

Chapter 245D HOME AND COMMUNITY-BASED SERVICES STANDARDS – DRAFT PROPOSAL

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1 **245D.01 CITATION.**

2 This chapter may be cited as the "Home and Community-Based Services Standards" or "HCBS
3 Standards."

4 **245D.02 DEFINITIONS.**

5 Subdivision 1. **Scope.** The terms used in this chapter have the meanings given them in this section.

6 Subd. 2. **Annual and annually.** "Annual" and "annually" have the meaning given in section
7 245A.02, subdivision 2b.

8 Subd. 3. **Case manager.** "Case manager" means the individual designated to provide waiver case
9 management services, care coordination, or long-term care consultation, as specified in sections
10 256B.0913, 256B.0915, 256B.092, and 256B.49, or successor provisions.

11 Subd. 4. **Certification.** "Certification" means the commissioner's written authorization for a license
12 holder to provide specialized services based on certification standards in sections 245D.80 to 245D.85. The
13 term "certification" and its derivatives have the same meaning and may be substituted for the term
14 "licensure" and its derivatives in this chapter and chapter 245A.

15 Subd. 5. **Chemical restraint.** Chemical restraint is the administration of a drug or medication when it
16 is used as to control the person's behavior or restrict the person's freedom of movement and is not a
17 standards treatment of dosage for the person's medical or psychological condition.

18 Subd. 6. **Commissioner.** "Commissioner" means the commissioner of the Department of Human
19 Services or the commissioner's designated representative.

20 Subd. 7. **Coordinated service and support plan.** "Coordinated service and support plan" has the
21 meaning given in section 256B.0913, subdivision 8; section 256B.0915, subdivision 6; section 256B.092,
22 subdivision 1b; and section 256B.49, subdivision 15; or successor provisions.

23 Subd. 8. **Corporate foster care.** "Corporate foster care" means a child foster care home licensed
24 according Minnesota Rules, parts 2960.0010 to 2960.3340, or an adult foster care home licensed according
25 to Minnesota Rules, parts 9555.5105 to 9555.6265, where the license holder does not live in the home and
26 is not the primary caregiver.

27 Subd. 9. **Cultural competence or culturally competent.** "Cultural competence" or "culturally
28 competent" means the ability and the will to respond to the unique needs of a person that arise from the
29 person's culture and the ability to use the person's culture as a resource or tool to assist with the
30 intervention and help meet the person's needs.

31 Subd. 10. **Department.** "Department" means the Department of Human Services.

32 Subd. 11. **Direct contact.** "Direct contact" has the meaning given in section 245C.02, subdivision 11,
33 and is used interchangeably with the term "direct support service."

34 Subd. 12. **Direct support staff.** "Direct support staff" means employees, subcontractors, consultants,
35 or volunteers of the license the license holder having direct contact with persons served by the program.

1 Subd. 13. Drug. "Drug" has the meaning given in section 151.01, subdivision 5.

2 Subd. 14. Emergency. "Emergency" means any event that affects the ordinary daily operation of the
3 program including, but not limited to, fires, severe weather, natural disasters, power failures, or other
4 events that threaten the immediate health and safety of a person receiving services and that require calling
5 911, emergency evacuation, moving to an emergency shelter, or temporary closure or relocation of the
6 program to another facility or service site for more than 24 hours.

7 Subd. 15. Family foster care. "Family foster care" means a child foster care home licensed
8 according Minnesota Rules, parts 2960.0010 to 2960.3340, or an adult foster care home licensed according
9 to Minnesota Rules, parts 9555.5105 to 9555.6265, where the license holder lives in the home and is the
10 primary caregiver.

11 Subd. 16. Health services. "Health services" means any service or treatment consistent with the
12 physical and mental health needs of the person, such as medication administration and monitoring, medical,
13 dental, nutritional, health monitoring, wellness education, and exercise.

14 Subd. 17. Home and community-based services. "Home and community-based services" means the
15 services ~~subject to the provisions of this chapter~~ identified in section 245D.03, subdivision 1, and as
16 defined in:

17 (1) the federal waiver plans governed by United States Code, title 42, sections 1396 et seq., ~~or the~~
18 state's alternative care program according to section 256B.0913, including the brain injury (BI) waiver plan,
19 the community alternative care (CAC) waiver plan, the community alternatives for disabled individuals
20 (CADI) waiver plan, the developmental disability (DD) waiver plan, the elderly waiver (EW) plan, or
21 successor plans respective to each waiver; or

22 (2) the alternative care (AC) program under in section 256B.0913.

23 Subd. 18. Incident. "Incident" means an occurrence which involves a person and that affects requires
24 the program to make a response that is not a part of the program's the ordinary provision of services to a
25 person. ~~and includes~~ Examples of incidents include, but are not limited to, any of the following:

26 (1) serious injury as determined by section 245.91, subdivision 6;

27 (2) a person's death;

28 (3) any medical emergency, unexpected serious illness, or significant unexpected change in an illness
29 or medical condition, or the mental health status of a person that requires calling 911 or a mental health
30 crisis intervention team, physician treatment, or hospitalization;

31 (4) an act or situation which would require a response by law enforcement, the fire department, an
32 ambulance, or other emergency response provider;

33 (5) a person's unauthorized or unexplained absence from a program;

34 (6) physical or verbal aggression by a person receiving services against another person receiving
35 services ~~that causes~~ which produces or could reasonably be expected to produce physical pain, injury, or
36 persistent emotional distress, including, but not limited to, the following:

1 (i) hitting, slapping, kicking, scratching, pinching, biting, pushing, and spitting; or

2 (ii) use of repeated or malicious oral, written, or gestured language which would be considered by a
3 reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening;

4 (7) any sexual activity between persons receiving services involving force or coercion as defined
5 under section 609.341, subdivisions 3 and 14; or

6 (8) any use of restraint, seclusion, or chemical restraint by the license holder or direct support staff to
7 reduce, suppress, or eliminate a person's behavior as prohibited under sections 245D.06, subdivision 4; or

8 (9) a report of alleged or suspected child or vulnerable adult maltreatment under 331.22section
9 626.556 or 626.557.

10 **Subd. 19. Intermediate care facility for persons with developmental disabilities or ICF/DD.**

11 "Intermediate care facility for persons with developmental disabilities" or "ICF/DD" means a residential
12 program licensed to serve four or more persons with developmental disabilities under section 252.28 and
13 chapter 245A and licensed as a supervised living facility under chapter 144, which together are certified by
14 the Department of Health as an intermediate care facility for persons with developmental disabilities.

15 **Subd. 20. Least restrictive alternative.** "Least restrictive alternative" means the alternative method
16 for providing supports and services that is the least intrusive and most normalized given the level of
17 supervision and protection required for the person. This level of supervision and protection allows risk
18 taking to the extent that there is no reasonable likelihood that serious harm will happen to the person or
19 others.

20 **Subd. 21. Least restrictive environment.** "Least restrictive environment" means the environment
21 where services are delivered with minimum limitation, intrusion, disruption or departure from typical
22 patterns of living available to persons without disabilities; do not subject the person or others to
23 unnecessary risks to health or safety; and maximize the person's level of independence, productivity and
24 inclusion in the community.

25 **Subd. 22. Legal representative.** "Legal representative" means the parent of a person who is under 18
26 years of age, a court-appointed guardian, or other representative with legal authority to make decisions
27 about services for a person.

28 **Subd. 23. License.** "License" has the meaning given in section 245A.02, subdivision 8.

29 **Subd. 24. Licensed health professional.** "Licensed health professional" means a person licensed in
30 Minnesota to practice those professions described in section 214.01, subdivision 2.

31 **Subd. 25. License holder.** "License holder" has the meaning given in section 245A.02, subdivision 9.

32 **Subd. 26. Medication.** "Medication" means a prescription drug or over-the-counter drug. For
33 purposes of this chapter, "medication" includes dietary supplements.

34 **Subd. 27. Medication administration.** "Medication administration" means performing the following
35 set of tasks to ensure a person takes both prescription and over-the-counter medications and treatments
36 according to orders issued by appropriately licensed professionals, and includes the following:

- 1 (1) checking the person's medication record;
- 2 (2) preparing the medication for administration;
- 3 (3) administering the medication to the person;
- 4 (4) documenting the administration of the medication or the reason for not administering the
- 5 medication; and
- 6 (5) reporting to the prescriber or a nurse any concerns about the medication, including side effects,
- 7 adverse reactions, effectiveness, or the person's refusal to take the medication or the person's self-
- 8 administration of the medication.

9 Subd. 28. **Medication assistance**. "Medication assistance" means providing verbal or visual
10 reminders to take regularly scheduled medication, which includes either of the following:

- 11 (1) bringing to the person and opening a container of previously set up medications emptying the
- 12 container into the person's hand or opening and giving the medications in the original container to the
- 13 person, or bringing to the person liquids or food to accompany the medication; or
- 14 (2) providing verbal or visual reminders to perform regularly scheduled treatments and exercises.

15 Subd. 29. **Medication management**. "Medication management" means the provision of any of the
16 following:

- 17 (1) medication-related services to a person;
- 18 (2) medication setup;
- 19 (3) medication administration;
- 20 (4) medication storage and security;
- 21 (5) medication documentation and charting;
- 22 (6) verification and monitoring of effectiveness of systems to ensure safe medication handling and
- 23 administration;
- 24 (7) coordination of medication refills;
- 25 (8) handling changes to prescriptions and implementation of those changes;
- 26 (9) communicating with the pharmacy; or
- 27 (10) coordination and communication with prescriber.

28 For the purposes of this chapter, medication management does not mean "medication therapy
29 management services" as identified in section 256B.0625, subdivision 13h.

30 Subd. 30. **Mental health crisis intervention team**. "Mental health crisis intervention team" means a
31 mental health crisis response providers as identified in section 256B.0624, subdivision 2, paragraph (d), for
32 adults, and in section 256B.0944, subdivision 1, paragraph (d), for children.

1 Subd. 31. **Over-the-counter drug**. "Over-the-counter drug" means a drug that is not required by
2 federal law to bear the statement "Caution: Federal law prohibits dispensing without prescription."

3 Subd. 32. Outcome. "Outcome" means the behavior, action, or status attained by the person that can
4 be observed, measured, and can be determined reliable and valid.

5 Subd. 33. **Person**. "Person" has the meaning given in section 245A.02, subdivision 1.

6 Subd. 34. **Person with a disability**. "Person with a disability" means a person determined to have a
7 disability by the commissioner's state medical review team as identified in section 256B.055, subdivision 7,
8 the Social Security Administration, or 333.11 the person is determined to have a developmental disability as
9 defined in Minnesota Rules, part 9525.0016, subpart 2, item B, or a related condition as defined in section
10 252.27, subdivision 1a.

11 Subd. 35. **Prescriber**. "Prescriber" means a licensed practitioner as defined in section 151.01,
12 subdivision 23, who is authorized under section 151.37 to prescribe drugs. For the purposes of this chapter,
13 the term "prescriber" is used interchangeably with "physician."

14 Subd. 36. **Prescription drug**. "Prescription drug" has the meaning given in section 151.01,
15 subdivision 17.

16 Subd. 37. **Program**. "Program" means a nonresidential or residential program as defined in section
17 245A.02, subdivisions 10 and 14.

18 Subd. 38. **Psychotropic medication**. "Psychotropic medication" means any medication prescribed to
19 treat the symptoms of mental illness that affect thought processes, mood, sleep, or behavior. The major
20 classes of psychotropic medication are antipsychotic (neuroleptic), antidepressant, antianxiety, mood
21 stabilizers, anticonvulsants, and stimulants and nonstimulants for the treatment of attention
22 deficit/hyperactivity disorder. Other miscellaneous medications are considered to be a psychotropic
23 medication when they are specifically prescribed to treat a mental illness or to control or alter behavior.

24 Subd. 39. **Restraint**. "Restraint" means physical or mechanical limiting of the free and normal
25 movement of body or limbs.

26 Subd. 40. **Seclusion**. "Seclusion" means separating a person from others in a way that prevents social
27 contact and prevents the person from leaving the situation if he or she chooses.

28 Subd. 41. **Self-determination**. "Self-determination" means the person or the person's legal
29 representative, makes his or her own decisions, plans his or her own future, determines how money is spent
30 for his or her supports and takes responsibility for the decision he or she makes.

31 Subd. 42. **Service**. "Service" means care, training, supervision, counseling, consultation, or
32 medication assistance assigned to the license holder in the ~~service plan~~ coordinated service and support
33 plan.

34 ~~Subd. 36. Service plan~~. "Service plan" means the individual service plan or individual care plan
35 identified in sections 256B.0913, 256B.0915, 256B.092, subdivision 1e, and 256B.49, or successor
36 provisions, and includes any support plans or service needs identified as a result of long-term care

1 ~~consultation, or a support team meeting that includes the participation of the person, the person's legal~~
2 ~~representative, and case manager, or assigned to a license holder through an authorized service agreement.~~

3 Subd. **43. Service site.** "Service site" means the location where the service is provided to the person,
4 including but not limited to, a facility licensed according to chapter 245A; a location where the license
5 holder is the owner, lessor, or tenant; a person's own home; or a community-based location.

6 Subd. **44. Staff.** "Staff" means an employee who will have direct contact with a person served by the
7 facility, agency, or program.

8 Subd. **45. Supervised living facility.** "Supervised living facility" has the meaning given in
9 Minnesota Rules, part 4665.0100, subpart 10.

10 Subd. **46. Support team.** "Support team" means the service planning team identified in section
11 256B.49, subdivision 15, or the interdisciplinary team identified in Minnesota Rules, part 9525.0004,
12 subpart 14.

13 Subd. **47. Target symptom.** "Target symptom" refers to any perceptible diagnostic criteria for a
14 mental disorder as defined by the Diagnostic and Statistical Manual of Mental Disorders Fourth Edition
15 Text Revision (DSM-IV-TR) or successive editions, that has been identified for alleviation.

16 Subd. **48. Unit of government.** "Unit of government" means every city, county, town, school district,
17 other political subdivisions of the state, and any agency of the state or the United States, and includes any
18 instrumentality of a unit of government.

19 Subd. **49. Volunteer.** "Volunteer" means an individual who, under the direction of the license holder,
20 provides direct support services without pay to a person served by the license holder.

21 **245D.03 APPLICABILITY AND EFFECT.**

22 Subdivision 1. **Applicability.** (a) The commissioner must regulate the provision of home and
23 community-based services to persons with disabilities and persons age 65 and older pursuant to this
24 chapter. Programs or services identified in section 245A.03, subdivision 2, are excluded from licensure.
25 The licensing standards in this chapter govern the provision of the following basic support services and
26 intensive support services:

27 (1) Basic support services provide the level of assistance, supervision, and care that is necessary to
28 ensure the health and safety of the person and do not include services that are specifically directed toward
29 the training, habilitation, or rehabilitation of the person.

30 (2) Intensive support services provide assistance, supervision, and care that is necessary to ensure the
31 health and safety of the person and services specifically directed toward the training, habilitation, or
32 rehabilitation of the person.

33 ~~(1) housing access coordination as defined under the current BI, CADI, and DD waiver plans or~~
34 ~~successor plans;~~

35 ~~(2) respite services as defined under the current CADI, BI, CAC, DD, and EW waiver plans or~~
36 ~~successor plans when the provider is an individual who is not an employee of a residential or nonresidential~~

1 program licensed by the Department of Human Services or the Department of Health that is otherwise
2 providing the respite service;

3 (3) behavioral programming as defined under the current BI and CADI waiver plans or successor
4 plans;

5 (4) specialist services as defined under the current DD waiver plan or successor plans;

6 (5) companion services as defined under the current BI, CADI, and EW waiver plans or successor
7 plans, excluding companion services provided under the Corporation for National and Community Services
8 Senior Companion Program established under the Domestic Volunteer Service Act of 1973, Public Law 98-
9 288;

10 (6) personal support as defined under the current DD waiver plan or successor plans;

11 (7) 24-hour emergency assistance, on-call and personal emergency response as defined under the
12 current CADI and DD waiver plans or successor plans;

13 (8) night supervision services as defined under the current BI waiver plan or successor plans;

14 (9) homemaker services as defined under the current CADI, BI, CAC, DD, and EW waiver plans or
15 successor plans, excluding providers licensed by the Department of Health under chapter 144A and those
16 providers providing cleaning services only;

17 (10) independent living skills training as defined under the current BI and CADI waiver plans or
18 successor plans;

19 (11) prevocational services as defined under the current BI and CADI waiver plans or successor
20 plans;

21 (12) structured day services as defined under the current BI waiver plan or successor plans; or

22 (13) supported employment as defined under the current BI and CADI waiver plans or successor
23 plans.

24 (b) License holders providing basic support services are subject to the standards in sections 245D.02
25 to 245D.10. Basic support services include:

26 (1) in-home and out-of-home respite care services as defined in section 245A.02, subdivision 15, and
27 under the BI, CAC, CADI, DD, and EW waiver plans;

28 (2) companion services as defined under the BI, CADI, and EW waiver plans, excluding companion
29 services provided under the Corporation for National and Community Services Senior Companion Program
30 established under the Domestic Volunteer Service Act of 1973, Public Law 98-288;

31 (3) personal support as defined under the DD waiver plan;

32 (4) 24-hour emergency assistance, personal emergency response as defined under the CADI and DD
33 waiver plans;

34 (5) night supervision services as defined under the BI waiver plan;

1 (6) homemaker services as defined under the CADI, BI, CAC, DD, and EW waiver plans, excluding
2 providers licensed by the Department of Health under chapter 144A and those providers providing cleaning
3 services only;

4 (c) License holders providing intensive support services are subject to the standards in sections
5 245D.02 to 245D.10 and additional standards in this chapter as specified. Intensive support services
6 include:

7 (1) Intervention support services, including:

8 (i) behavioral support services as defined under the BI and CADI waiver plans;

9 (ii) in-home or out-of-home crisis respite services as defined under the DD waiver plan; and

10 (iii) specialist services as defined under the current DD waiver plan; and

11 (2) In-home support services, including:

12 (i) in-home family support and supported living services as defined under the DD waiver plan;

13 (ii) independent living services training as defined under the BI and CADI waiver plans; and

14 (iii) semi-independent living services as defined under section 252.275;

15 (3) Residential supports and services, including:

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

19 (ii) foster care services as defined in the BI, CAC, and CADI waiver plans provided in a family or
20 corporate child foster care residence, a family adult foster care residence, or a community residential
21 setting;

22 (iii) residential services provided in a supervised living facility that is certified by the Department of
23 Health as an ICF/DD;

24 (4) Day services, including:

25 (i) structured day services as defined under the BI waiver plan;

26 (ii) day training and habilitation services under section 252.40 to 252.46, and as defined under the
27 DD waiver plan;

28 (iii) prevocational services as defined under the BI and CADI waiver plans; and

29 (iv) supported employment as defined under the BI, DD, and CADI waiver plans.

30 **Subd. 2. Relationship to other standards governing home and community-based services.** (a) A
31 license holder governed by this chapter is also subject to the licensure requirements under chapter 245A.

32 (b) ~~A license holder concurrently providing child foster care services licensed according to Minnesota~~
33 ~~Rules, chapter 2960, to the same person receiving a service licensed under this chapter is exempt from~~

1 section 245D.04, as it applies to the person. A corporate or family child foster care site controlled by a
2 license holder and providing services governed by this chapter is exempt from compliance with section
3 245D.04. These exemptions apply to foster care homes where at least one resident is receiving services
4 licensed according to this chapter. This chapter does not apply to corporate or family child foster care
5 homes that do not provide services licensed under this chapter.

6 (c) A family adult foster care site controlled by a license holder and providing services governed by
7 this chapter is exempt from compliance with Minnesota Rules, parts 9555.6185; 9555.6225, subpart 8;
8 9555.6235, item C; 9555.6245; 9555.6255, subpart 2, items A to D; 9555.6265. These exemptions apply to
9 family adult foster care homes where at least one resident is receiving residential services licensed
10 according to this chapter. This chapter does not apply to family adult foster care homes that do not provide
11 services licensed under this chapter.

12 (d) A license holder providing services licensed according to this chapter in a supervised living
13 facility is exempt from compliance with sections 245D.04; 245D.05, subdivision 2; and 245D.06,
14 subdivision 2, clauses (1), (4), and (5).

15 (e) A license holder providing residential services to persons in an ICF/DD is exempt from
16 compliance with sections 245D.04; 245D.05, subdivision 2; 245D.06, subdivision 2, clauses (1), (4), and
17 (5); 245D.07; section 245D.10, subdivision 2; 245D.20, subdivisions 5 and 6; 245D.21, and 245D.24,
18 subdivision 3.

19 (f) A license holder ~~concurrently providing home care~~ homemaker services licensed according to this
20 chapter and registered according to sections 144A.43 to 144A.49 chapter 144A to the same person
21 receiving home management services licensed under this chapter is exempt from compliance with section
22 245D.04, as it applies to the person.

23 (e) ~~Notwithstanding section 245D.06, subdivision 5, a license holder providing structured day,~~
24 ~~prevocational, or supported employment services under this chapter and day training and habilitation or~~
25 ~~supported employment services licensed under chapter 245B within the same program is exempt from~~
26 ~~compliance with this chapter, when the license holder notifies the commissioner in writing that the~~
27 ~~requirements under chapter 245B will be met for all persons receiving these services from the program. For~~
28 ~~the purposes of this paragraph, if the license holder has obtained approval from the commissioner for an~~
29 ~~alternative inspection status according to section 245B.031, that approval will apply to all persons receiving~~
30 ~~services in the program.~~

31 (g) The license holder must ensure that neither it nor any of its owners, managers, or employees,
32 subcontractors, or consultants; nor the owners, managers, or employees of the subcontractors or consultants
33 assigned to provide services licensed according to this chapter and chapter 245A have been debarred or
34 excluded from Medicaid or any other federally-funded health care program under the provisions of the
35 Social Security Act, 42 USC 1320a-7. If the license holder learns of any such debarment or exclusion, the
36 license holder must immediately notify the commissioner and immediately take steps to stop the debarred
37 or excluded individual from performing further services licensed according to this chapter and chapter
38 245A.

1 (h) Nothing in this chapter prohibits license holders from concurrently serving persons with and
2 without disabilities or people who or are not age 65 and older, provided this chapter's standards are met as
3 well as other relevant standards.

4 (i) The documentation required under sections 245D.07 and 245D.20 meet the individual program
5 plan requirements identified in section 256B.092 or successor provisions.

6 Subd. 3. **Variance.** (a) If the conditions in section 245A.04, subdivision 9, are met, the commissioner
7 may grant a variance to any of the requirements in this chapter, except sections 245D.04, and 245D.10,
8 subdivision 4, paragraph (b), or provisions governing data practices and information rights of persons.

9 (b) A variance for the use of alternate overnight supervision granted according to section 245A.11,
10 subdivisions 7, 7a, and 7b, will remain in effect and subject to the terms and conditions for a community
11 residential setting licensed according to this chapter that had been licensed as a corporate adult foster care
12 home according to rule parts 9555.5105 to 9555.6265, at the time the variance was granted.

13 (c) All other variances granted according section 245A.04, subdivision 9, for programs previously
14 licensed according to chapter 245B or rule parts 9555. 5105 to 9555.6265, expire upon implementation of
15 this chapter. A license holder may request a new variance according to paragraph (a).

16 ~~Subd. 4. **License holders with multiple 245D licenses.** (a) When a person changes service from one~~
17 ~~license to a different license held by the same license holder, the license holder is exempt from the~~
18 ~~requirements in section 245D.10, subdivision 4, paragraph (b).~~

19 ~~(b) When a staff person begins providing direct service under one or more licenses held by the same~~
20 ~~license holder, other than the license for which staff orientation was initially provided according to section~~
21 ~~245D.09, subdivision 4, the license holder is exempt from those staff orientation requirements; except the~~
22 ~~staff person must review each person's service plan and medication administration procedures in~~
23 ~~accordance with section 245D.09, subdivision 4, paragraph (c), if not previously reviewed by the staff~~
24 ~~person.~~

25 **245D.031 LICENSURE REQUIREMENTS.**

26 Subdivision 1. **County notification.** (a) Prior to submitting the initial application for licensure to the
27 commissioner, the applicant must notify in writing the county board of the county in which an applicant
28 intends to operate a program that the applicant will submit a license application to the commissioner of
29 human services. The applicant must include a copy of the statement of intended use identified in
30 subdivision 2, with information about the license application notice to the county. The applicant must
31 include a copy of the written notice as part of the license application submitted to the commissioner.

32 (b) If the applicant or license holder revises the statement of intended use a copy of the revised
33 statement must be resubmitted to the county where the services are located and to the commissioner.

34 (c) The license holder must provide a copy of any order of conditional license issued according to
35 section 245A.06 or sanction issued according to section 245A.07, to the county board of the county in
36 which an the program is operated.

1 Subd. 2. **Statement of intended use.** The statement of intended use required under subdivision 1
2 must, at a minimum, meet the following requirements:

3 (1) state the primary support and service needs of persons to served that the license holder will meet
4 in the licensed program or service;

5 (2) state the license holder's expertise and qualifications to provide the services noted in the program
6 description;

7 (3) describe the target population to be served with consideration of at least the following
8 characteristics of the persons: cultural background, gender, age, disability or medical condition, and legal
9 status;

10 (4) describe the specific extent and limitations of the program, including whether the license holder
11 would use a restrictive procedure with a person, under what conditions a restrictive procedure would be
12 used, and what type of restrictive procedures a license holder would use if the license holder was certified
13 to use restrictive procedures.

14 (5) state how the license holder will involve the person's cultural or ethnic community to ensure
15 culturally appropriate care; and

16 (6) identify those services provided directly by the license holder or the license holders direct support
17 staff and those services to be provided by subcontractors or consultants.

18 Subd. 3. **Program certification.** An applicant or a license holder may apply for one or more program
19 certifications identified in sections 245D.80 to 245D.85.

20 **245D.04 SERVICE RECIPIENT RIGHTS.**

21 Subdivision 1. **License holder responsibility for individual rights of persons served by the**
22 **program.** The license holder must:

23 (1) provide each person or each person's legal representative with a written notice that identifies the
24 service recipient rights in subdivisions 2 and 3, and an explanation of those rights within five working days
25 of service initiation and annually thereafter;

26 (2) make reasonable accommodations to provide this information in other formats or languages as
27 needed to facilitate understanding of the rights by the person and the person's legal representative, if any;

28 (3) maintain documentation of the person's or the person's legal representative's receipt of a copy and
29 an explanation of the rights; and

30 (4) ensure the exercise and protection of the person's rights in the services provided by the license
31 holder and as authorized in the ~~service plan~~ coordinated service and support plan.

32 Subd. 2. **Service-related rights.** A person's service-related rights include the right to:

33 (1) participate in the development and evaluation of the services provided to the person;

34 (2) have services identified in the ~~service plan~~ coordinated service and support plan provided in a
35 manner that respects and takes into consideration the person's preferences;

1 (3) refuse or terminate services and be informed of the consequences of refusing or terminating
2 services;

3 (4) know, in advance, limits to the services available from the license holder;

4 (5) know conditions and terms governing the provision of services, including the license holder's
5 policies and procedures related to temporary service suspension and service termination;

6 (6) know what the charges are for services, regardless of who will be paying for the services, and be
7 notified of changes in those charges;

8 (7) know, in advance, whether services are covered by insurance, government funding, or other
9 sources, and be told of any charges the person or other private party may have to pay; and

10 (8) receive services from an individual who is competent and trained, who has professional
11 certification or licensure, as required, and who meets additional qualifications identified in the person's
12 ~~service plan~~ coordinated service and support plan.

13 Subd. 3. **Protection-related rights.** (a) A person's protection-related rights include the right to:

14 (1) have personal, financial, service, health, and medical information kept private, and be advised of
15 disclosure of this information by the license holder;

16 (2) access records and recorded information about the person in accordance with applicable state and
17 federal law, regulation, or rule;

18 (3) be free from maltreatment;

19 (4) be free from restraint or seclusion used for a purpose other than to protect the person from
20 imminent danger to self or others;

21 (5) receive services in a clean and safe environment when the license holder is the owner, lessor, or
22 tenant of the service site;

23 (6) be treated with courtesy and respect and receive respectful treatment of the person's property;

24 (7) reasonable observance of cultural and ethnic practice and religion;

25 (8) be free from bias and harassment regarding race, gender, age, disability, spirituality, and sexual
26 orientation;

27 (9) be informed of and use the license holder's grievance policy and procedures, including knowing
28 how to contact persons responsible for addressing problems and to appeal under section 256.045;

29 (10) know the name, telephone number, and the Web site, e-mail, and street addresses of protection
30 and advocacy services, including the appropriate state-appointed ombudsman, and a brief description of
31 how to file a complaint with these offices;

32 (11) assert these rights personally, or have them asserted by the person's family, authorized
33 representative, or legal representative, without retaliation;

1 (12) give or withhold written informed consent to participate in any research or experimental
2 treatment;

3 (13) associate with other persons of the person's choice;

4 (14) personal privacy; and

5 (15) engage in chosen activities.

6 (b) For a person residing in a residential site licensed according to chapter 245A, or where the license
7 holder is the owner, lessor, or tenant of the residential service site, protection-related rights also include the
8 right to:

9 (1) have daily, private access to and use of a non-coin-operated telephone for local calls and long-
10 distance calls made collect or paid for by the person;

11 (2) receive and send, without interference, uncensored, unopened mail or electronic correspondence
12 or communication; and

13 (3) privacy for visits with the person's spouse, next of kin, legal counsel, religious advisor, or others,
14 in accordance with section 363A.09 of the Human Rights Act, including privacy in the person's bedroom.

15 (c) Restriction of a person's rights under paragraph (a), clauses (13) to (15), or paragraph (b) is
16 allowed only if determined necessary to ensure the health, safety, and well-being of the person. Any
17 restriction of those rights must be documented in the ~~service plan~~ coordinated service and support plan for
18 the person and must include the following information:

19 (1) the justification for the restriction based on an assessment of the person's vulnerability related to
20 exercising the right without restriction;

21 (2) the objective measures set as conditions for ending the restriction;

22 (3) a schedule for reviewing the need for the restriction based on the conditions for ending the
23 restriction to occur, at a minimum, every three months for persons who do not have a legal representative
24 and annually for persons who do have a legal representative from the date of initial approval; and

25 (4) signed and dated approval for the restriction from the person, or the person's legal representative,
26 if any. A restriction may be implemented only when the required approval has been obtained. Approval
27 may be withdrawn at any time. If approval is withdrawn, the right must be immediately and fully restored.

28 **245D.05 HEALTH SERVICES.**

29 Subdivision 1. **Health needs.** (a) The license holder is responsible for providing health services
30 assigned in the ~~service plan~~ coordinated service and support plan and consistent with the person's health
31 needs. The license holder is responsible for promptly notifying the person or the person's legal
32 representative and the case manager of changes in a person's physical and mental health needs affecting
33 assigned health services, when discovered by the license holder, unless the license holder has reason to
34 know the change has already been reported. The license holder must document when the notice is provided.

1 (b) When assigned in the ~~service plan~~ coordinated service and support plan, the license holder is
2 required to maintain documentation on how the person's health needs will be met, including a description of
3 the procedures the license holder will follow in order to:

4 (1) provide medication administration, medication assistance, or medication management according
5 to this chapter;

6 (2) monitor health conditions according to written instructions from the person's physician or a
7 licensed health professional;

8 (3) assist with or coordinate medical, dental, and other health service appointments; or

9 (4) use medical equipment, devices, or adaptive aides or technology safely and correctly according to
10 written instructions from the person's physician or a licensed health professional.

11 Subd. 2. **Medication administration.** (a) The license holder must ensure that the following criteria
12 have been met before staff that is not a licensed health professional administers medication or treatment:

13 (1) written authorization has been obtained from the person or the person's legal representative to
14 administer medication or treatment orders;

15 (2) the staff person has completed medication administration training according to section 245D.09,
16 subdivision 4, paragraph ~~(e)~~ (b), clauses (2) and (3); and

17 (3) the medication or treatment will be administered under administration procedures established for
18 the person in consultation with a licensed health professional. Written instruction from the person's
19 physician may constitute the medication administration procedures. A prescription label or the prescriber's
20 order for the prescription is sufficient to constitute written instructions from the prescriber. A licensed
21 health professional may delegate medication administration procedures.

22 (b) The license holder must ensure the following information is documented in the person's
23 medication administration record:

24 (1) the information on the prescription label or the prescriber's order that includes directions for
25 safely and correctly administering the medication to ensure effectiveness;

26 (2) information on any discomforts, risks, or other side effects that are reasonable to expect, and any
27 contraindications to its use. The information must be available onsite to all staff administering the
28 medication;

29 (3) the possible consequences if the medication or treatment is not taken or administered as directed;

30 (4) instruction from the prescriber on when and to whom to report the following:

31 (i) if the medication or treatment is not administered as prescribed, whether by error by the staff or
32 the person or by refusal by the person; and

33 (ii) the occurrence of possible adverse reactions to the medication or treatment;

34 (5) notation of any occurrence of medication not being administered as prescribed or of adverse
35 reactions, and when and to whom the report was made; and

1 (6) notation of when a medication or treatment is started, changed, ~~or discontinued~~, or administered.

2 (c) The license holder must ensure that the information maintained in the medication administration
3 record is current and is regularly reviewed with the person or the person's legal representative and the staff
4 administering the medication to identify medication administration issues or errors.

5 (1) At a minimum, the review must be conducted every three months or more often if requested by
6 the person or the person's legal representative.

7 (2) Based on the review, the license holder must develop and implement a plan to correct medication
8 administration issues or errors. If issues or concerns are identified related to the medication itself, the
9 license holder must report those as required under subdivision 4.

10 Subd. 3. **Medication assistance.** The license holder must ensure that the requirements of subdivision
11 2, paragraph (a), have been met when staff provides assistance to enable a person to self-administer
12 medication when the person is capable of directing the person's own care, or when the person's legal
13 representative is present and able to direct care for the person.

14 Subd. 4. **Reporting medication and treatment issues.** The following medication administration
15 issues must be reported to the person or the person's legal representative and case manager as they occur or
16 following timelines established in the person's ~~service plan~~ coordinated service and support plan or as
17 requested in writing by the person or the person's legal representative, or the case manager:

18 (1) any reports made to the person's physician or prescriber required under subdivision 2, paragraph
19 (b), clause (4);

20 (2) a person's refusal or failure to take medication or treatment as prescribed; or

21 (3) concerns about a person's self-administration of medication.

22 Subd. 5. **Injectable medications.** Injectable medications may be administered according to a
23 prescriber's order and written instructions when one of the following conditions has been met:

24 (1) a registered nurse or licensed practical nurse will administer the subcutaneous or intramuscular
25 injection;

26 (2) a supervising registered nurse with a physician's order has delegated the administration of
27 subcutaneous injectable medication to an unlicensed staff member and has provided the necessary training;
28 or

29 (3) there is an agreement signed by the license holder, the prescriber, and the person or the person's
30 legal representative, specifying what subcutaneous injections may be given, when, how, and that the
31 prescriber must retain responsibility for the license holder's giving the injections. A copy of the agreement
32 must be placed in the person's service recipient record.

33 Only licensed health professionals are allowed to administer psychotropic medications by injection.

34 **245D.051 PSYCHOTROPIC MEDICATION MONITORING.**

1 Subdivision 1. Conditions for use of psychotropic medications. When a person is prescribed a
2 psychotropic medication and the license holder has been assigned responsibility for monitoring the use of
3 the medication in the person's coordinated service and support plan, the license holder must ensure that the
4 requirements in paragraphs (a) to (c) are met. If a person is prescribed a psychotropic medication and
5 monitoring the use of the psychotropic medication has not been assigned in the coordinated service and
6 support plan, and the person lives in a licensed residential site, the residential license holder is designated to
7 monitor the psychotropic medication.

8 (a) Use of the medication must be included in the person's coordinated service and support plan and is
9 based on the prescriber's diagnosis and the diagnostic and functional assessments identified in section
10 256B.092, subdivision 1 and section 256B.49, subdivision 15, paragraph (b).

11 (b) The license holder must develop, implement and maintain the documentation requirements in
12 clauses (1) and (2) in the person's service recipient record:

13 (1) a description in observable and measurable terms of the target symptoms that the psychotropic
14 medication is to alleviate based on a functional assessment. Information gathered from a functional
15 assessment must identify the variables predicting and maintaining problem behaviors or symptoms. The
16 information gathered from the functional assessment must be used to redesign the environment and
17 improve the quality of life for the consumer. The assessment is complete when the following outcomes are
18 accomplished:

19 (i) there is a clear and measurable definition of the target behavior or symptoms.

20 (ii) the events, times, and situations that predict both the occurrence and nonoccurrence of the target
21 behavior are determined.

22 (iii) consequences maintaining the behavior are identified.

23 (iv) one or more hypotheses of the function maintaining the target behavior are developed.

24 (v) direct observation data identifying and confirming the function of the behavior is completed; and

25 (2) data collection methods the license holder must use to monitor and measure changes in the
26 symptoms and behaviors that are to be alleviated by the psychotropic medication.

27 (c) Psychotropic medication must not be administered as punishment, for staff convenience, as a
28 substitute for a behavioral or therapeutic program, or in quantities that interfere with learning or other goals
29 of the coordinated service and support plan.

30 Subd. 2. Pro Re Nata or PRN use of psychotropic medications. Pro re nata (PRN) medications, or
31 those used intermittently, may be helpful in some situations, especially during the assessment phase or
32 when medication adjustments are in progress. When PRN medications are used, a plan providing
33 behavioral and procedural criteria for their administration must be in place. If PRN medications are being
34 routinely administered over an extended period of time, they must be prescribed as a regularly scheduled
35 medication. The license holder must document the following in the person's service recipient record:

1 (1) behavioral and procedural criteria established in consultation with the person’s physician and
2 support team and approved by the person, the person’s legal representative, if any, and the case manager;

3 (2) precipitating factors and events leading to PRN administration and the behavioral or symptom
4 relief outcomes resulting from PRN administration ;

5 (3) results of reviewed for effectiveness at a frequency identified by the physician.

6 **Subd. 3. Monitoring side effects.** The license holder must monitor for side effects if a person is
7 prescribed a psychotropic medication and must have the prescribing physician or a pharmacist list possible
8 side effects. The license holder, under the direction of a medically licensed person, must document and
9 check for side effects at least weekly for the first six weeks after a person begins taking a new psychotropic
10 medication or an increased or decreased dose of a currently used psychotropic medication, and at least
11 quarterly thereafter. In addition to appropriate physical or laboratory assessments as determined by the
12 medically licensed person, standardized checklists or rating scales, or scales developed for a specific drug
13 or drug class, must be used as monitoring tools. The license holder must provide the assessments to the
14 medically licensed person for review.

15 **Subd. 4. Monitoring for tardive dyskinesia.** The license holder, under the direction of a physician
16 or supervision of a registered nurse, must monitor for tardive dyskinesia at least every three months if a
17 person is prescribed antipsychotic medication or amoxapine and must document the monitoring. A person
18 prescribed antipsychotic medication or amoxapine for more than 90 days must be checked for tardive
19 dyskinesia at least 30 and 60 days after discontinuation of the antipsychotic medication or amoxapine.
20 Monitoring must include use of a standardized rating scale and examination procedure. The license holder
21 must provide the assessments to the physician for review if the results meet criteria that require physician
22 review.

23 **Subd. 5. Psychotropic medication review.** If a person is prescribed a psychotropic medication, the
24 license holder must conduct and document a psychotropic medication review as frequently as required by
25 the physician, but at least monthly for the first six months and at least quarterly thereafter. The license
26 holder must consider and document the following information as part of the quarterly review and provide
27 the information to the physician for review:

- 28 (1) targeted symptoms and behaviors of concern;
29 (2) quality of life indicators to monitor the positive and adverse effects of the medication;
30 (3) data collected since the last review;
31 (4) side effects observed and actions taken; and
32 (5) status of the person's progress towards accomplishing outcomes identified in the coordinated
33 service and support plan.

34 **Subd. 6. Documenting informed consent and authorization.** Before administering a psychotropic
35 medication, the license holder must maintain evidence in the person's service recipient record that:

36 (1) informed consent has been obtained by the physician or prescriber from the person or the person’s
37 legal representative; and

1 (2) the license holder obtained authorization to administer the medication from the person or the
2 person's legal representative.

3 Subd. 7. Information communicated in obtaining authorization. The information in this
4 subdivision must be provided both orally and in writing in nontechnical language to the to the extent
5 possible, the person, and the person's parent or legal representative, if any. The information must include:

6 (1) the diagnosis and level of severity of the symptoms and behaviors for which the psychotropic
7 medication is prescribed;

8 (2) the expected benefits of the medication, including the level to which the medication is to change
9 the symptoms and behavior and an indication of the method used to determine the expected benefits;

10 (3) the pharmacological and non-pharmacological treatment options available and the course of the
11 condition with and without the treatment options;

12 (4) specific information about the psychotropic medication to be used, including the generic and
13 commonly known brand name, the route of administration, the estimated duration of therapy, and the
14 proposed dose with the possible dosage range or maximum dose;

15 (5) the more frequent and less frequent or rare but serious risks and side effects of the psychotropic
16 medication, including how the risks and possible side effects must be managed;

17 (6) an explanation that consent may be refused or withdrawn at any time and that the consent is time-
18 limited and automatically expires as described in subdivision 5; and

19 (7) the names, addresses, and telephone numbers of appropriate professionals to contact if questions
20 or concerns arise.

21 Subd. 8. Refusal of routine administration of psychotropic medication. If the authorized person
22 refuses consent for a routine administration of psychotropic medication, the conditions in paragraphs (a) to
23 (c) apply.

24 (a) The psychotropic medication must not be administered or, if the refusal involves a renewal of
25 consent, the psychotropic medication for which consent had previously been given must be discontinued
26 according to a written plan as expeditiously as possible, taking into account withdrawal side effects.

27 (b) A court order must be obtained to override the refusal.

28 (c) Refusal to consent to use of a specific psychotropic medication is not grounds for service
29 termination. A decision to terminate services must be reached in compliance with section 245D.10,
30 subdivision 3. If the refusal to consent to the routine administration of a psychotropic medication results in
31 a crisis situation, then the requirements of subdivision 5, paragraph (d), must be met when a psychotropic
32 medication will be administered to a person.

33 **245D.06 PROTECTION STANDARDS.**

1 Subdivision 1. **Incident response and reporting.** (a) The license holder must respond to all incidents
2 under section 245D.02, subdivision 8, that occur while providing services to protect the health and safety of
3 and minimize risk of harm to the person.

4 (b) The license holder must maintain information about and report incidents to the person's legal
5 representative or designated emergency contact and case manager within 24 hours of an incident occurring
6 while services are being provided, or within 24 hours of discovery or receipt of information that an incident
7 occurred, unless the license holder has reason to know that the incident has already been reported. An
8 incident of suspected or alleged maltreatment must be reported as required under paragraph (d), and an
9 incident of serious injury or death must be reported as required under paragraph (e).

10 (c) When the incident involves more than one person, the license holder must not disclose personally
11 identifiable information about any other person when making the report to each person and case manager
12 unless the license holder has the consent of the person.

13 (d) Within 24 hours of reporting maltreatment as required under section 626.556 or 626.557, the
14 license holder must inform the case manager of the report unless there is reason to believe that the case
15 manager is involved in the suspected maltreatment. The license holder must disclose the nature of the
16 activity or occurrence reported and the agency that received the report.

17 (e) The license holder must report the death or serious injury of the person to the legal representative,
18 if any, and case manager, the Department of Human Services Licensing Division, and the Office of
19 Ombudsman for Mental Health and Developmental Disabilities as required under section 245.94,
20 subdivision 2a, within 24 hours of the death, or receipt of information that the death occurred unless the
21 license holder has reason to know that the death has already been reported.

22 (f) The license holder must conduct a review of incident reports, for identification of incident
23 patterns, and implementation of corrective action as necessary to reduce occurrences.

24 Subd. 2. **Environment and safety.** The license holder must:

25 (1) ensure the following when the license holder is the owner, lessor, or tenant of the an unlicensed
26 service site:

27 (i) the service site is a safe and hazard-free environment;

28 (ii) doors are locked or toxic substances or dangerous items normally accessible to persons served by
29 the program are stored in locked cabinets, drawers, or containers only to protect the safety of a person
30 receiving services and not as a substitute for staff supervision or interactions with a person who is receiving
31 services. If doors are locked or toxic substances or dangerous items normally accessible to persons served
32 by the program are stored in locked cabinets, drawers, or containers, the license holder must justify and
33 document how this determination was made in consultation with the person or person's legal representative,
34 and how access will otherwise be provided to the person and all other affected persons receiving services;
35 and

36 (iii) a staff person is available on site who is trained in basic first aid whenever persons are present
37 and staff are required to be at the site to provide direct service;

1 (2) maintain equipment, vehicles, supplies, and materials owned or leased by the license holder in
2 good condition when used to provide services;

3 (3) follow procedures to ensure safe transportation, handling, and transfers of the person and any
4 equipment used by the person, when the license holder is responsible for transportation of a person or a
5 person's equipment;

6 (4) be prepared for emergencies and follow emergency response procedures to ensure the person's
7 safety in an emergency; and

8 (5) follow sanitary practices for infection control and procedures to prevent and report communicable
9 diseases.

10 ~~Subd. 3. **Compliance with fire and safety codes.** When services are provided at a service site
11 licensed according to chapter 245A or where the license holder is the owner, lessor, or tenant of the service
12 site, the license holder must document compliance with applicable building codes, fire and safety codes,
13 health rules, and zoning ordinances, or document that an appropriate waiver has been granted.~~

14 Subd. 3. **Funds and property.** (a) Whenever the license holder assists a person with the safekeeping
15 of funds or other property according to section 245A.04, subdivision 3, the license holder must have written
16 authorization to do so from the person or the person's legal representative and the case manager. In
17 addition, the license holder must:

18 (1) annually survey, document, and implement the preferences of the person or the person's legal
19 representative, and the case manager for frequency of receiving a statement that itemizes receipts and
20 disbursements of funds or other property; and

21 (2) upon the death or transfer of a person, any funds or other property of the person must be
22 surrendered to the person or the person's legal representative, or given to the executor or administrator of
23 the estate in exchange for an itemized receipt.

24 (b) A license holder or staff person may not accept powers-of-attorney from a person receiving
25 services from the license holder for any purpose, ~~and may not accept an appointment as guardian or~~
26 ~~conservator of a person receiving services from the license holder.~~ This does not apply to license holders
27 that are Minnesota counties or other units of government or to staff persons employed by license holders
28 who were acting as ~~power of attorney, guardian, or conservator~~ attorney-in-fact for specific individuals
29 prior to enactment of this section. The license holder must maintain documentation of the power-of-
30 attorney, ~~guardianship, or conservatorship~~ in the service recipient record.

31 Subd. 4. **Prohibitions.** (a) The license holder is prohibited from using ~~psychotropic~~ any medication
32 as a substitute for adequate staffing, as punishment, for staff convenience, as a means of chemical restraint,
33 or for any reason other than as prescribed.

34 (b) The license holder is prohibited from using restraints or seclusion under any circumstance, unless
35 the commissioner has approved a variance request from the license holder that allows for the emergency
36 use of restraints and seclusion according to terms and conditions approved in the variance. Applicants and
37 license holders who have reason to believe they may be serving an individual who will need emergency use

1 of restraints or seclusion, may request a variance on the application or reapplication, and the commissioner
2 must automatically review the request for a variance as part of the application or reapplication process.
3 License holders may also request the variance any time after issuance of a license. In the event a license
4 holder uses restraint or seclusion for any reason without first obtaining a variance as required, the license
5 holder must report the unauthorized use of restraint or seclusion to the commissioner within 24 hours of the
6 occurrence and request the required variance.

9 **245D.07 SERVICE NEEDS.**

10 Subdivision 1. **Provision of services.** The license holder must provide services as specified in the
11 ~~service plan~~ coordinated service and support plan and assigned to the license holder. The provision of
12 services must comply with the requirements of this chapter and the federal waiver plans.

13 Subd. 2. **Service planning.** The license holder must participate in support team meetings related to
14 the person following stated timelines established in the person's ~~service plan~~ coordinated service and
15 support plan or as requested by the support team, the person, or the person's legal representative.

16 Subd. 3. **Reports.** The license holder must provide written reports regarding the person's progress or
17 status as requested by the person, the person's legal representative, the case manager, or the team.

18 **245D.08 RECORD REQUIREMENTS.**

19 Subdivision 1. **Record-keeping systems.** The license holder must ensure that the content and format
20 of service recipient, personnel, and program records are uniform, legible, and in compliance with the
21 requirements of this chapter.

22 Subd. 2. **Admission and discharge register.** The license holder must keep a register in a separate
23 book, listing in chronological order the dates and names of all persons served by the program who have
24 been admitted, discharged, or transferred, including service terminations initiated by the license holder and
25 deaths.

26 Subd. 3. **Service recipient record.** (a) The license holder must:

27 (1) maintain a record of current services provided to each person on the premises where the services
28 are provided or coordinated; and

29 (2) protect service recipient records against loss, tampering, or unauthorized disclosure in compliance
30 with sections 13.01 to 13.10 and 13.46.

31 (b) The license holder must maintain the following information for each person:

32 (1) an admission form signed by the person or the person's legal representative that includes:

33 (i) identifying information, including the person's name, date of birth, sex, address, ~~and~~ telephone
34 number, and date of admission or readmission;

1 (ii) the name, address, and telephone number of the person's legal representative, if any, ~~an a primary~~
2 emergency contact, the case manager, and family members or others as identified by the person or case
3 manager;

4 (2) service information, including service initiation information, verification of the person's eligibility
5 for services, and documentation verifying that services have been provided as identified in the ~~service plan~~
6 coordinated service and support plan according to paragraph (a);

7 (3) health information, including medical history, special dietary needs, and allergies; and when the
8 license holder is assigned responsibility for meeting the person's health service needs according to section
9 245D.05:

10 (i) current orders for medication, treatments, or medical equipment and a signed authorization from
11 the person or the person's legal representative to administer or assist in administering the medication or
12 treatments, if applicable;

13 (ii) a signed statement authorizing the license holder to act in a medical emergency when the person's
14 legal representative, if any, cannot be reached or is delayed in arriving;

15 (iii) medication administration procedures;

16 (iv) a medication administration record documenting the implementation of the medication
17 administration procedures, copies of the medication administration record reviews, and copies of any
18 agreements for administration of injectable medications by the license holder in compliance with section
19 245D.05; and

20 (v) a medical appointment schedule when the license holder is assigned responsibility for assisting
21 with medical appointments;

22 (4) the person's current coordinated service and support plan or that portion of the plan assigned to
23 the license holder. When a person's case manager does not provide a current ~~service plan~~ coordinated
24 service and support plan, the license holder must make a written request to the case manager to provide a
25 copy of the ~~service plan~~ coordinated service and support plan and inform the person of the right to a current
26 ~~service plan~~ coordinated service and support plan and the right to appeal under section 256.045;

27 (5) copies of the risk management plan and assessments as required under section 245D.20,
28 subdivisions 3 and 4;

29 (6) a record of other service providers serving the person when the person's ~~service plan~~ coordinated
30 service and support plan identifies the need for coordination between the service providers, that includes a
31 contact person and telephone numbers, services being provided, and names of staff responsible for
32 coordination;

33 (7) documentation of orientation to the service recipient rights according to section 245D.04,
34 subdivision 1, and maltreatment reporting policies and procedures according to section 245A.65,
35 subdivision 1, paragraph (c);

1 (8) copies of authorizations to handle a person's funds, according to section 245D.06, subdivision 3,
2 paragraph (a);

3 (9) documentation of complaints received and grievance resolution;

4 (10) incident reports involving the person, required under section 245D.06, subdivision 1;

5 (11) copies of written reports regarding the person's status when requested according to section
6 245D.07, subdivision 3, progress or daily log notes that are recorded by the program, and reports received
7 from other agencies involved in providing services or care to the person; and

8 (12) discharge summary, including service termination notice and related documentation, when
9 applicable.

10 Subd. 4. **Access to service recipient records.** The license holder must ensure that the following
11 people have access to the information in subdivision 1 in accordance with applicable state and federal law,
12 regulation, or rule:

13 (1) the person, the person's legal representative, and anyone properly authorized by the person;

14 (2) the person's case manager;

15 (3) staff providing services to the person unless the information is not relevant to carrying out the
16 service plan coordinated service and support plan; and

17 (4) the county adult foster care licensur, when services are also licensed as adult foster care.

18 Subd. 5. **Personnel records.** The license holder must maintain a personnel record of each employee,
19 direct service support volunteer, and subcontractor or consultant to document and verify staff
20 qualifications, orientation, and training. For the purposes of this subdivision, the terms "staff" or "staff
21 person" means paid employee, direct service support volunteer, ~~or~~ subcontractor, or consultant. The
22 personnel record must include:

23 (1) the staff person's date of hire, completed application, a position description signed by the staff
24 person, documentation that the staff person meets the position requirements as determined by the license
25 holder, the date of first supervised direct contact with a person served by the program, and the date of first
26 unsupervised direct contact with a person served by the program;

27 (2) documentation of staff qualifications, orientation, training, and performance evaluations as
28 required under section 245D.09, subdivisions 3, 4, and 5, including the date the training was completed, the
29 number of hours per subject area, and the name and qualifications of the trainer or instructor; and

30 (3) a completed background study as required under chapter 245C.

31 **245D.09 STAFFING STANDARDS.**

32 Subdivision 1. **Staffing requirements.** The license holder must provide direct service support staff
33 sufficient to ensure the health, safety, and protection of rights of each person and to be able to implement
34 the responsibilities assigned to the license holder in each person's service plan coordinated service and
35 support plan.

1 Subd. 2. **Supervision of staff having direct contact.** Except for a license holder who ~~are~~ is the sole
2 direct ~~service support~~ staff, the license holder must provide adequate supervision of staff providing direct
3 ~~service support~~ to ensure the health, safety, and protection of rights of each person and implementation of
4 the responsibilities assigned to the license holder in each person's ~~service plan~~ coordinated service and
5 support plan.

6 Subd. 3. **Staff qualifications.** (a) The license holder must ensure that direct support staff is
7 competent through training, experience, and education to meet the person's needs and additional
8 requirements as written in the ~~service plan~~ coordinated service and support plan, or when otherwise
9 required by the case manager or the federal waiver plan. The license holder must verify and maintain
10 evidence of staff competency, including documentation of:

11 (1) education and experience qualifications, including a valid degree and transcript, or a current
12 license, registration, or certification, when a degree or licensure, registration, or certification is required;

13 (2) completion of required orientation and training, including completion of continuing education
14 required to maintain professional licensure, registration, or certification requirements; and

15 (3) except for a license holder who is the sole direct ~~service support~~ staff, periodic performance
16 evaluations completed by the license holder of the direct ~~service support~~ staff person's ability to perform
17 the job functions based on direct observation.

18 (b) Staff under 18 years of age may not perform overnight duties or administer medication.

19 Subd. 4. **Orientation training.** (a) Except for a license holder who does not supervise any direct
20 ~~service support~~ staff, ~~within 90 days of hiring direct service staff~~, the license holder must provide and
21 ensure completion of orientation to direct support staff that combines supervised on-the-job training with
22 review of and instruction ~~on~~ in the following areas within 90 days of hire, unless stated otherwise:

23 (1) the job description and how to complete specific job functions, including:

24 (i) responding to and reporting incidents as required under section 245D.06, subdivision 1; and

25 (ii) following safety practices established by the license holder and as required in section 245D.06,
26 subdivision 2;

27 (2) the license holder's current policies and procedures required under this chapter, including their
28 location and access, and staff responsibilities related to implementation of those policies and procedures;

29 (3) data privacy requirements according to sections 13.01 to 13.10 and 13.46, the federal Health
30 Insurance Portability and Accountability Act of 1996 (HIPAA), and staff responsibilities related to
31 complying with data privacy practices;

32 (4) the service recipient rights under section 245D.04, and staff responsibilities related to ensuring the
33 exercise and protection of those rights;

34 (5) sections 245A.65; 245A.66, 626.556, and 626.557, governing maltreatment reporting and service
35 planning for children and vulnerable adults, and staff responsibilities related to protecting persons from

1 maltreatment and reporting maltreatment. This orientation must be provided within 72 hours of first
2 providing direct contact services and annually thereafter according to section 245A.65, subdivision 3;

3 (6) what constitutes use of restraints, seclusion, and psychotropic medications, and staff
4 responsibilities related to the prohibitions of their use; ~~and~~

5 (7) other topics as determined necessary in the person's ~~service plan~~ coordinated service and support
6 plan by the case manager or other areas identified by the license holder.

7 ~~(b) License holders who provide direct service themselves must complete the orientation required in~~
8 ~~paragraph (a), clauses (3) to (7).~~

9 (b) Before ~~providing~~ having unsupervised direct ~~service to~~ contact with a person served by the
10 program, or for whom the staff person has not previously provided direct ~~service~~ support, or any time the
11 plans or procedures identified in clauses (1) ~~and (2)~~ to (3) are revised, the staff person must review and
12 receive instruction on the following as it relates to the staff person's job functions for that person:

13 (1) the person's ~~service plan~~ coordinated service and support plan as it relates to the responsibilities
14 assigned to the license holder, and when applicable, the person's individual abuse prevention plan
15 ~~according to section 245A.65, or risk management plan according to section 245D.20, subdivision 3, to~~
16 achieve and demonstrate an understanding of the person as a unique individual, and how to implement
17 those plans;-and

18 (2) medication administration procedures established for the person when medication administration
19 is assigned to the license holder according to section 245D.05, subdivision 1, paragraph (b). Unlicensed
20 staff may administer medications only after successful completion of a medication administration training,
21 from a training curriculum developed by a registered nurse, clinical nurse specialist in psychiatric and
22 mental health nursing, certified nurse practitioner, physician's assistant, or physician incorporating an
23 observed skill assessment conducted by the trainer to ensure staff demonstrate the ability to safely and
24 correctly follow medication procedures.

25 Medication administration must be taught by a registered nurse, clinical nurse specialist, certified
26 nurse practitioner, physician's assistant, or physician, if at the time of service initiation or any time
27 thereafter, the person has or develops a health care condition that affects the service options available to the
28 person because the condition requires:

29 (i) specialized or intensive medical or nursing supervision;

30 (ii) nonmedical service providers to adapt their services to accommodate the health and safety needs
31 of the person; ~~and~~

32 (iii) necessary training in order to meet the health service needs of the person as determined by the
33 person's physician.

34 (3) Safe and correct operation of medical, therapeutic, and assistive equipment used by the person to
35 sustain life or monitor or treat a medical condition. The training must be provided by a qualified
36 professional and incorporate an observed skill assessment to ensure staff demonstrate the ability to safely

1 and correctly operate the equipment. For purposes of this subdivision, a "qualified source" includes a
2 licensed health professional or an individual who provides training on such equipment.

3 (c) License holders who provide direct support services themselves must complete the orientation
4 required in paragraph (a), clauses (3) to (7).

5 (d) Orientation or training received by the staff person from sources other than the license holder in
6 the same subjects as identified in paragraphs (a) and (c) may count towards the orientation requirements if
7 received in the 12 month period before the staff person's date of hire. The license holder must maintain
8 documentation of the training received from other sources.

9 Subd. 5. **Annual Training.** (a) A license holder must provide annual training to direct ~~service~~
10 support staff on the topics identified in subdivision 4, paragraph (a), clauses (3) to (6). Training on relevant
11 topics received from sources other than the license holder may count toward training requirements.

12 ~~(b) A license holder providing behavioral programming, specialist services, personal support, 24 hour~~
13 ~~emergency assistance, night supervision, independent living skills, structured day, prevocational, or~~
14 ~~supported employment services, must provide a minimum of eight hours of annual training to direct service~~
15 ~~staff that addresses:~~

16 ~~(1) topics related to the general health, safety, and service needs of the population served by the~~
17 ~~license holder; and~~

18 ~~(2) other areas identified by the license holder or in the person's current service plan.~~

19 ~~Training on relevant topics received from sources other than the license holder may count toward~~
20 ~~training requirements.~~

21 ~~(e)~~ When the license holder is the owner, lessor, or tenant of the service site and whenever a person
22 receiving services is present at the site, the license holder must have a staff person available on site who is
23 trained in basic first aid and, when required in a person's ~~service plan~~ coordinated service and support plan,
24 cardiopulmonary resuscitation. First aid and cardiopulmonary resuscitation training must be provided by a
25 nationally recognized training source. The training must include in-person instruction, hands-on practice,
26 and skills assessment under the direct supervision of a certified instructor.

27 Subd. 6. **Subcontractors and consultants.** If the license holder uses a subcontractor or a consultant
28 to perform services licensed under this chapter on their behalf, the license holder must ensure that the
29 subcontractor or consultant meets and maintains compliance with all requirements under this chapter that
30 apply to the services to be provided. For the purposes of this chapter, subcontractor or consultant means
31 any individual, regardless of employer, who is providing program services for hire under the control of the
32 license holder. Subcontractors and consultants hired by the license holder must meet the Minnesota
33 licensing requirements applicable to the disciplines in which they are providing services.

34 Subd. 7. Volunteers. The license holder must ensure that volunteers who provide direct support
35 services to persons served by the program receive the training, orientation, and supervision necessary to
36 fulfill their responsibilities.

37 **245D.10 POLICIES AND PROCEDURES.**

1 Subdivision 1. **Policy and procedure requirements.** The license holder must establish, enforce, and
2 maintain policies and procedures as required in this chapter.

3 Subd. 2. **Grievances.** The license holder must establish policies and procedures that provide a simple
4 complaint process for persons served by the program and their authorized representatives to bring a
5 grievance that:

6 (1) provides staff assistance with the complaint process when requested, and the addresses and
7 telephone numbers of outside agencies to assist the person;

8 (2) allows the person to bring the complaint to the highest level of authority in the program if the
9 grievance cannot be resolved by other staff members, and that provides the name, address, and telephone
10 number of that person;

11 (3) requires the license holder to promptly respond to all complaints affecting a person's health and
12 safety. For all other complaints the license holder must provide an initial response within 14 calendar days
13 of receipt of the complaint. All complaints must be resolved within 30 calendar days of receipt or the
14 license holder must document the reason for the delay and a plan for resolution;

15 (4) requires a complaint review that includes an evaluation of whether:

16 (i) related policies and procedures were followed and adequate;

17 (ii) there is a need for additional staff training;

18 (iii) the complaint is similar to past complaints with the persons, staff, or services involved; and

19 (iv) there is a need for corrective action by the license holder to protect the health and safety of
20 persons receiving services;

21 (5) based on the review in clause (4), requires the license holder to develop, document, and
22 implement a corrective action plan, designed to correct current lapses and prevent future lapses in
23 performance by staff or the license holder, if any;

24 (6) provides a written summary of the complaint and a notice of the complaint resolution to the
25 person and case manager, that:

26 (i) identifies the nature of the complaint and the date it was received;

27 (ii) includes the results of the complaint review;

28 (iii) identifies the complaint resolution, including any corrective action; and

29 (7) requires that the complaint summary and resolution notice be maintained in the service recipient
30 record.

31 Subd. 3. **Service suspension and service termination.** (a) The license holder must establish policies
32 and procedures for temporary service suspension, ~~and~~ service termination that promote continuity of care
33 and service coordination with the person and the case manager, and with other licensed caregivers, if any,
34 who also provide support to the person.

1 (b) The policy must include the following requirements:

2 (1) the license holder must notify the person and case manager in writing of the intended termination
3 or temporary service suspension, and the person's right to seek a temporary order staying the termination of
4 service according to the procedures in section 256.045, subdivision 4a, or 6, paragraph (c);

5 (2) notice of the proposed termination of services, including those situations that began with a
6 temporary service suspension, must be given at least 60 days before the proposed termination is to become
7 effective when a license holder is providing ~~independent living skills training, structured day, prevocational~~
8 ~~or supported employment services~~ in-home support services, residential supports and services, and day
9 services, to the person, and 30 days prior to termination for all other services licensed under this chapter;

10 (3) the license holder must provide information requested by the person or case manager when
11 services are temporarily suspended or upon notice of termination;

12 (4) prior to giving notice of service termination or temporary service suspension, the license holder
13 must document actions taken to minimize or eliminate the need for service suspension or termination;

14 (5) during the temporary service suspension or service termination notice period, the license holder
15 will work with the appropriate county agency to develop reasonable alternatives to protect the person and
16 others;

17 (6) the license holder must maintain information about the service suspension or termination,
18 including the written termination notice, in the service recipient record; and

19 (7) the license holder must restrict temporary service suspension to situations in which the person's
20 behavior causes immediate and serious danger to the health and safety of the person or others.

21 Subd. 4. **Availability of current written policies and procedures.** (a) The license holder must
22 review and update, as needed, the written policies and procedures required under this chapter.

23 (b) The license holder must inform the person and case manager of the policies and procedures
24 affecting a person's rights under section 245D.04, and provide copies of those policies and procedures,
25 within five working days of service initiation.

26 (c) The license holder must provide a written notice at least 30 days before implementing any revised
27 policies and procedures affecting a person's rights under section 245D.04. The notice must explain the
28 revision that was made and include a copy of the revised policy and procedure. The license holder must
29 document the reason for not providing the notice at least 30 days before implementing the revisions.

30 (d) Before implementing revisions to required policies and procedures the license holder must inform
31 all employees of the revisions and provide training on implementation of the revised policies and
32 procedures.

33 **245D.20 INTENSIVE SUPPORTS; SERVICE NEEDS.**

34 Subdivision 1. Outcome-based services. (a) The license holder must provide outcome-based services
35 in response to the person's identified needs and desired outcomes as specified in the coordinated service
36 and support plan and in compliance with the requirements of this section.

1 (b) Services must be provided in manner that supports the person’s daily needs and activities and
2 accomplishment of the person's personal goals and service outcomes, consistent with the principles of:

3 (1) person centered service planning and delivery that identifies and supports:

4 (i) what is important to the person as well as what is important for the person; and

5 (ii) each person's history, dignity, and cultural background; and

6 (2) self-determination that supports and provides:

7 (i) opportunities for the development and exercise of functional and age-appropriate skills, decision
8 making and choice, personal advocacy, and communication; and

9 (ii) the affirmation and protection of each person's civil and legal rights;

10 (3) least restrictive alternatives that support, promote, and allows:

11 (i) inclusion and participation in the person’s community as desired by the person in a manner that
12 supports the person in developing and maintaining a role as a valued community member.

13 (ii) opportunities for self-sufficiency as well as developing and maintaining social relationships and
14 natural supports; and

15 (iii) a balance between risk and opportunity, meaning the least restrictive supports necessary are used
16 when person engages in activities of their own choosing that may otherwise present a risk to the person’s
17 health, safety, or rights.

18 **Subd. 2. Person centered service planning and delivery.** “Person centered service planning and
19 delivery” means working with the person and the person’s legal representative, if any, to identify those
20 things that are important to the person as well as those things that are important for the person and using
21 that information to identify outcomes the person desires. The information is used to:

22 (1) determine necessary actions in support of the outcomes in a manner that respects and supports the
23 person’s needs and preferences;

24 (2) establishes a balance between what is important for the person, including the person’s physical
25 and emotional health and safety needs with creating opportunities for the person to make decisions and
26 engage in activities that are important to the person; and

27 (3) supports the person in being a valued member of and included in his or her community.

28 **Subd. 3. Abuse prevention and risk management plans.** (a) The license holder must develop,
29 document, and implement an abuse prevention plan according to section 245A.65, subdivision 2, for a
30 person determined to be a vulnerable adult according to section 245A.65, subdivision 1a.

31 (b) In addition to the abuse prevention plan identified in paragraph (a), the license holder must
32 develop, document, and implement a risk management plan according to this subdivision to minimize risk
33 of substantial harm for each person requiring a 24-hour plan of care and residing in a licensed residential
34 service site or receiving day services in a day services facility.

1 (1) Risk assessments must be based on current assessments and information about the person
2 completed within three months of the initial plan being developed or within 12 months of the annual plan
3 review. The assessments must be based on the person's physical and social environments at the time initial
4 development or review.

5 (2) The assessment must consider person's susceptibility to substantial harm of self. The assessment
6 must take into consideration the frequency of the risk occurring and severity of the risk to the person if it
7 does occur. If the frequency or the severity or a combination of both may result in substantial harm to the
8 person the risk must be addressed in a risk management plan. For the purposes of this paragraph substantial
9 risk means the risk that may result in one of the following:

10 (i) restriction of the person's rights defined in section 245D.04;

11 (ii) service suspension or termination initiated by the license holder according to section 245D.10,
12 subdivision 3;

13 (iii) a need for immediate intervention to protect the person or others from physical injury or to
14 prevent severe property damage that is an immediate threat to the physical safety of the person or others;

15 (iv) deterioration of the person's physical, mental, or emotional well-being to a degree that could
16 result in a loss of current levels of skill and abilities or the need for a more restrictive service setting
17 including and up to institutionalization.

18 (3) The assessment must consider only the person's skills and abilities, independent of staffing
19 patterns, supervision plans, the environment, or other situational elements. Using the measure below
20 identify and document the level of risk in each area.

21 (4) When a risk management is required as identified in clause (2), the plan must identify the specific
22 support or intervention that will be provided to the person to minimize the risk, and how and when it will
23 be implemented. The risk management plan must developed in a manner that supports and promotes the
24 principles of outcome-based services identified section 245D.20, subdivisions 1 and 2.

25 (5) The license holder must give the person or person's legal representative and case manager an
26 opportunity to participate in the initial and ongoing plan development and review.

27 (6) The initial assessment and risk management plan must be completed prior to or upon service
28 initiation. The license holder must obtain, at a minimum, verbal approval for the initial plan from the
29 person or the person's legal representative and case manager. The license holder must document the date
30 verbal approval was obtained.

31 (7) Within 45 days of service initiation the initial plan must be reviewed for accuracy and revised as
32 necessary. If the license holder revises the plan, or if the person or person's legal representative and case
33 manager have not previously signed and dated the plan, the license holder must obtain dated signatures to
34 document the plan's approval.

35 (8) After approval of the initial plan, the license holder must review the plan at least annually and
36 update the plan based on changes to the person's needs or environment where services are provided. The

1 license holder must obtain dated signatures from the person or person's legal representative and case
2 manager to document completion of the annual review and approval of plan changes.

3 Subd. 4. **Assessments.** (a) The license holder must conduct or coordinate assessments and
4 reassessments for the person within stated time lines and areas specified in the coordinated service and
5 support plan or as requested in writing by the case manager.

6 (b) For each area of assessment requested, the license holder must provide a written summary,
7 analysis, and recommendations for use of the assessment results in the development of the individual
8 support plan.

9 (c) All assessments must include information about the person that is descriptive of:

10 (1) the person's strengths and functional skills, behaviors, or symptoms;

11 (2) the impact of these skills, behaviors, or symptoms on the person's daily activities, the
12 environmental, physical, medical, and health factors that determine the services needed to increase the
13 person's independence and productivity, and the types of supervision, assistance, and training that would
14 best meet the person's need for support and supervision to achieve the outcomes in compliance with
15 subdivision 1.

16 Subd. 5. **Service outcomes.** (a) Upon service initiation, the license holder must meet with the person,
17 the person's legal representative, if any, and case manager to determine the services to be provided and the
18 outcomes of those services.

19 (b) Service outcomes must be developed within 45 days of service initiation in coordination with
20 other service providers. Service outcomes must be developed in compliance with subdivisions 1 and 2.

21 (c) Service outcomes must be documented within 60 days of service initiation. The license holder,
22 must document the supports and methods developed under paragraph (a). The documentation must include:

23 (1) the methods or actions that will be used support the person and to accomplish the service
24 outcomes, including information about:

25 (i) any changes or modifications to the physical and social environments necessary when the service
26 supports are provided;

27 (ii) any equipment and materials required; and

28 (iii) techniques that are consistent with the person's communication mode and learning style;

29 (2) the measureable and observable criteria for identifying when the desired outcome has been
30 achieved and how data will be collected;

31 (3) the projected starting date for implementing the supports and methods and the date by which
32 progress towards accomplishing the outcomes will be reviewed and evaluated; and

33 (4) the names of the staff or position responsible for implementing the supports and methods.

34 Subd. 6. **Progress reviews.** (a) The license holder must give the person or the person's legal
35 representative and case manager an opportunity to participate in the ongoing review and development of

1 the supports and methods used to accomplish outcomes identified in subdivision 1. The license holder, in
2 coordination with other service providers, must meet with the person, the person's legal representative, and
3 case manager, and participate in progress review meetings following stated time lines established in the
4 person's coordinated service and support plan or as requested in writing by the person, the person's legal
5 representative, or the case manager, at a minimum of once a year.

6 (b) The license holder must summarize the person's progress toward achieving the identified
7 outcomes and make recommendations and identify the rationale for changing, continuing, or discontinuing
8 implementation of supports and methods identified in subdivision 4, paragraph (b), in a written report sent
9 to the person or the person's legal representative and case manager prior to the review meeting, unless the
10 person, the person's legal representative, or the case manager request to receive the report at the time of the
11 meeting.

12 (c) The license holder must document decisions made at the progress review meeting that require
13 changes to the service outcomes and approval of the changes by the person or the person's legal
14 representative and the case manager. The approved changes to the service outcomes must be documented
15 within 10 calendar days of the progress review meeting in compliance with the requirements in subdivision
16 4, paragraph (b).

17 Subd. 7. **Staffing requirements.** The license holder must provide the necessary level of supervision,
18 assistance, and training identified in the person's assessments to ensure the health, safety, and protection of
19 rights of each person and to be able to implement each person's coordinated service and support plan in
20 compliance with this section.

21 **245D.21 INTENSIVE SUPPORTS; PROGRAM COORDINATION AND OVERSIGHT.**

22 Subdivision 1. **Program coordination and evaluation.** The license holder is responsible for:

23 (1) coordination of service delivery and evaluation for each individual person served by the program
24 as identified in subdivision 2; and

25 (2) program management and oversight that includes evaluation of the program quality and program
26 improvement for services provided by the license holder as identified in subdivision 3.

27 Subd. 2. **Coordination and evaluation if individual service delivery.** (a) Delivery and evaluation of
28 services provided by the license holder must be coordinated by a designated staff person. The designated
29 coordinator must provide supervision, support, and evaluation of activities that include:

30 (1) oversight of the license holder's responsibilities assigned in the person's coordinated service and
31 support plan;

32 (2) taking the action necessary to facilitate the accomplishment of the outcomes in compliance with
33 section 245D.20, subdivisions 1, 2, and 5;

34 (3) instruction and assistance to direct support staff implementing the coordinated service and support
35 plan and the service outcomes, including direct observation of service delivery sufficient to assess staff
36 competency;

1 (4) evaluation of the effectiveness of service delivery, methodologies, and progress on the person's
2 outcomes based on the measureable and observable criteria for identifying when the desired outcome has
3 been achieved in compliance with section 245D.20, subdivisions 5 and 6;

4 (b) The designated coordinator must be competent to perform the duties as required and must
5 minimally have:

6 (1) a two-year degree in a field related to human services, and two years of full-time work experience
7 providing direct care services to people with disabilities; or

8 (2) a diploma in human services from an accredited postsecondary institution and three years of full-
9 time work experience providing direct care services to people with disabilities; or

10 (3) equivalent training and education in a field related to human services approved by the
11 commissioner and four years of full-time work experience providing direct care services to people with
12 disabilities.

13 **Subd. 3. Program management and oversight.** (a) The license holder must designate a managerial
14 staff person to provide program management and oversight of the services provided by the license holder.
15 The designated manager is responsible for the following:

16 (1) maintaining a current understanding of the licensing requirements sufficient to ensure compliance
17 throughout the program;

18 (2) ensuring the duties of the designated coordinator are fulfilled in compliance with subdivision 2;
19 and

20 (3) coordination of the quality assurance and program improvement evaluation required under section
21 245D.22, subdivision 1.

22 (b) The designated manager must be competent to perform the duties as required and must minimally
23 have a bachelor's degree or equivalent training and education related to human services, and a minimum of
24 three years of experience in the management of a program providing direct support services to persons with
25 disabilities or person age 65 and older.

26 **245D.22 INTENSIVE SUPPORTS; QUALITY ASSURANCE AND PROGRAM IMPROVEMENT.**

27 **Subdivision 1. Quality assurance and program improvement plan.** (a) The license holder must
28 develop, document and implement a two-year quality assurance and improvement plan that at a minimum
29 evaluates and measures program quality in the following areas:

30 (1) satisfaction of persons served by the program, the person's legal representative, if any, and the
31 case manager, with the service delivery and progress towards accomplishing outcomes identified in section
32 245D.20, subdivisions 1, 2, and 5, and ensuring and protecting each person's rights as identified in section
33 245D.04;

34 (2) responses to incidents, emergencies, and maltreatment reported within the program to identify
35 trends or patterns affecting service delivery and the impact on the health, safety, and rights of persons
36 served by the program;

1 (3) staff competency related to staff being qualified to provide direct support as required by the
2 coordinated service plans and service outcomes in a manner consistent with the requirements in section
3 245.20, subdivisions 1 and 2; and

4 (4) results of licensing inspections and licensing complaint investigations conducted by the
5 commissioner to identify where and how compliance has been improved and maintained between licensing
6 inspections.

7 (b) The plan must specify how the evaluation results will be used to identify the program's
8 accomplishments and best practices, and to develop program improvement goals during the next two year
9 period. The goals must identify observable criteria by which progress will be measured, dates for
10 implementation, and who is responsible for coordination and implementation of the goals for improved
11 service delivery for the next two year period.

12
13 **245D.23 INTENSIVE SUPPORTS; STAFF QUALIFICATION REQUIREMENTS.**

14 Subd. 1. **Orientation training.** In addition to the orientation training requirements in section
15 245D.09, subdivision 4, the license holder must ensure that staff providing direct supports to persons
16 requiring a 24-hour plan of care complete a total of 30 hours of orientation training.

17 Subd. 2. **Annual training.** (a) In addition to the annual training requirements in section 245D.09,
18 subdivision 5, a license holders must ensure that staff providing direct supports to persons requiring a 24-
19 hour plan of care annually complete hours of training as follows:

20 (1) if the direct support staff have been employed for one to 24 months and:

21 (i) the average number of work hours scheduled per week is 30 to 40 hours, the staff must annually
22 complete 40 training hours;

23 (ii) the average number of work hours scheduled per week is 20 to 29 hours, the staff must annually
24 complete 30 training hours; and

25 (iii) the average number of work hours scheduled per week is one to 19 hours, the staff must annually
26 complete 20 training hours; or

27 (2) if the direct support staff have been employed for more than 24 months and:

28 (i) the average number of work hours scheduled per week is 30 to 40 hours, the staff must annually
29 complete 20 training hours;

30 (ii) the average number of work hours scheduled per week is 20 to 29 hours, the staff must annually
31 complete 15 training hours; and

32 (iii) the average number of work hours scheduled per week is one to 19 hours, the staff must annually
33 complete 12 training hours.

34 Subd. 3. **Additional areas of orientation and annual training.** In addition to the areas of orientation
35 and training identified in section 245D.09, subdivisions 4 and 5, the license holder must provide orientation

1 and annual training to all direct support staff on the principles of outcome based services and person
2 centered service planning and delivery as identified in section 245D.20 subdivisions 1 and 2:

3 **245D.24 INTENSIVE SUPPORTS; POLICIES AND PROCEDURES.**

4 Subdivision 1. **Additional policies and procedures.** In addition to the policies and procedures
5 according to section 245D.10, the license holder must establish, enforce, and maintain the additional
6 policies and procedures required in this section.

7 Subd. 2. **Health and safety.** The license holder must develop and implement policies and procedures
8 that promote health and safety by ensuring:

9 (1) use of sanitary practices in compliance with section 245D.06, subdivision 2, clause (5), for
10 infection control and procedures to prevent and report communicable diseases;

11 (2) if the license holder operates a residential program, health service coordination and care in
12 compliance with section 245D.05, subdivision 1;

13 (3) safe medication administration, assistance and management as defined under section 245D.02,
14 subdivisions (23) to (25), and in compliance with section 245D.05, subdivisions (2) to (5), and must:

15 (i) be established in consultation with a registered nurse, nurse practitioner, physician's assistant, or
16 medical doctor;

17 (ii) require completion of medication administration training in compliance with section 245D.09,
18 subdivision 4, paragraph (b), clause (2);

19 (4) psychotropic medication monitoring when the person is prescribed a psychotropic medication in
20 compliance with section 245D.051;

21 (5) safe transportation, when the license holder is responsible for transportation of persons, with
22 provisions for handling emergency situations in compliance with section 245D.06, subdivision 2, clauses
23 (2) to (4);

24 (6) a plan for responding to all incidents as defined in section 245D.02, subdivision 15; and reporting
25 all incidents required to be reported according to section 245D.06, subdivision 1, the plan must:

26 (i) provide the contact information of a source of emergency medical care and transportation; and

27 (ii) require staff to first call 9-1-1 when the staff believes a medical emergency may be life-
28 threatening;

29 (7) a plan for ensuring the safety of persons served by the program in emergencies as defined in
30 section 245D.02, subdivision 14;

31 (8) a procedure for the review of incidents and emergencies to identify trends or patterns, and
32 corrective action if needed; and a record keeping system of record keeping for the incident and emergency
33 reports and a summary of the reviews that includes maintaining a written summary of each incident in an
34 incident report file that indicates:

1 (i) the name of the person or persons involved in the incident. It is not necessary to identify all
2 persons affected by or involved in an emergency unless the emergency resulted in an incident;

3 (ii) the date, time, and location of the incident or emergency;

4 (iii) a description of the incident or emergency;

5 (iv) a description of the response to the incident or emergency and whether a person's individual
6 service and support plan or risk management plan, or program policies and procedures, were implemented
7 as applicable; and

8 (v) the name of the staff person or persons who responded to the incident or emergency; and

9 (vi) the determination of whether corrective action is necessary based on the results of the review.

10 **Subd. 3. Protection of rights.** The license holder must develop and implement policies and
11 procedures that protect a person's data privacy rights as identified in section 245D.04, subdivision 3,
12 paragraph (a), clause (3), to ensure compliance with:

13 (1) the Government Data Practices Act, section 13.46; and all other applicable Minnesota laws and
14 rules, in handling all data related to the services provided; and

15 (2) the Health Insurance Portability and Accountability Act (HIPAA), to the extent that the license
16 holder performs a function or activity involving the use of protected health information as defined under
17 the code of federal regulations, title 45, section 164.501, including, but not limited to, providing health care
18 services; health care claims processing or administration; data analysis, processing or administration;
19 utilization review; quality assurance; billing; benefit management; practice management; repricing; or
20 otherwise provided by the code of federal regulations, title 45, section 160.103, the license holder must
21 comply with the Health Insurance Portability and Accountability Act of 1996 and its implementing
22 regulations, code of federal regulations, title 45, , parts 160 to 164, and all applicable requirements.

23 **Subd. 4. Continuity of care.** The license holder must develop and implement the policies and
24 procedures that promote continuity of care by ensuring:

25 (1) admission or service initiation criteria is specified that:

26 (i) is consistent with the license holder's statement of intended use in section 245D.031, subdivision 2
27 and is in compliance with section 245D.04, subdivisions 2, clauses (4) to (7), and subdivision 3, clause (8);

28 (ii) identifies the criteria to be applied in determining whether the license holder can develop services
29 to meet the needs specified in the person's coordinated service and support plan; and

30 (iii) requires that the license holder must not refuse to admit a person solely on the basis of the type of
31 residential services a person is receiving or solely on the basis of the person's severity of disability,
32 orthopedic or neurological handicaps, sight or hearing impairments, lack of communication skills, physical
33 disabilities, toilet habits, behavioral disorders, or past failure to make progress.

34 (b) A staff orientation and training plan to ensure compliance with sections 245D.09, subdivision 4
35 and 5.

1 **245D.25 INTENSIVE SUPPORTS; RESIDENTIAL PROGRAMS.**

2 Subdivision 1. **Leaving the residence.** Each person requiring a 24-hour plan of care and receiving
3 residential supports and services in a licensed residential site must receive services during the day outside
4 the residence unless otherwise specified in the person's coordinated community service and support plan.

5 **245D.30 INTERVENTION SUPPORT SERVICES; BEHAVIORAL SUPPORT**

6 Subdivision 1. **Behavioral support services and staff qualifications.** (a) Behavioral support
7 services may be provided in a person's own home or community and includes:

8 (1) completing an individualized functional assessment of maladaptive behaviors;

9 (2) developing a positive behavior support plan that may also include specific reactive or emergency
10 strategies;

11 (3) implementing the plan;

12 (4) ongoing training and supervision of caregivers and behavior staff; and

13 (5) periodic reassessment and modification of the plan.

14 (b) Behavioral support service consists of three progressive staffing levels each with associated
15 functions.

16 (1) behavior professionals;

17 (2) behavior analysts; and

18 (3) behavior specialists.

19 Subd. 2. **Behavior professional duties and qualifications.** (a) Behavior professional consultative
20 activities may be delivered face-to-face or via remote communication by telephone or internet. The
21 behavior professional is responsible to:

22 (1) complete individualized functional assessments;

23 (2) develop person centered, positive practice, individualized behavior support plans that identify
24 specific proactive and, if necessary, reactive intervention strategies;

25 (3) distribute plans to those with a need to know;

26 (4) evaluate effectiveness of the service;

27 (5) modify plans as necessary;

28 (6) provide onsite instructional learning regarding the use of behavioral interventions; and

29 (7) train and supervise behavior analysts and behavior specialists.

30 (b) Behavior professionals must have competencies in areas related to:

31 (1) ethical considerations;

32 (2) functional assessment;

- 1 (3) functional analysis;
2 (4) measurement of behavior and interpretation of data;
3 (5) selecting intervention outcomes and strategies;
4 (6) behavior reduction/elimination strategies that promote least restrictive approved alternatives;
5 (7) data collection;
6 (8) staff and caregiver training;
7 (9) support plan monitoring;
8 (10) co-occurring mental disorders or neuro-cognitive disorder;
9 (11) demonstrated expertise with populations being served; and
10 (12) must meet at least one of the following requirements and be a:
11 (i) psychologist licensed under sections 148.88 to 148.98, who has stated to the Board of Psychology
12 competencies in the above identified areas;
13 (ii) clinical social worker licensed as an independent clinical social worker under chapter 148D, or a
14 person with a master's degree in social work from an accredited college or university, with at least 4,000
15 hours of post-master's supervised experience in the delivery of clinical services in the areas identified in
16 clauses (1) to (11);
17 (iii) physician licensed under chapter 147 and certified by the American Board of Psychiatry and
18 Neurology or eligible for board certification in psychiatry with competencies in the areas identified in
19 clauses (1) to (11);
20 (iv) licensed professional clinical counselor licensed under MN Statute, sections 148B.29 to 148B.39
21 with at least 4000 hours of post-master's supervised experience in the delivery of clinical services who has
22 demonstrated competencies in the areas identified in clauses (1) to (11);
23 (v) person with a master's degree from an accredited college or university in one of the behavioral
24 sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of
25 clinical services with demonstrated competencies in the areas identified in clauses (1) to (11); or
26 (vi) registered nurse who is licensed under sections 148.171 to 148.285; and who is certified as a
27 clinical specialist or as a nurse practitioner in adult or family psychiatric and mental health nursing by a
28 national nurse certification organization; or who has a master's degree in nursing or one of the behavioral
29 sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours
30 of post-master's supervised experience in the delivery of clinical services
31 Subd. 3. Behavior analyst duties and qualifications. (a) The behavior analyst is responsible to:
32 (1) oversee implementation of the person centered, positive practice behavior support plan;
33 (2) train and direct behavior specialists who implement the behavior support plan;

- 1 (3) provide feedback to and coordinate with the behavior professional; and
2 (4) supervise data collection.
3 (b) A behavior analyst must meet the following qualifications:
4 (1) have obtained a baccalaureate degree, master's degree or a PhD in a social services discipline; or
5 (2) meet the qualifications of a Mental Health Practitioner as defined in section 245.462, subdivision
6 17.
7 (3) in addition, the behavior analyst must have:
8 (i) four years of supervised experience working with individuals who exhibit challenging behaviors
9 as well as co-occurring mental disorders or neuro-cognitive disorder;
10 (ii) 10 hours of instruction in functional assessment and functional analysis;
11 (iii) 20 hours of instruction in the understanding of the function of behavior;
12 (iv) 10 hours of instruction on design of positive practices behavior support strategies;
13 (v) 20 hours of instruction on the use of behavior reduction approved strategies used only in
14 combination with behavior positive practices strategies; and
15 (vi) a determination by a behavior professional to have the training and prerequisite skills required to
16 provided positive practice strategies as well as behavior reduction approved/permitted intervention to the
17 person who receives behavioral support; and

18 (4) be under the direct supervision of a behavior professional.

19 Subd. 4. Behavior specialist duties and qualifications. (a) The behavior specialist is responsible to:

- 20 (1) collect and record behavioral data;
21 (2) communicate questions or concerns to the behavior professional or analyst; and
22 (3) implement the person centered, positive practice behavior support plan.
23 (b) A behavior analyst must meet the following qualifications:
24 (1) have an associate's degree in a social services discipline; or
25 (2) two years of supervised experience working with individuals who exhibit challenging behaviors
26 as well as co-occurring mental disorders or neuro-cognitive disorder; and
27 (3) must have received:
28 (i) a minimum of four hours of training in functional assessment;
29 (ii) 20 hours of instruction in the understanding of the function of behavior;
30 (iii) 10 hours of instruction on design of positive practices behavioral support strategies; and

1 (iv) a determination by a behavior professional to have the training and prerequisite skills required to
2 provide positive practices strategies as well as behavior reduction approved intervention to the person who
3 receives behavioral support; and

4 (4) be under the direct supervision of a behavior professional.

5 **245D.31 INTERVENTION SUPPORT SERVICES; CRISIS RESPITE**

6 Subdivision 1. **Crisis respite services.** (a) Crisis respite services are short-term care and intervention
7 strategies to a person for both medical and behavioral needs that support the caregiver and protect the
8 person or others living with that person. Crisis respite services may be provided in a person's own home or
9 in a licensed residential facility, including:

10 (1) a corporate or family child foster care home;

11 (2) a family adult foster care home; or

12 (3) a community residential setting licensed according to this chapter.

13 (b) Crisis respite services include the following:

14 (1) an assessment to determine the precipitating factors contributing to the crisis, including
15 recommendations for medical assessments as appropriate;

16 (2) development of a provider intervention plan in coordination with the service planning team;

17 (3) consultation and staff training to other providers, license holders, or caregivers as necessary to
18 assure successful implementation of the person's intervention plan;

19 (4) development and implementation of a transition plan to aid the person in returning home if out of
20 home crisis-respite was provided;

21 (5) on-going technical assistance to other providers, license holders, or caregivers in the
22 implementation of the intervention plan developed for the person; and,

23 (6) recommendations for revisions to the 24-hour plan of care for the person to prevent or minimize
24 future crisis situations in order to increase the likelihood of the person remaining in the community.

25 **245D.32 INTERVENTION SUPPORT SERVICES; SPECIALIST SERVICES**

26 Subdivision 1. **Specialist services duties and qualifications.** (a) Specialist services are services that
27 exceed the scope and duration of available Minnesota State Plan or waiver services include:

28 (1) assessments;

29 (2) evaluation of service outcomes identified in the person's care plan ;

30 (3) monitoring of specific program implementation ;

31 (4) program development ; and

32 (5) training and supervision of staff and caregivers.

33 (b) The person's service planning team will:

- 1 (1) identify specific experience and skills required of a specialist to meet the needs of the person ; and
2 (2) identify and document qualifications of a specialist in the coordinated service and support plan.

3 **245D.40 COMMUNITY RESIDENTIAL SETTINGS AND DAY SERVICE FACILITIES;**
4 **LICENSURE REQUIREMENTS AND APPLICATION PROCESS.**

5 Subdivision 1. **Community residential settings and day service facilities.** For the purposes of this
6 section “facility” means both a community residential setting and day service facility and the physical
7 plant.

8 Subd. 2. **Applicable state and local code compliance.** (a) Physical plants must comply with
9 applicable state and local fire, health, building, and zoning codes.

10 (b) The facility must be inspected by a fire marshal or their delegate within 12 months before initial
11 licensure to verify that it meets the applicable occupancy requirements as defined in the Minnesota State
12 Fire Code and that the facility complies with the fire safety standards for that occupancy code contained in
13 the Minnesota State Fire Code.

14 (c) The facility's food service, if any, and plumbing, ventilation, heating, cooling, lighting, elevators,
15 and other fixtures and equipment must conform to applicable health, sanitation, and safety codes and
16 regulations.

17 (d) Any condition cited by a fire marshal, building official, or health authority as hazardous or
18 creating an immediate danger of fire or threat to health and safety must be corrected before a license is
19 issued or renewed by the department.

20 (e) The facility must maintain in a permanent file the reports of health, fire, and other safety
21 inspections.

22 **245D.41 COMMUNITY RESIDENTIAL SETTINGS AND DAY SERVICE FACILITIES;**
23 **SANITATION AND HEALTH.**

24 Subdivision 1. **General Maintenance.** (a) The license holder must maintain the interior and exterior
25 of buildings, structures, or enclosures used by the facility, including walls, floors, ceilings, registers,
26 fixtures, equipment, and furnishings, in good repair and in a sanitary and safe condition. The facility must
27 be clean and free from accumulations of dirt, grease, garbage, peeling paint, vermin, and insects.

28 (b) The license holder must develop and implement a written maintenance plan that includes
29 procedures for detecting, reporting, and correcting building and equipment deterioration, safety hazards,
30 and unsanitary conditions.

31 Subd. 4. **Hazards and toxic substances.** The license holder must ensure that service sites owned or
32 leased by the license holder are free from hazards that would threaten the health or safety of a person
33 receiving services by ensuring the requirements in clauses (1) to (7) are met.

34 (1) Chemicals, detergents, and other hazardous or toxic substances must not be stored with food
35 products or in any way that poses a hazard to persons receiving services.

1 (2) The license holder must install handrails and nonslip surfaces on interior and exterior runways,
2 stairways, and ramps in compliance with applicable building code, and keep them free of ice and snow.

3 (3) If there are elevators in the facility, the license holder must have elevators inspected each year.
4 The date of the inspection, any repairs needed, and the date the necessary repairs were made must be
5 documented.

6 (4) The license holder must keep stairways, ramps, and corridors free of obstructions.

7 (5) Outside property must be free from debris and safety hazards. Exterior stairs and walkways must
8 be kept free of ice and snow.

9 (6) Heating, ventilation, and air conditioning units, and other hot surfaces and moving parts of
10 machinery must be shielded or enclosed.

11 (7) Use of dangerous items or equipment by persons served by the program must be allowed in
12 accordance with their risk management plans.

13 (8) doors are locked only to protect the safety of a person receiving services and not as a substitute
14 for staff supervision or interactions with a person who is receiving services. ; and

15 Subd. 5. **Physical Examination of a person receiving services; communicable disease.** In order to
16 promote a healthy environment for all who receive services at the facility the license holder must have a
17 copy of a medical report on the person dated no more than one year before the date of admission signed by
18 a physician or signed by a physician's assistant or registered nurse and cosigned by a physician; a copy of
19 the person's immunization record, if available; and documentation that the person is free of communicable
20 disease or infestations, as specified in parts 4605.7000 to 4605.7090, or a health condition that would pose
21 a risk to others within the facility.

22 Subd. 6. **Storage and disposal of medication.** Schedule II controlled substances in the facility that
23 are named in Minnesota Statutes, section 152.02, subdivision 3, must be stored in a locked storage area
24 permitting access only by persons and staff authorized to administer the medication. This must be
25 incorporated into the license holder's medication administration policy and procedures required under
26 section 245D.24, subdivision 3, clause (3). Medications will be disposed in such a manner that is in
27 compliance with Environmental Protection Agency recommendations.

28 Subd. 7. **First aid.** (a) A person trained in basic first aid and certified in cardiopulmonary
29 resuscitation, and the treatment of obstructed airways must be present at all times in the facility whenever
30 persons are present and staff are required to be at the site to provide direct service.

31 (b) A facility must have first aid kits readily available for use by and that meets the needs of persons
32 receiving services and staff. At a minimum, the first aid kit must be equipped with accessible first aid
33 supplies including bandages, sterile compresses, scissors, an ice bag or cold pack, an oral or surface
34 thermometer, mild liquid soap, adhesive tape, and first aid manual.

35 Subd. 8. **Emergencies.** (a) The license holder must have a written plan for responding to emergencies
36 as defined in section 245D.02, subdivision 14 to ensure the safety of persons served in the facility.

- 1 (1) The initial plan must be approved by the fire marshal.
2 (2) A log of quarterly fire drills is on file in the facility.
3 (3) The emergency response plan must be readily available to staff and persons receiving services.
4 (4) Each person must be informed of a designated area within the facility where the person should to
5 for emergency shelter during severe weather and the designated assembly points outside the facility.

6 (b) The plan must include:

- 7 (1) procedures for emergency evacuation and emergency sheltering.
8 (2) quarterly drills each year and the dates of drills must be recorded in the file of emergency plans:
9 (3) the floor plan that identifies the following:

10 (i) the location and instructions on the use of fire extinguishers;

11 (ii) the location of and instructions on activating and responding to audible or visual alarm systems,
12 including but not limited to, manual fire alarm boxes, smoke detectors, fire alarm enunciators and controls,
13 sprinkler systems;

14 (iii) the location of the fuse box and instructions on how to throw the main electrical switch;

15 (iv) the location of the primary water shutoff and instructions for use;

16 (v) identification of exits, primary and secondary evacuation routes, enclosed exit stairs, if any, and
17 accessible egress routes, if any; and

18 (vi) the location of emergency shelter within the facility and designated assembly points outside the
19 facility.

20 (4) the responsibilities each staff person will assume in case of emergency, including:

21 (i) instructions on closing off the fire area;

22 (ii) procedures for evacuating, rescuing persons receiving services; and

23 (5) procedures for relocation or service suspension when services are interrupted for more than 24
24 hours.

25 Subd. 9. **Emergency equipment.** The facility must have a flashlight and a portable radio or television
26 set that do not require electricity and can be used if a power failure occurs.

27 Subd. 10. **Telephone and posted numbers.** A facility must have a noncoin operated telephone that is
28 readily accessible. A list of emergency numbers must be posted next to the telephone. When an area has a
29 911 number, the emergency number listed must be 911. In areas of the state without a 911 number, the
30 numbers listed must be those of the local fire department, police department, emergency transportation, and
31 poison control center. The phone numbers of each person's representative, physician, and dentist must be
32 readily available.

1 **245D.50 COMMUNITY RESIDENTIAL SETTINGS; SATELLITE LICENSURE**
2 **REQUIREMENTS AND APPLICATION PROCESS.**

3 Subdivision 1. **Separate satellite license required for separate sites.** A license holder providing
4 residential support services must obtain a separate satellite license for each community residential setting
5 located at separate addresses when the community residential settings are to be operated by the same
6 license holder. For purposes of this chapter, a community residential setting is a satellite of the home and
7 community based services license.

8 Community residential settings are permitted single family use homes. After a license has been issued
9 the commissioner shall notify the local municipality where the residence is located of the approved license.

10 Subd. 3. **Residence safety checklist.** A residence safety checklist, approved by the commissioner,
11 must be completed by the license holder and the commissioner before licensure each year a fire marshal
12 inspection is not made. If the commissioner has reasonable cause to believe that a potentially hazardous
13 condition may be present, the commissioner must request a subsequent inspection and written report by a
14 fire marshal to verify the absence of hazard. A residence safety checklist, approved by the commissioner,
15 must be completed by the license holder and the commissioner before licensure each year a fire marshal
16 inspection is not made.

17 Subd. 4. **Notification to local agency.** The license holder must notify the local agency within 24
18 hours of the onset of changes in a residence resulting from construction, remodeling, or damages requiring
19 repairs that require a building permit and/or may affect a licensing requirement in this chapter.

20 Subd. 5. **Capacity.** (a) The commissioner may issue community residential setting satellite licenses
21 with a maximum licensed capacity of four beds, except that the commissioner may issue a license with a
22 capacity of five beds according to paragraphs (b) to (d).

23 (b) A community residential setting license holder may have a maximum license capacity of five if all
24 persons in care are age 55 or over and do not have a serious and persistent mental illness or a
25 developmental disability.

26 (c) The commissioner may grant variances to paragraph (b) to allow a community residential setting
27 with a licensed capacity of five persons to admit an individual under the age of 55 if the variance complies
28 with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which
29 the licensed community residential setting provider is located.

30 (d) The commissioner may grant variances to paragraph (b) to allow the use of a fifth bed for
31 emergency services for a person with serious and persistent mental illness or a developmental disability,
32 regardless of age, if the variance complies with section 245A.04, subdivision 9, and approval of the
33 variance is recommended by the county in which the licensed community residential setting is located.

34 **245D.51 COMMUNITY RESIDENTIAL SETTINGS; PHYSICAL PLANT AND ENVIRONMENT.**

35 Subdivision 1. **Occupancy.** The residence must meet the definition of a dwelling unit in a residential
36 occupancy.

1 Subd. 2. **Common area requirements.** Each person receiving services must have use of and free
2 access to common areas in the residence. The living area must be provided with an adequate number of
3 furnishings for the usual functions of daily living and social activities. The dining area is furnished to
4 accommodate meals shared by all persons living in the residence. These furnishing must be in good repair
5 and functional to meet the daily needs of the persons living in the residence.

6 Subd.3. **Bedrooms.** (a) People receiving services must mutually consent, in writing, to sharing a
7 bedroom with one another. No more than two people receiving services may share one bedroom.

8 (b) Bedrooms must meet the criteria as follows:

9 (1) a single occupancy bedroom must have at least 80 square feet of floor space with a 7-1/2 foot
10 ceiling. A double occupancy room must have at least 120 square feet of floor space with a 7-1/2 foot
11 ceiling;

12 (2) bedrooms must be separated from halls, corridors, and other habitable rooms by floor to ceiling
13 walls containing no openings except doorways and must not serve as a corridor to another room used in
14 daily living; and

15 (3) a person's personal possessions and items for the person's own use are the only items permitted to
16 be stored in a person's bedroom.

17 (c) Each person must be provided with the following furnishings:

18 (1) a separate bed of proper size and height for the convenience and comfort of the person with a
19 clean mattress in good repair;

20 (2) clean bedding appropriate for the season for each person;

21 (3) an individual cabinet, dresser, shelves, and closet for storage of personal possessions and clothing.
22 When possible, a person must be allowed to have items of furniture that he or she personally owns in the
23 bedroom, unless doing so would interfere with safety precautions, violate a building or fire code, or another
24 person's use of the bedroom; and

25 (4) a mirror for grooming.

26 (d) A person must be allowed to bring personal possessions into the bedroom and other designated
27 storage space, if such space is available, in the residence. The person must be allowed to accumulate
28 possessions to the extent the residence is able to accommodate them, unless doing so would interfere with
29 safety precautions, another person's use of the bedroom, or violate a building or fire code.

30 Subd. 4. **Goods provided by the license holder.** The license holder will provide for persons
31 receiving services, towels, wash cloths, and clean bed linen appropriate for the season and the person's
32 comfort. Usual or customary goods for the operation of a residence which are communally used by all
33 persons receiving services living in the residence will be provided by the license holder including:
34 household items for meal preparation, cleaning supplies to maintain the cleanliness of the residence,
35 window coverings on windows for privacy, toilet paper, and hand soap.

36 **245D.52 COMMUNITY RESIDENTIAL SETTINGS; FOOD AND WATER.**

1 Subdivision 1. **Water.** Potable water from privately owned wells must be tested annually by a
2 Minnesota Health Department certified laboratory for coliform bacteria and nitrate nitrogens to verify
3 safety. The health authority may require retesting and corrective measures if results exceed state water
4 standards in Minnesota Rules, chapter 4720 or in the event of a flooding or incident which may put the well
5 at risk of contamination. To prevent scalding, the water temperature at faucets must not exceed 120 degrees
6 Fahrenheit.

7 Subd. 2. **Food.** Food served must meet any special dietary needs of a person as prescribed by the
8 person's physician or dietitian. Three nutritionally balanced meals a day must be served or made available
9 to persons, and nutritious snacks must be available between meals.

10 Subd. 3. **Food safety.** Food must be obtained, handled, and properly stored to prevent contamination,
11 spoilage, or a threat to the health of a person.

12 **245D.53 COMMUNITY RESIDENTIAL SETTINGS; SANITATION AND HEALTH.**

13 Subdivision 1. **Individual personal articles.** Individual clean bed linens, towels, and wash cloths
14 must be available for each person.

15 Subd. 2. **Personal items.** Personal health and hygiene items must be stored in a safe and sanitary
16 manner.

17 Subd. 3. **Pets and service animals.** Pets and service animals housed within the residence must be
18 immunized and maintained in good health as required by local ordinances and state law. The license holder
19 must ensure that the person and the person's representative is notified before admission of the presence of
20 pets in the residence.

21 Subd. 4. **Smoking in the residence.** License holders must maintain compliance with the Minnesota
22 Clean Indoor Air Act, sections 144.411 to 144.417, when smoking is permitted in the residence.

23 Subd. 5. **Emergencies.** The license holder's emergency plan required in section 245D.41, subdivision
24 8, must include provisions for the following:

25 (1) substitute caregiver who meets the qualifications under this chapter, to provide care during
26 emergencies; and

27 (2) in buildings with three or more dwelling units, enclosed exit stairs must be indicated. There must
28 be an emergency escape plan for each resident.

29 **245D.60 DAY SERVICES FACILITIES; SATELLITE LICENSURE REQUIREMENTS AND** 30 **APPLICATION PROCESS**

31 Subdivision 1. **Separate satellite license required for separate satellite sites.** The license holder
32 providing day services must apply for a separate license for each facility-based service site when the
33 license holder is the owner, lessor, or tenant of the service site at which persons receive day services and
34 the license holder's employees who provide day services are present for a cumulative total of more than 30
35 days within any 12-month period. For purposes of this chapter, a day services facility license is a satellite

1 license of the day services program. A day services program may operate multiple licensed day service
2 facilities in one or more counties in the state.

3 Subd. 2. **Day training and habilitation service days.** Day training and habilitation services must
4 meet a minimum of 195 available service days.

5 **245D.61 DAY SERVICES FACILITIES; PHYSICAL PLANT AND SPACE REQUIREMENTS.**

6 Subdivision 1. Subd. 2. **Facility capacity and useable space requirements.** (a) The licensed
7 capacity of each day service facility must be determined by the amount of primary space available, the
8 scheduling of activities at other service sites, and the space requirements of all persons receiving services at
9 the facility, not just the licensed services. The facility capacity must specify the maximum number of
10 persons that may receive services onsite at any one time.

11 (b) When a facility is located in a multifunctional organization, the facility may share common space
12 with the multifunctional organization if the required available primary space for use by persons receiving
13 day services is maintained while the facility is operating.

14 (c) A day services facility must have a minimum of 40 square feet of primary space available for each
15 person and each staff person or employee who is present at the site at any one time. Primary space does not
16 include:

17 (1) common areas, meaning hallways, stairways, closets, utility areas, bathrooms, and kitchens;

18 (2) floor areas beneath stationary equipment; or

19 (3) any space occupied by persons associated with the multifunctional organization while persons
20 receiving day services are using common space.

21 (d) Licensed capacity under this subdivision does not apply to the temporary use of common space in
22 the facility for the limited purpose of providing transportation to persons receiving day services from the
23 license holder. The license holder must comply at all times with all applicable fire and safety codes under
24 section 245A.04, subdivision 2a and adequate supervision requirements under section 245D.54 for all
25 persons receiving day services.

26 Subd. 2. **Individual personal articles.** Each person must be provided space in a closet, cabinet, on a
27 shelf, or a coat hook for storage of personal items for the person's own use while receiving services at the
28 facility, unless doing so would interfere with safety precautions, another person's work space, or violate a
29 building or fire code.

30 **245D.62 DAY SERVICE FACILITIES; HEALTH AND SAFETY REQUIREMENTS.**

31 Subdivision 1. **Refrigeration.** The license holder must provide refrigeration at service sites owned or
32 leased by the license holder for storing perishable foods and perishable portions of bag lunches, whether the
33 foods are supplied by the license holder or the persons receiving services. The refrigeration must have a
34 temperature of 40 degrees Fahrenheit or less.

35 Subd. 2. **Drinking water.** Drinking water must be available to all persons receiving services. If a
36 person is unable to request or obtain drinking water, it must be provided according to that person's

1 individual needs. Drinking water must be provided in single service containers or from drinking fountains
2 accessible to all persons.

3 Subd. 3. **Individuals who become ill during the day.** There must be an area in which a person
4 receiving services can rest if the person becomes ill during the day and the person does not live in a
5 licensed residential site and the person requires supervision and there is not a caretaker available during the
6 day.

7 Subd. 4. **Safety procedures.** The license holder must establish general written safety procedures that
8 include criteria for selecting, training, and supervising persons who work with hazardous machinery, tools,
9 or substances. Safety procedures specific to each person's activities must be explained and be available in
10 writing to all staff members and persons receiving services.

11 **245D.63 DAY SERVICE FACULTIES; STAFF RATIO AND FACILITY COVERAGE.**

12 Subdivision 1. **Scope.** This section applies only to facility-based day services.

13 Subd. 2. **Factors.** (a) The number of direct support service staff members that a license holder must
14 have on duty at the facility at a given time to meet the minimum staffing requirements established in this
15 section varies according to:

16 (1) the number of persons who are enrolled and receiving direct support services at that given time;

17 (2) the staff ratio requirement established under subdivision 3 for each of the persons who is present;

18 and

19 (3) whether the conditions described in subdivision 8 exist and warrant additional staffing beyond the
20 number determined to be needed under subdivision 7.

21 (b) The commissioner must consider the factors in paragraph (a) in determining a license holder's
22 compliance with the staffing requirements and must further consider whether the staff ratio requirement
23 established under subdivision 3 for each person receiving services accurately reflects the person's need for
24 staff time.

25 Subd. 3. **Staff ratio requirement for each person receiving services.** The case manager, in
26 consultation with the interdisciplinary team must determine at least once each year which of the ratios in
27 subdivisions 4, 5, and 6 is appropriate for each person receiving services on the basis of the characteristics
28 described in subdivisions 4, 5, and 6. The ratio assigned each person and the documentation of how the
29 ratio was arrived at must be kept in each person's individual service plan. Documentation must include an
30 assessment of the person with respect to the characteristics in subdivisions 4, 5, and 6 recorded on a
31 standard assessment form required by the commissioner.

32 Subd. 4. **Person requiring staff ratio of one to four.** A person who has one or more of the following
33 characteristics must be assigned a staff ratio requirement of one to four:

34 (1) on a daily basis the person requires total care and monitoring or constant hand-over-hand physical
35 guidance to successfully complete at least three of the following activities: toileting, communicating basic

1 needs, eating, or ambulating, or is not capable of taking appropriate action for self-preservation under
2 emergency conditions; or

3 (2) the person assaults others, is self-injurious, or manifests severe dysfunctional behaviors at a
4 documented level of frequency, intensity, or duration requiring frequent daily ongoing intervention and
5 monitoring as established in an approved behavior management program.

6 **Subd. 5. Person requiring staff ratio of one to eight.** A person who has all of the following
7 characteristics must be assigned a staff ratio requirement of one to eight:

8 (1) the person does not meet the requirements in subdivision 4; and

9 (2) on a daily basis the person requires verbal prompts or spot checks and minimal or no physical
10 assistance to successfully complete at least four of the following activities: toileting, communicating basic
11 needs, eating, ambulating, or taking appropriate action for self-preservation under emergency conditions.

12 **Subd. 6. Person requiring staff ratio of one to six.** A person who does not have any of the
13 characteristics described in subdivision 4 or 5 must be assigned a staff ratio requirement of one to six.

14 **Subd. 7. Determining number of direct support service staff required.** The minimum number of
15 direct support service staff members required at any one time to meet the combined staff ratio requirements
16 of the persons present at that time can be determined by following the steps:

17 (1) assign each person in attendance the three-digit decimal below that corresponds to the staff ratio
18 requirement assigned to that person. A staff ratio requirement of one to four equals 0.250. A staff ratio
19 requirement of one to eight equals 0.125. A staff ratio requirement of one to six equals 0.166. A staff ratio
20 requirement of one to ten equals 0.100;

21 (2) add all of the three-digit decimals (one three-digit decimal for every person in attendance)
22 assigned in clause (1);

23 (3) when the sum in clause (2) falls between two whole numbers, round off the sum to the larger of
24 the two whole numbers; and

25 (4) the larger of the two whole numbers in clause (3) equals the number of direct support service staff
26 members needed to meet the staff ratio requirements of the persons in attendance.

27 **Subd. 8. Staff to be included in calculating minimum staffing requirement.** Only direct support
28 staff must be counted as staff members in calculating the staff to participant ratio.

29 (1) A volunteer may be counted as a direct support staff in calculating the staff to participant ratio if
30 the volunteer meets the same standards and requirements as paid staff.

31 (2) No person receiving services must be counted as or be substituted for a staff member in
32 calculating the staff to participant ratio.

33 **Subd. 9. Conditions requiring additional direct support staff.** The license holder must increase the
34 number of direct support staff members present at any one time beyond the number arrived at in

1 subdivision 4 if necessary when any one or combination of the following circumstances can be documented
2 by the commissioner as existing:

3 (1) the health and safety needs of the persons receiving services cannot be met by the number of staff
4 members available under the staffing pattern in effect even though the number has been accurately
5 calculated under subdivision 7; or

6 (2) the person's behavior frequently presents an immediate danger to self or others.

7 Subd. 10. **Supervision requirements.** (a) At no time must one direct support staff member be
8 assigned responsibility for supervision and training of more than ten persons receiving supervision and
9 training, except as otherwise stated in each person's risk management plan.

10 (b) In the temporary absence of the director or a supervisor, a direct support staff member must be
11 designated to supervise the center.

12 Subd. 11. **Multifunctional programs.** A multifunctional program may count other employees of the
13 organization besides direct support staff of the day service facility in calculating the staff to participant
14 ratio if the employee is assigned to the day services facility for a specified amount of time during which the
15 employee is not assigned to another organization or program.

16 **245D.70 ALTERNATIVE LICENSING INSPECTIONS.**

17 Subdivision 1. **Eligibility for an alternative licensing inspection.** A license holder providing day
18 services licensed under this chapter, with a qualifying accreditation and meeting the eligibility criteria in
19 clauses (1) and (2), may request approval for an alternative licensing inspection. Approval is granted for
20 individual eligible licensed programs or facilities controlled by the license holder.

21 (1) The program has had at least one inspection by the commissioner following issuance of the initial
22 license. For programs operating a day services facility, each facility must have had at least one onsite by
23 the commissioner following issuance of the initial license.

24 (2) The program was in and has maintained "substantial and consistent compliance" at the time of the
25 last licensing inspection and during the current licensing period. For the purposes of this section
26 "substantial and consistent compliance" means:

27 (i) the license holder's license was not made conditional, suspended, or revoked;

28 (ii) there have been no substantiated allegations of maltreatment against the license holder;

29 (iii) there were no program deficiencies that identified that would jeopardize the health, safety, or
30 rights of persons being served; and

31 (iv) the license holder maintained substantial compliance with the other requirements of chapters
32 245A and 245C and other applicable laws and rules.

33 Subd. 2. **Qualifying accreditation.** The commissioner will accept the following as qualifying
34 accreditations:

1 (1) A three-year accreditation from an accrediting agency body the Commission on Rehabilitation
2 Facilities (CARF).

3 Subd. 3. Request for approval of an alternative inspection status. (a) The initial request for an
4 alternative inspection must be made in the manner prescribed by the commissioner. A single request may
5 be submitted for all services and facilities operated by the program licensed according to this chapter and
6 controlled by the license holder. Based on the request and the accompanying materials, the commissioner
7 may approve an alternative inspection status.

8 (b) The initial request for approval from a CARF accredited program must include the following
9 materials:

10 (1) a copy of the license holder's most recent application to the CARF for accreditation;

11 (2) the most recent notification from CARF to the license holder of the accreditation decision and the
12 survey. All program services and facilities licensed under this chapter that are included in the request must
13 be included in CARF's onsite survey and awarded three-year accreditation in order to be eligible for an
14 alternative inspection status;

15 (3) the quality improvement plan submitted to CARF by the license holder within 90 days following
16 notification of the accreditation outcome of the most recent survey, outlining actions that have been or will
17 be taken in response to the areas for improvement identified in the report; and

18 (4) the annual conformance to quality report submitted to CARF by the license holder on the
19 accreditation anniversary date in each of the years following the award.

20 (b) Approval will be granted for all program services and facilities controlled by the license holder
21 that meet the eligibility criteria identified in subdivision 1, and included in the request for approval as
22 required in paragraph (a). The commissioner will notify the license holder in writing that the request for an
23 alternative inspection status has been approved. Approval will be granted until the end of the qualifying
24 accreditation period.

25 (c) The license holder must submit a written request for approval to be renewed one month before the
26 end of the current approval period. The license holder must complete submission of all required materials
27 in paragraph (a), clause (2), following the end of the current qualifying accreditation period. If the license
28 holder does not submit a request to renew approval as required the commissioner will conduct a licensing
29 inspection.

30 Subd. 4. Programs approved for alternative licensing inspection; deemed compliance licensing
31 requirements. (a) A program or service licensed under this chapter and approved for alternative licensing
32 inspection under this section is required to maintain compliance with all licensing standards from which
33 they are not exempt under subdivision 3, paragraph (a).

34 (b) License holders approved for alternative licensing inspection under this section must be deemed
35 to be in compliance with all nonexempt statutes, and the commissioner must not perform routine licensing
36 inspections.

1 (c) Upon receipt of a complaint regarding the services of a license holder approved for alternative
2 licensing inspection under this section, the commissioner must investigate the complaint and may take any
3 action as provided under section 245A.06 or 245A.07.

4 Subd. 5. **Investigations of alleged or suspected maltreatment.** Nothing in this section changes the
5 commissioner's responsibilities to investigate alleged or suspected maltreatment of a minor under section
6 626.556 or a vulnerable adult under section 626.557.

7 Subd. 6. **Termination or denial of subsequent approval.** Following approval of an alternative
8 licensing inspection, the commissioner may terminate or deny subsequent approval of an alternative
9 licensing inspection if the commissioner determines that any of the conditions in clauses (1) or (2) have
10 occurred after approval.

11 (1) the license holder has not maintained the qualifying accreditation;

12 (2) the commissioner has substantiated maltreatment for which the license holder or facility is
13 determined to be responsible during the qualifying accreditation period; and

14 (3) during the qualifying accreditation period, the license holder has been issued an order for
15 conditional license, a fine, suspension, or license revocation that has not been reversed upon appeal. The
16 commissioner may reduce the length of the license if the license holder fails to meet the criteria in
17 paragraph (a) and the conditions specified in paragraph (b).

18 Subd. 8. **Appeals.** The commissioner's decision that the conditions for approval for an alternative
19 licensing inspection have not been met is final and not subject to appeal under the provisions of chapter 14.

20 **245D.80 MENTAL HEALTH CERTIFICATION STANDARDS**

21 (a) The commissioner of human services shall issue a mental health certification for services licensed
22 under this chapter, when a license holder is determined to have met the requirements under paragraph (b).
23 This certification is voluntary for license holders. The certification shall be printed on the license, and
24 identified on the commissioner's public Web site.

25 (b) The requirements for certification are:

26 (1) all staff have received at least seven hours of annual training covering all of the following topics:

27 (i) mental health diagnoses;

28 (ii) mental health crisis response and de-escalation techniques;

29 (iii) recovery from mental illness;

30 (iv) treatment options including evidence-based practices;

31 (v) medications and their side effects;

32 (vi) co-occurring substance abuse and health conditions; and

33 (vii) community resources;

1 (2) a mental health professional, as defined in section 245.462, subdivision 18, or a mental health
2 practitioner as defined in section 245.462, subdivision 17, is available for consultation and assistance;

3 (3) there is a plan and protocol in place to address a mental health crisis; and

4 (4) each person's individual service and support plan identifies who is providing clinical services and
5 their contact information, and includes an individual crisis prevention and management plan developed
6 with the person.

7 (c) License holders seeking certification under this section must request this certification on forms
8 and in the manner prescribed by the commissioner.

9 (d) If the commissioner finds that the license holder has failed to comply with the certification
10 requirements under paragraph (b) the commissioner may issue a correction order and an order of
11 conditional license in accordance with section 245A.06 or may issue a sanction in accordance with section
12 245A.07, including and up to removal of the certification.

13 (e) A denial of the certification or the removal of the certification based on a determination that the
14 requirements under paragraph (b) have not been met not subject to appeal. A license holder that has been
15 denied a certification or that has had a certification removed may again request certification when the
16 license holder is in compliance with the requirements of paragraph (b).

17 **245D.81 DEAF AND HARD OF HEARING CERTIFICATION**

18 PLACEHOLDER – LANGUAGE TO BE DEVELOPED

19 **245D.82 COMPLEX MEDICAL NEEDS CERTIFICATION**

20 PLACEHOLDER – LANGUAGE TO BE DEVELOPED

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23 **245D.83 BEHAVIORAL SAFEGUARDS CERTIFICATION**

24 PLACEHOLDER – WAITING FOR RECOMMENDATIONS, IF ANY, FROM THE DHS RULE
25 40 ADVISORY COMMITTEE

26 **245D.84 QUALITY MANAGEMENT CERTIFICATION**

27 PLACEHOLDER – WAITING FOR RECOMMENDATIONS, IF ANY, FROM THE DHS STATE
28 QUALITY ASSURANCE COUNCIL

29 **245D.85 REMOTE MONITORING TECHNOLOGY CERTIFICATION**

30 PLACEHOLDER – LANGUAGE TO BE DEVELOPED. THE STANDARDS WILL ADDRESS
31 THE CURRENT REQUIREMENTS FOR A VARIANCE FOR ALTERNATE OVERNIGHT
32 SUPERVISION IN ADULT FOSTER CARE HOMES.