State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2234

02/27/2023 Authored by Edelson
The bill was read for the first time and referred to the Committee on Human Services Policy
03/06/2023 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law

A bill for an act

relating to human services; establishing a home and community-based services systemic critical incident review team; clarifying adult foster care and community residential setting licensing provisions; modifying substance use disorder treatment requirements; extending certain councils and committees; clarifying provider-controlled and own-home settings; making technical and conforming changes; clarifying effective dates; repealing obsolete language related to chemical health pilot program; amending Minnesota Statutes 2022, sections 245.462, subdivisions 3, 12; 245.4711, subdivisions 3, 4; 245.477; 245.4835, subdivision 2; 245.4871, subdivisions 3, 19; 245.4873, subdivision 4; 245.4881, subdivisions 3, 4; 245.4885, subdivision 1; 245.4887; 245A.03, subdivision 7; 245A.11, subdivision 7; 245A.16, subdivision 1; 245D.03, subdivision 1; 246.0135; 254A.035, subdivision 2; 254B.05, subdivisions 1a, 5; 256.01, by adding a subdivision; 256B.0911, subdivision 23; 256B.092, subdivision 10; 256B.093, subdivision 1; 256B.492; 256B.493, subdivisions 2a, 4; 256S.202, subdivision 1; 524.5-104; 524.5-313; Laws 2021, First Special Session chapter 7, article 2, section 17; article 6, section 12; article 11, section 18; article 13, section 43; Laws 2022, chapter 98, article 4, section 37; repealing Minnesota Statutes 2022, sections 254B.13, subdivisions 1, 2, 2a, 4, 5, 6, 7, 8; 254B.16; 256.041, subdivision 10; 256B.49, subdivision 23; 260.835, subdivision 2.

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

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

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

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

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

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

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

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

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

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

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

(1) the goals of each service;

(2) the activities for accomplishing each goal;

(3) a schedule for each activity; and

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

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

245.477 APPEALS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

emotional disturbance on the basis of a diagnostic assessment and a functional assessment. The plan identifies specific services needed by a child and the child's family to:

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

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

(3) improve family functioning;

(4) enhance daily living skills;

(5) improve functioning in education and recreation settings;

(6) improve interpersonal and family relationships;

(7) enhance vocational development; and

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

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

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

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

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

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

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

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

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

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

(2) the activities for accomplishing each goal;

(3) a schedule for each activity; and

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

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

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

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

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

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

(1) is necessary;

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

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

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

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

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

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

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

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

245.4887 APPEALS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) adult foster care maximum capacity;

(3) adult foster care minimum age requirement;

(4) child foster care maximum age requirement;

(5) variances regarding disqualified individuals except that, before the implementation of NETStudy 2.0, county agencies may issue variances under section 245C.30 regarding

disqualified individuals when the county is responsible for conducting a consolidated reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and (b), of a county maltreatment determination and a disqualification based on serious or recurring maltreatment;

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

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

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

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

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

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

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

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

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

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

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

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

(1) the role of counties in quality assurance;

(2) the duties of county licensing staff; and

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

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

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

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

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

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

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

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

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

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

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

(1) in-home and out-of-home respite care services as defined in section 245A.02, subdivision 15, and under the brain injury, community alternative care, community access for disability inclusion, developmental disabilities, and elderly waiver plans, excluding

out-of-home respite care provided to children in a family child foster care home licensed under Minnesota Rules, parts 2960.3000 to 2960.3100, when the child foster care license holder complies with the requirements under section 245D.06, subdivisions 5, 6, 7, and 8, or successor provisions; and section 245D.061 or successor provisions, which must be stipulated in the statement of intended use required under Minnesota Rules, part 2960.3000, subpart 4;

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

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

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

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

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

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

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

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

(1) intervention services, including:

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

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

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

(2) in-home support services, including:

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

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

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

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

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

(3) residential supports and services, including:

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

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

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

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

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

(4) day services, including:

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

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

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

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

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

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

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

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

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

246.0135 OPERATION OF REGIONAL TREATMENT CENTERS.

(a) The commissioner of human services is prohibited from closing any regional treatment center or state-operated nursing home or any program at any of the regional treatment centers

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

(b) Prior to closing or downsizing a regional treatment center, the commissioner of human services shall be responsible for assuring that community-based alternatives developed in response are adequate to meet the program needs identified by each county within the catchment area and do not require additional local county property tax expenditures.

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

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

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

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

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

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

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

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

(3) is not a jail or prison;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Eligible substance use disorder treatment services include:

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

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

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

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

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

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

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

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

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

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

(11) high-intensity residential treatment services that are licensed according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license, which provide 30 hours of clinical services each week provided by a state-operated vendor or to clients who have been civilly committed to the commissioner, present the most complex and difficult care needs, and are a potential threat to the community; and

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

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

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

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

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

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

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

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

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

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

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

(4) programs that offer medical services delivered by appropriately credentialed health care staff in an amount equal to two hours per client per week if the medical needs of the

client and the nature and provision of any medical services provided are documented in the client file; or

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

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

(ii) 25 percent of the counseling staff are licensed mental health professionals under section 245I.04, subdivision 2, or are students or licensing candidates under the supervision of a licensed alcohol and drug counselor supervisor and mental health professional under section 245I.04, subdivision 2, except that no more than 50 percent of the mental health staff may be students or licensing candidates with time documented to be directly related to provisions of co-occurring services;

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

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

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

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

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

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

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

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

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

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

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

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

(i) staff of the provider agency;

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

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

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

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

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

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

(3) analysis of the case for systemic influences.

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

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

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

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

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

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

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

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

(d) The proceedings and records of the review team are confidential data on individuals or protected nonpublic data as defined in section 13.02, subdivisions 3 and 13. Data that document a person's opinions formed as a result of the review are not subject to discovery

or introduction into evidence in a civil or criminal action against a professional, the state, or a county agency arising out of the matters that the team is reviewing. Information, documents, and records otherwise available from other sources are not immune from discovery or use in a civil or criminal action solely because the information, documents, and records were assessed or presented during proceedings of the review team. A person who presented information before the systemic critical incident review team or who is a member of the team shall not be prevented from testifying about matters within the person's knowledge. In a civil or criminal proceeding, a person shall not be questioned about opinions formed by the person as a result of the review.

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

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

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

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

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

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

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

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

(1) community residential setting;

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

(3) family adult foster care residence;

(4) customized living setting; or

(5) supervised living facility.

(b) At the time of reassessment, the certified assessor shall assess each person receiving waiver day services to determine if that person would prefer to receive employment services as described in section 245D.03, subdivision 1, paragraph (c), clauses (5) to (7). The certified assessor shall describe to the person through a person-centered planning process the option to receive employment services.

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

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

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

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

~~(b) When discharge of a person from a regional treatment center to a community-based service is proposed, the case manager shall convene the screening team and in addition to members of the team identified in subdivision 7, the case manager shall invite to the meeting the person's parents and near relatives, and the ombudsman established under section 245.92 if the person is under public guardianship. The meeting shall be convened at a time and place that allows for participation of all team members and invited individuals who choose to attend. The notice of the meeting shall inform the person's parents and near relatives about the screening team process, and their right to request a review if they object to the discharge, and shall provide the names and functions of advocacy organizations, and~~

~~information relating to assistance available to individuals interested in establishing private guardianships under the provisions of section 252A.03. The screening team meeting shall be conducted according to subdivisions 7 and 8. Discharge of the person shall not go forward without consensus of the screening team.~~

~~(c) The results of the screening team meeting and individual service plan developed according to subdivision 1b shall be used by the interdisciplinary team assembled in accordance with Code of Federal Regulations, title 42, section 483.440, to evaluate and make recommended modifications to the individual service plan as proposed. The individual service plan shall specify postplacement monitoring to be done by the case manager according to section 253B.15, subdivision 1a.~~

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

~~(e) The interdisciplinary team shall review the proposed plan to assure that it identifies service needs, availability of services, including support services, and the proposed providers' abilities to meet the service needs identified in the person's individual service plan. The interdisciplinary team shall review the most recent licensing reports of the proposed providers and corrective action taken by the proposed provider, if required. The interdisciplinary team shall review the current individual program plans for the person and agree to an interim individual program plan to be followed for the first 30 days in the person's new living arrangement. The interdisciplinary team may suggest revisions to the service plan, and all team suggestions shall be documented. If the person is to be discharged to a community~~

~~intermediate care facility for persons with developmental disabilities, the team shall give preference to facilities with a licensed capacity of 15 or fewer beds. Thirty days prior to the date of discharge, the case manager shall send a final copy of the service plan to all invited members of the team, the ombudsman, if the person is under public guardianship, and the advocacy system established under United States Code, title 42, section 6042.~~

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

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

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

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

(1) maintain a statewide traumatic brain injury program;

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

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

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

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

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

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

Sec. 26. Minnesota Statutes 2022, section 256B.492, is amended to read:

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

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

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

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

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

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

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

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

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

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

(b) For the purposes of this section, direct financial interest exists if payment passes between the license holder or any controlling individual of a licensed program and the

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

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

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

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

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

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

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

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

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

(8) leases must comply with chapter 504B;

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

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

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

cosigning service provider, receiving services from a new service provider, or, subject to the approval of the landlord, maintaining a lease cosigned by the new service provider.

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

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

(1) the reason the landlord denied the transfer;

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

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

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

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

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

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

Sec. 27. Minnesota Statutes 2022, section 256B.493, subdivision 2a, is amended to read:

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

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

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

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

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

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

(1) target counties and geographic areas which have:

(i) need for other types of services;

(ii) need for specialized services;

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

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

(2) demonstrate savings of medical assistance expenditures; and

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

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

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

Sec. 28. Minnesota Statutes 2022, section 256B.493, subdivision 4, is amended to read:

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

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

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

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

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

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

(1) target counties and geographic areas which have:

(i) need for other types of services;

(ii) need for specialized services;

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

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

(2) demonstrate savings of medical assistance expenditures; and

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

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

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

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

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

Sec. 29. Minnesota Statutes 2022, section 256S.202, subdivision 1, is amended to read:

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

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

Sec. 30. Minnesota Statutes 2022, section 524.5-104, is amended to read:

524.5-104 FACILITY OF TRANSFER.

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

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

(2) a guardian of the minor;

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

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

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

representative payee, whether an individual or organization, appointed by the Social Security Administration, in that order.

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

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

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

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

Sec. 31. Minnesota Statutes 2022, section 524.5-313, is amended to read:

524.5-313 POWERS AND DUTIES OF GUARDIAN.

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

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

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

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

(i) after a hearing under chapter 253B;

(ii) for outpatient services; or

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

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

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

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

(ii) a guardian who believes a procedure described in item (i) requiring prior court approval to be necessary for the proper care of the person subject to guardianship, shall petition the court for an order and, in the case of a public guardianship under chapter 252A, obtain the written recommendation of the commissioner of human services. The court shall

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

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

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

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

administration of psychotropic medication or the implementation of aversive and deprivation procedures to which the guardian or the public guardian's designee has consented;

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

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

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

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

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

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

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

Sec. 32. Laws 2021, First Special Session chapter 7, article 2, section 17, the effective date, is amended to read:

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

Sec. 33. Laws 2021, First Special Session chapter 7, article 6, section 12, the effective date, is amended to read:

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

Sec. 34. Laws 2021, First Special Session chapter 7, article 11, section 18, the effective date, is amended to read:

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

Sec. 35. Laws 2021, First Special Session chapter 7, article 13, section 43, the effective date, is amended to read:

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

Sec. 36. Laws 2022, chapter 98, article 4, section 37, the effective date, is amended to read:

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

Sec. 37. **REPEALER.**

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

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

254B.13 PILOT PROJECTS; CHEMICAL HEALTH CARE.

Subdivision 1. **Authorization for navigator pilot projects.** The commissioner may approve and implement navigator pilot projects developed under the planning process required under Laws 2009, chapter 79, article 7, section 26, to provide alternatives to and enhance coordination of the delivery of chemical health services required under section 254B.03.

Subd. 2. **Program design and implementation.** (a) The commissioner and counties participating in the navigator pilot projects shall continue to work in partnership to refine and implement the navigator pilot projects initiated under Laws 2009, chapter 79, article 7, section 26.

(b) The commissioner and counties participating in the navigator pilot projects shall complete the planning phase and, if approved by the commissioner for implementation, enter into agreements governing the operation of the navigator pilot projects.

Subd. 2a. **Eligibility for navigator pilot program.** (a) To be considered for participation in a navigator pilot program, an individual must:

(1) be a resident of a county with an approved navigator program;

(2) be eligible for behavioral health fund services;

(3) be a voluntary participant in the navigator program;

(4) satisfy one of the following items:

(i) have at least one severity rating of three or above in dimension four, five, or six in a comprehensive assessment under section 245G.05, subdivision 2, paragraph (c), clauses (4) to (6); or

(ii) have at least one severity rating of two or above in dimension four, five, or six in a comprehensive assessment under section 245G.05, subdivision 2, paragraph (c), clauses (4) to (6), and be currently participating in a Rule 31 treatment program under chapter 245G or be within 60 days following discharge after participation in a Rule 31 treatment program; and

(5) have had at least two treatment episodes in the past two years, not limited to episodes reimbursed by the behavioral health fund. An admission to an emergency room, a detoxification program, or a hospital may be substituted for one treatment episode if it resulted from the individual's substance use disorder.

(b) New eligibility criteria may be added as mutually agreed upon by the commissioner and participating navigator programs.

Subd. 4. **Notice of navigator pilot project discontinuation.** Each county's participation in the navigator pilot project may be discontinued for any reason by the county or the commissioner of human services after 30 days' written notice to the other party.

Subd. 5. **Duties of commissioner.** (a) Notwithstanding any other provisions in this chapter, the commissioner may authorize navigator pilot projects to use the behavioral health fund to pay for nontreatment navigator pilot services:

(1) in addition to those authorized under section 254B.03, subdivision 2, paragraph (a); and

(2) by vendors in addition to those authorized under section 254B.05 when not providing substance use disorder treatment services.

(b) For purposes of this section, "nontreatment navigator pilot services" include navigator services, peer support, family engagement and support, housing support, rent subsidies, supported employment, and independent living skills.

(c) State expenditures for substance use disorder services and nontreatment navigator pilot services provided by or through the navigator pilot projects must not be greater than the behavioral health fund expected share of forecasted expenditures in the absence of the navigator pilot projects. The commissioner may restructure the schedule of payments between the state and participating counties under the local agency share and division of cost provisions under section 254B.03, subdivisions 3 and 4, as necessary to facilitate the operation of the navigator pilot projects.

(d) The commissioner may waive administrative rule requirements that are incompatible with the implementation of the navigator pilot project, except that any substance use disorder treatment funded under this section must continue to be provided by a licensed treatment provider.

(e) The commissioner shall not approve or enter into any agreement related to navigator pilot projects authorized under this section that puts current or future federal funding at risk.

(f) The commissioner shall provide participating navigator pilot projects with transactional data, reports, provider data, and other data generated by county activity to assess and measure outcomes. This information must be transmitted or made available in an acceptable form to participating navigator pilot projects at least once every six months or within a reasonable time following the commissioner's receipt of information from the counties needed to comply with this paragraph.

Subd. 6. **Duties of county board.** The county board, or other county entity that is approved to administer a navigator pilot project, shall:

(1) administer the navigator pilot project in a manner consistent with the objectives described in subdivision 2 and the planning process in subdivision 5;

(2) ensure that no one is denied substance use disorder treatment services for which they would otherwise be eligible under section 254A.03, subdivision 3; and

(3) provide the commissioner with timely and pertinent information as negotiated in agreements governing operation of the navigator pilot projects.

Subd. 7. **Managed care.** An individual who is eligible for the navigator pilot program under subdivision 2a is excluded from mandatory enrollment in managed care until these services are included in the health plan's benefit set.

Subd. 8. **Authorization for continuation of navigator pilots.** The navigator pilot projects implemented pursuant to subdivision 1 are authorized to continue operation after July 1, 2013, under existing agreements governing operation of the pilot projects.

254B.16 PILOT PROJECTS; TREATMENT FOR PREGNANT AND POSTPARTUM WOMEN WITH SUBSTANCE USE DISORDER.

Subdivision 1. **Pilot projects established.** (a) Within the limits of federal funds available specifically for this purpose, the commissioner of human services shall establish pilot projects to provide substance use disorder treatment and services to pregnant and postpartum women with a primary diagnosis of substance use disorder, including opioid use disorder. Pilot projects funded under this section must:

(1) promote flexible uses of funds to provide treatment and services to pregnant and postpartum women with substance use disorders;

(2) fund family-based treatment and services for pregnant and postpartum women with substance use disorders;

(3) identify gaps in services along the continuum of care that are provided to pregnant and postpartum women with substance use disorders; and

(4) encourage new approaches to service delivery and service delivery models.

(b) A pilot project funded under this section must provide at least a portion of its treatment and services to women who receive services on an outpatient basis.

Subd. 2. **Federal funds.** The commissioner shall apply for any available grant funds from the federal Center for Substance Abuse Treatment for these pilot projects.

256.041 CULTURAL AND ETHNIC COMMUNITIES LEADERSHIP COUNCIL.

Subd. 10. **Expiration.** The council expires on June 30, 2025.

256B.49 HOME AND COMMUNITY-BASED SERVICE WAIVERS FOR PERSONS WITH DISABILITIES.

Subd. 23. **Community-living settings.** (a) For the purposes of this chapter, "community-living settings" means a single-family home or multifamily dwelling unit where a service recipient or a service recipient's family owns or rents, and maintains control over the individual unit as demonstrated by a lease agreement. Community-living settings does not include a home or dwelling unit that the service provider owns, operates, or leases or in which the service provider has a direct or indirect financial interest.

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

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

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

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

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

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

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

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

(8) leases must comply with chapter 504B;

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

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

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

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

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

(1) the reason the landlord denied the transfer;

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

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

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

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

The commissioner must approve an extension within sufficient time to ensure the continued occupancy by the service recipient.

260.835 AMERICAN INDIAN CHILD WELFARE ADVISORY COUNCIL.

Subd. 2. **Expiration.** The American Indian Child Welfare Advisory Council expires June 30, 2023.