use of guest speakers.** (a) The license holder may allow a guest speaker to
18.30 present information to clients as part of a treatment service provided by an alcohol and drug
18.31 counselor, according to the requirements of this subdivision.

19.1 (b) An alcohol and drug counselor must visually observe and listen to the presentation
 19.2 of information by a guest speaker the entire time the guest speaker presents information to
 19.3 the clients. The alcohol and drug counselor is responsible for all information the guest
 19.4 speaker presents to the clients.

19.5 (c) The presentation of information by a guest speaker constitutes a direct contact service,
 19.6 as defined in section 245C.02, subdivision 11.

19.7 (d) The license holder must provide the guest speaker with all training required for staff
 19.8 members. If the guest speaker provides direct contact services one day a month or less, the
 19.9 license holder must only provide the guest speaker with orientation training on the following
 19.10 subjects before the guest speaker provides direct contact services:

19.11 (1) mandatory reporting of maltreatment, as specified in sections 245A.65, 626.557, and
 19.12 626.5572 and chapter 260E;

19.13 (2) applicable client confidentiality rules and regulations;

19.14 (3) ethical standards for client interactions; and

19.15 (4) emergency procedures.

19.16 (e) For a treatment service that includes a guest speaker, in addition to the requirements
 19.17 in section 245G.06, subdivision 2a, the alcohol and drug counselor that provides the service
 19.18 must also document in the client record the name of the guest speaker, the start and stop
 19.19 time of the presentation by the guest speaker, and the topic and a summary of the guest
 19.20 speaker presentation.

19.21 Sec. 19. Minnesota Statutes 2022, section 246.0135, is amended to read:

19.22 **246.0135 OPERATION OF REGIONAL TREATMENT CENTERS.**

19.23 (a) The commissioner of human services is prohibited from closing any regional treatment
 19.24 center or state-operated nursing home or any program at any of the regional treatment centers
 19.25 or state-operated nursing homes, without specific legislative authorization. ~~For persons with~~
 19.26 ~~developmental disabilities who move from one regional treatment center to another regional~~
 19.27 ~~treatment center, the provisions of section 256B.092, subdivision 10, must be followed for~~
 19.28 ~~both the discharge from one regional treatment center and admission to another regional~~
 19.29 ~~treatment center, except that the move is not subject to the consensus requirement of section~~
 19.30 ~~256B.092, subdivision 10, paragraph (b).~~

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

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

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

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

20.10 Sec. 20. Minnesota Statutes 2022, section 254A.035, subdivision 2, is amended to read:

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

20.24 Sec. 21. Minnesota Statutes 2022, section 254B.05, subdivision 1a, is amended to read:

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

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

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

20.30 (3) is not a jail or prison;

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

- 21.1 (5) admits individuals who are 18 years of age or older;
- 21.2 (6) is registered as a board and lodging or lodging establishment according to section
21.3 157.17;
- 21.4 (7) has awake staff on site ~~24 hours per day~~ whenever a client is present;
- 21.5 (8) has staff who are at least 18 years of age and meet the requirements of section
21.6 245G.11, subdivision 1, paragraph (b);
- 21.7 (9) has emergency behavioral procedures that meet the requirements of section 245G.16;
- 21.8 (10) meets the requirements of section 245G.08, subdivision 5, if administering
21.9 medications to clients;
- 21.10 (11) meets the abuse prevention requirements of section 245A.65, including a policy on
21.11 fraternization and the mandatory reporting requirements of section 626.557;
- 21.12 (12) documents coordination with the treatment provider to ensure compliance with
21.13 section 254B.03, subdivision 2;
- 21.14 (13) protects client funds and ensures freedom from exploitation by meeting the
21.15 provisions of section 245A.04, subdivision 13;
- 21.16 (14) has a grievance procedure that meets the requirements of section 245G.15,
21.17 subdivision 2; and
- 21.18 (15) has sleeping and bathroom facilities for men and women separated by a door that
21.19 is locked, has an alarm, or is supervised by awake staff.
- 21.20 (b) Programs licensed according to Minnesota Rules, chapter 2960, are exempt from
21.21 paragraph (a), clauses (5) to (15).
- 21.22 (c) Programs providing children's mental health crisis admissions and stabilization under
21.23 section 245.4882, subdivision 6, are eligible vendors of room and board.
- 21.24 (d) Licensed programs providing intensive residential treatment services or residential
21.25 crisis stabilization services pursuant to section 256B.0622 or 256B.0624 are eligible vendors
21.26 of room and board and are exempt from paragraph (a), clauses (6) to (15).
- 21.27 (e) A vendor that is not licensed as a residential treatment program must have a policy
21.28 to address staffing coverage when a client may unexpectedly need to be present at the room
21.29 and board site.

22.1 Sec. 22. Minnesota Statutes 2022, section 254B.05, subdivision 5, is amended to read:

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

22.4 (b) Eligible substance use disorder treatment services include:

22.5 (1) outpatient treatment services that are licensed according to sections 245G.01 to
22.6 245G.17, or applicable tribal license;

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

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

22.11 (4) peer recovery support services provided according to section 245G.07, subdivision
22.12 2, clause (8);

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

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

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

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

22.24 (9) hospital-based treatment services that are licensed according to sections 245G.01 to
22.25 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to
22.26 144.56;

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

22.31 (11) high-intensity residential treatment services that are licensed according to sections
22.32 245G.01 to 245G.17 and 245G.21 or applicable tribal license, which provide 30 hours of

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

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

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

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

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

23.9 (A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter
23.10 9503; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25.1 Sec. 23. Minnesota Statutes 2022, section 256.01, is amended by adding a subdivision to
25.2 read:

25.3 Subd. 12b. Department of Human Services systemic critical incident review team. (a)
25.4 The commissioner may establish a Department of Human Services systemic critical incident
25.5 review team to review critical incidents reported as required under section 626.557 for
25.6 which the Department of Human Services is responsible under section 626.5572, subdivision
25.7 13; chapter 245D; or Minnesota Rules, chapter 9544. When reviewing a critical incident,
25.8 the systemic critical incident review team shall identify systemic influences to the incident
25.9 rather than determine the culpability of any actors involved in the incident. The systemic
25.10 critical incident review may assess the entire critical incident process from the point of an
25.11 entity reporting the critical incident through the ongoing case management process.
25.12 Department staff shall lead and conduct the reviews and may utilize county staff as reviewers.
25.13 The systemic critical incident review process may include but is not limited to:

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

25.19 (i) staff of the provider agency;

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

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

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

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

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

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

26.1 (3) analysis of the case for systemic influences.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27.13 Sec. 24. Minnesota Statutes 2022, section 256B.0911, subdivision 23, is amended to read:

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

27.24 (1) community residential setting;

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

27.27 (3) family adult foster care residence;

27.28 (4) customized living setting; or

27.29 (5) supervised living facility.

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

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

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

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

28.11 Sec. 25. Minnesota Statutes 2022, section 256B.092, subdivision 10, is amended to read:

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

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

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

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

29.3 ~~(d) Notice of the meeting of the interdisciplinary team assembled in accordance with~~
29.4 ~~Code of Federal Regulations, title 42, section 483.440, shall be sent to all team members~~
29.5 ~~15 days prior to the meeting, along with a copy of the proposed individual service plan. The~~
29.6 ~~case manager shall request that proposed providers visit the person and observe the person's~~
29.7 ~~program at the regional treatment center prior to the discharge. Whenever possible,~~
29.8 ~~preplacement visits by the person to proposed service sites should also be scheduled in~~
29.9 ~~advance of the meeting. Members of the interdisciplinary team assembled for the purpose~~
29.10 ~~of discharge planning shall include but not be limited to the case manager, the person, the~~
29.11 ~~person's legal guardian or conservator, parents and near relatives, the person's advocate,~~
29.12 ~~representatives of proposed community service providers, representatives of the regional~~
29.13 ~~treatment center residential and training and habilitation services, a registered nurse if the~~
29.14 ~~person has overriding medical needs that impact the delivery of services, and a qualified~~
29.15 ~~developmental disability professional specializing in behavior management if the person~~
29.16 ~~to be discharged has behaviors that may result in injury to self or others. The case manager~~
29.17 ~~may also invite other service providers who have expertise in an area related to specific~~
29.18 ~~service needs of the person to be discharged.~~

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

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

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

30.8 Sec. 26. Minnesota Statutes 2022, section 256B.093, subdivision 1, is amended to read:

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

30.11 (1) maintain a statewide traumatic brain injury program;

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

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

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

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

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

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

30.26 Sec. 27. Minnesota Statutes 2022, section 256B.492, is amended to read:

30.27 **256B.492 HOME AND COMMUNITY-BASED SETTINGS FOR PEOPLE WITH**
30.28 **DISABILITIES.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32.14 (8) leases must comply with chapter 504B;

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

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

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

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

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

33.5 (1) the reason the landlord denied the transfer;

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

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

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

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

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

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

33.18 Sec. 28. Minnesota Statutes 2022, section 256B.493, subdivision 2a, is amended to read:

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

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

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

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

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

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

34.7 (1) target counties and geographic areas which have:

34.8 (i) need for other types of services;

34.9 (ii) need for specialized services;

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

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

34.13 (2) demonstrate savings of medical assistance expenditures; and

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

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

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

34.22 Sec. 29. Minnesota Statutes 2022, section 256B.493, subdivision 4, is amended to read:

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

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

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

34.30 (3) the proposed relocation plan jointly developed by the counties of financial
 34.31 responsibility, the residents and their legal representatives, if any, who wish to continue to

35.1 receive services from the provider, and the providers for current residents of any adult foster
35.2 care home designated for closure; and

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

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

35.9 (1) target counties and geographic areas which have:

35.10 (i) need for other types of services;

35.11 (ii) need for specialized services;

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

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

35.15 (2) demonstrate savings of medical assistance expenditures; and

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

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

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

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

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

35.28 Sec. 30. Minnesota Statutes 2022, section 256S.202, subdivision 1, is amended to read:

35.29 Subdivision 1. **Customized living monthly service rate limits.** (a) Except for a
35.30 participant assigned to case mix classification L, as described in section 256S.18, subdivision
35.31 1, paragraph (b), the customized living monthly service rate limit shall not exceed 50 percent

36.1 of the monthly case mix budget cap, ~~less the maintenance needs allowance~~, adjusted at least
36.2 annually in the manner described under section 256S.18, subdivisions 5 and 6.

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

36.6 Sec. 31. Minnesota Statutes 2022, section 524.5-104, is amended to read:

36.7 **524.5-104 FACILITY OF TRANSFER.**

36.8 (a) A person who may transfer money or personal property to a minor may do so, as to
36.9 an amount or value not exceeding the amount allowable as a tax exclusion gift under section
36.10 2503(b) of the Internal Revenue Code or a different amount that is approved by the court,
36.11 by transferring it to:

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

36.13 (2) a guardian of the minor;

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

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

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

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

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

36.30 (d) A guardian or other person who receives money or property for a minor under
36.31 paragraph (a), clause (1) or (2), may only apply it to the support, care, education, health,
36.32 and welfare of the minor, and may not derive a personal financial benefit except for

37.1 reimbursement for necessary expenses. Any excess must be preserved for the future support,
37.2 care, education, health, and welfare of the minor and any balance must be transferred to the
37.3 minor upon emancipation or attaining majority.

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

37.5 Sec. 32. Minnesota Statutes 2022, section 524.5-313, is amended to read:

37.6 **524.5-313 POWERS AND DUTIES OF GUARDIAN.**

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

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

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

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

37.22 (i) after a hearing under chapter 253B;

37.23 (ii) for outpatient services; or

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

37.26 (2) the duty to provide for the care, comfort, and maintenance needs of the person subject
37.27 to guardianship, including food, clothing, shelter, health care, social and recreational
37.28 requirements, and, whenever appropriate, training, education, and habilitation or
37.29 rehabilitation. The guardian has no duty to pay for these requirements out of personal funds.
37.30 Whenever possible and appropriate, the guardian should meet these requirements through
37.31 governmental benefits or services to which the person subject to guardianship is entitled,
37.32 rather than from the estate of the person subject to guardianship. Failure to satisfy the needs

38.1 and requirements of this clause shall be grounds for removal of a private guardian, but the
38.2 guardian shall have no personal or monetary liability;

38.3 (3) the duty to take reasonable care of the clothing, furniture, vehicles, and other personal
38.4 effects of the person subject to guardianship, and, if other property requires protection, the
38.5 power to seek appointment of a conservator of the estate. The guardian must give notice by
38.6 mail to interested persons prior to the disposition of the clothing, furniture, vehicles, or
38.7 other personal effects of the person subject to guardianship. The notice must inform the
38.8 person of the right to object to the disposition of the property within ten days of the date of
38.9 mailing and to petition the court for a review of the guardian's proposed actions. Notice of
38.10 the objection must be served by mail or personal service on the guardian and the person
38.11 subject to guardianship unless the person subject to guardianship is the objector. The guardian
38.12 served with notice of an objection to the disposition of the property may not dispose of the
38.13 property unless the court approves the disposition after a hearing;

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

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

39.1 guardianship, and any recommendation of the commissioner of human services for a public
39.2 person subject to guardianship. The standard of proof is that of clear and convincing evidence;

39.3 (iii) in the case of a petition for sterilization of a person with developmental disabilities
39.4 subject to guardianship, the court shall appoint a licensed physician, a psychologist who is
39.5 qualified in the diagnosis and treatment of developmental disability, and a social worker
39.6 who is familiar with the social history and adjustment of the person subject to guardianship
39.7 or the case manager for the person subject to guardianship to examine or evaluate the person
39.8 subject to guardianship and to provide written reports to the court. The reports shall indicate
39.9 why sterilization is being proposed, whether sterilization is necessary and is the least intrusive
39.10 method for alleviating the problem presented, and whether it is in the best interest of the
39.11 person subject to guardianship. The medical report shall specifically consider the medical
39.12 risks of sterilization, the consequences of not performing the sterilization, and whether
39.13 alternative methods of contraception could be used to protect the best interest of the person
39.14 subject to guardianship;

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

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

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

39.31 (6) the duty and power to exercise supervisory authority over the person subject to
39.32 guardianship in a manner which limits civil rights and restricts personal freedom only to
39.33 the extent necessary to provide needed care and services. A guardian may not restrict the
39.34 ability of the person subject to guardianship to communicate, visit, or interact with others,

40.1 including receiving visitors or making or receiving telephone calls, personal mail, or
40.2 electronic communications including through social media, or participating in social activities,
40.3 unless the guardian has good cause to believe restriction is necessary because interaction
40.4 with the person poses a risk of significant physical, psychological, or financial harm to the
40.5 person subject to guardianship, and there is no other means to avoid such significant harm.
40.6 In all cases, the guardian shall provide written notice of the restrictions imposed to the court,
40.7 to the person subject to guardianship, and to the person subject to restrictions. The person
40.8 subject to guardianship or the person subject to restrictions may petition the court to remove
40.9 or modify the restrictions;

40.10 (7) if there is no acting conservator of the estate for the person subject to guardianship,
40.11 the guardian has the power to apply on behalf of the person subject to guardianship for any
40.12 assistance, services, or benefits available to the person subject to guardianship through any
40.13 unit of government;

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

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

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

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

41.1 Sec. 33. Laws 2021, First Special Session chapter 7, article 2, section 17, the effective
41.2 date, is amended to read:

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

41.7 Sec. 34. Laws 2021, First Special Session chapter 7, article 6, section 12, the effective
41.8 date, is amended to read:

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

41.12 Sec. 35. Laws 2021, First Special Session chapter 7, article 11, section 18, the effective
41.13 date, is amended to read:

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

41.17 Sec. 36. Laws 2021, First Special Session chapter 7, article 13, section 43, the effective
41.18 date, is amended to read:

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

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

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

41.28 Sec. 38. **REPEALER.**

41.29 Minnesota Statutes 2022, sections 254B.13, subdivisions 1, 2, 2a, 4, 5, 6, 7, and 8;
41.30 254B.16; 256B.49, subdivision 23; and 260.835, subdivision 2, are repealed.

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