

# Minnesota Department of Human Services Training Handout

## 245D 2014 LEGISLATIVE AMENDMENTS

### EFFECTIVE DATE 7/1/2014 (unless otherwise specified)

#### 245.8251

Chapter 312, Article 27

Sec. 5. Minnesota Statutes 2013 Supplement, section 245.8251, is amended to read:

**245.8251 RULES FOR POSITIVE SUPPORT STRATEGIES AND ~~EMERGENCY MANUAL RESTRAINT~~ ~~PROHIBITIONS AND LIMITS ON RESTRICTIVE INTERVENTIONS~~; ~~ADD~~ **PROHIBITIONS AND LIMITS ON RESTRICTIVE INTERVENTIONS**; ~~ADD~~ **LICENSED FACILITIES AND PROGRAMS.****

Subdivision 1. **Rules governing the use of positive support strategies and restrictive interventions.** The commissioner of human services shall, ~~within 24 months of May 23, 2013 by August 31, 2015,~~ adopt rules ~~governing~~ to govern the use of positive support strategies, ~~safety interventions,~~ and ~~ensure the applicability of chapter 245D prohibitions and limits on the~~ emergency use of manual restraint ~~in~~ and on the use of restrictive interventions to facilities and services governed by the rules. The rules apply to all facilities and services licensed under chapter 245D, and all licensed facilities and licensed services serving persons with a developmental disability or related condition. For the purposes of this section, "developmental disability or related condition" has the meaning given in Minnesota Rules, part 9525.0016, subpart 2, items A to E. ~~ADD~~

Subd. 2. **Data collection.** (a) The commissioner shall, with stakeholder input, ~~develop~~ ~~identify~~ ~~data~~ ~~collection~~ ~~elements~~ specific to incidents of emergency use of manual restraint and positive support transition plans for persons receiving services from ~~providers governed~~ ~~licensed facilities and licensed services~~ under chapter 245D ~~and in~~ licensed facilities and licensed services serving persons with a developmental disability or related condition as defined in Minnesota Rules, part 9525.0016, subpart 2, ~~effective January 1, 2014.~~ ~~Providers~~ ~~Licensed facilities and licensed services~~ shall report the data in a format and at a frequency determined by the commissioner of human services. ~~Providers shall submit the data~~ to the commissioner and the Office of the Ombudsman for Mental Health and Developmental Disabilities.

(b) Beginning July 1, 2013, ~~providers~~ ~~licensed facilities and licensed services~~ regulated under Minnesota Rules, parts 9525.2700 to 9525.2810, shall submit data regarding the use of all controlled procedures identified in Minnesota Rules, part 9525.2740, in a format and at a frequency determined by the commissioner. ~~Providers shall submit the data~~ to the commissioner and the Office of the Ombudsman for Mental Health and Developmental Disabilities.

**[Add]** Subd. 3. **External program review committee.** Rules adopted according to this section shall establish requirements for an external program review committee appointed by the commissioner to monitor the implementation of the rules and make recommendations to the commissioner about any needed policy changes after adoption of the rules.

**Subd. 4. Interim review panel.** (a) The commissioner shall establish an interim review panel by August 15, 2014, for the purpose of reviewing requests for emergency use of procedures that have been part of an approved positive support transition plan when necessary to protect a person from imminent risk of serious injury as defined in section 245.91, subdivision 6, due to self-injurious behavior. The panel must make recommendations to the commissioner to approve or deny these requests based on criteria to be established by the interim review panel. The interim review panel shall operate until the external program review committee is established as required under subdivision 3.

(b) Members of the interim review panel shall be selected based on their expertise and knowledge related to the use of positive support strategies as alternatives to the use of restrictive interventions. The commissioner shall seek input and recommendations in establishing the interim review panel. Members of the interim review panel shall include the following representatives:

- (1) an expert in positive supports;
- (2) a mental health professional, as defined in section 245.462;
- (3) a licensed health professional as defined in section 245D.02, subdivision 14; and
- (4) a representative of the Department of Health.**[End Add]**

## 245A

HF2402 / SF2087 Omnibus health and human services policy bill

Chapter 291, Article 3

Section 1. Minnesota Statutes 2012, section 245A.03, subdivision 6a, is amended to read:

Subd. 6a. **Adult foster care homes serving people with mental illness;**

**certification.** (a) The commissioner of human services shall issue a mental health certification for adult foster care homes licensed under this chapter and Minnesota Rules, parts 9555.5105 to 9555.6265, **[Add]** or community residential settings licensed under chapter 245D. **[End Add]** that serve people with **[Add]** a primary diagnosis of **[End Add]** mental illness where the home is not

the primary residence of the license holder when a provider is determined to have met the requirements under paragraph (b). This certification is voluntary for license holders. The certification shall be printed on the license, and identified on the commissioner's public Web site.

(b) The requirements for certification are:

(1) all staff working in the adult foster care home **[Add]** or community residential setting **[End Add]** have received at least seven hours of annual training **[Add]** under paragraph (c) **[End Add]** covering all

of the following topics:

(i) mental health diagnoses;

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

(iii) recovery from mental illness;

(iv) treatment options including evidence-based practices;

(v) medications and their side effects;

(vi) **[Add]** suicide intervention, identifying suicide warning signs, and appropriate responses; **[End Add]**

(vii) co-occurring substance abuse and health conditions; and

**[Delete]** ~~(vii)~~ **[End Delete]** **[Add]** ~~(viii)~~ **[End Add]** community resources;

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

(3) there is a **[Delete]** ~~plan and~~ **[End Delete]** protocol in place to address a mental health crisis; and

(4) **[Add]** there is a crisis plan for each individual's Individual Placement Agreement individual that identifies who is providing clinical services and their contact information, and includes an individual crisis prevention and management plan developed with the individual.

**[Add]** (c) The training curriculum must be approved by the commissioner of human services and must include a testing component after training is completed. Training must be provided by a mental health professional or a mental health practitioner. Training may also be provided by an individual living with a mental illness or a family member of such an individual, who is from a nonprofit organization with a history of providing educational classes on mental illnesses approved by the Department of Human Services to deliver mental health training. Staff must receive three hours of training in the areas specified in paragraph (b), clause (1), items (i) and (ii), prior to working alone with residents. The remaining hours of mandatory training, including a review of the information in paragraph (b), clause (1), item (ii), must be completed within six months of the hire date. For

programs licensed under chapter 245D, training under this section may be incorporated into the 30 hours of staff orientation required under section 245D.09, subdivision 4. ~~[End Add] [Delete](e)[End Delete][Add] (d)[End Add]~~ License holders seeking certification under this subdivision must request this certification on forms provided by the commissioner and must submit the request to the county licensing agency in which the home ~~[Add] or community residential setting[End Add]~~ is located. The county licensing agency must forward the request to the commissioner with a county recommendation regarding whether the commissioner should issue the certification. ~~[Delete](d)[End Delete][Add](e)[End Add]~~ Ongoing compliance with the certification requirements under paragraph (b) shall be reviewed by the county licensing agency at each licensing review. When a county licensing agency determines that the requirements of paragraph (b) are not met, the county shall inform the commissioner, and the commissioner will remove the certification.  ~~[Delete](e)[End Delete] [Add](f)[End Add]~~ A denial of the certification or the removal of the certification based on a determination that the requirements under paragraph (b) have not been met by the adult foster care ~~[Add] or community residential setting[End Add]~~ license holder are not subject to appeal. A license holder that has been denied a certification or that has had a certification removed may again request certification when the license holder is in compliance with the requirements of paragraph (b).

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 7. Minnesota Statutes 2013 Supplement, section 245A.042, subdivision 3, is amended to read:

Subd. 3. **Implementation.** (a) The commissioner shall implement the responsibilities of this chapter according to the timelines in paragraphs (b) and (c) only within the limits of available appropriations or other administrative cost recovery methodology.

(b) The licensure of home and community-based services according to this section shall be implemented January 1, 2014. License applications shall be received and processed on a phased-in schedule as determined by the commissioner beginning July 1, 2013. Licenses will be issued thereafter upon the commissioner's determination that the application is complete according to section 245A.04.

(c) Within the limits of available appropriations or other administrative cost recovery methodology, implementation of compliance monitoring must be phased in after January 1, 2014.

(1) Applicants who do not currently hold a license issued under chapter 245B must receive an initial compliance monitoring visit after 12 months of the effective date of the initial license for the purpose of providing technical assistance on how to achieve and maintain compliance with the applicable law or rules governing the provision of home and community-based services under chapter 245D. If during the review the commissioner finds that the license holder has failed to achieve compliance with an applicable law or rule and this failure does not imminently endanger the health, safety, or rights of the persons served by the program, the commissioner may issue a licensing review report with recommendations for achieving and maintaining compliance.

(2) Applicants who do currently hold a license issued under this chapter must receive a compliance monitoring visit after 24 months of the effective date of the initial license.

(d) Nothing in this subdivision shall be construed to limit the commissioner's authority to suspend or revoke a license or issue a fine at any time under section 245A.07, or issue correction orders and make a license conditional for failure to comply with applicable laws or rules under section 245A.06, based on the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program.

**[Add]**(e) License holders governed under chapter 245D must ensure compliance with the following requirements within the stated timelines:

(1) service initiation and service planning requirements must be met at the next annual meeting of the person's support team or by January 1, 2015, whichever is later, for the following:

(i) provision of a written notice that identifies the service recipient rights and an explanation of those rights as required under section 245D.04, subdivision 1;

(ii) service planning for basic support services as required under section 245D.07, subdivision 2; and

(iii) service planning for intensive support services under section 245D.071, subdivisions 3 and 4;

(2) staff orientation to program requirements as required under section 245D.09, subdivision 4, for staff hired before January 1, 2014, must be met by January 1, 2015.

The license holder may otherwise provide documentation verifying these requirements were met before January 1, 2014;

(3) development of policy and procedures as required under section 245D.11, must be completed no later than August 31, 2014;

(4) written or electronic notice and copies of policies and procedures must be provided to all persons or their legal representatives and case managers as required under section 245D.10, subdivision 4, paragraphs (b) and (c), by September 15, 2014, or within 30 days of development of the required policies and procedures, whichever is earlier; and

(5) all employees must be informed of the revisions and training must be provided on implementation of the revised policies and procedures as required under section 245D.10, subdivision 4, paragraph (d), by September 15, 2014, or within 30 days of development of the required policies and procedures, whichever is earlier.**[End Add]**

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 8. Minnesota Statutes 2013 Supplement, section 245A.16, subdivision 1, is amended to read:

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

(1) dual licensure of family child care and child foster care, dual licensure of child and adult foster care, and adult foster care and family child care;

- (2) adult foster care maximum capacity;
- (3) adult foster care minimum age requirement;
- (4) child foster care maximum age requirement;
- (5) variances regarding disqualified individuals except that county agencies may issue variances under section 245C.30 regarding disqualified individuals when the county is responsible for conducting a consolidated reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and (b), of a county maltreatment determination and a disqualification based on serious or recurring maltreatment;
- (6) the required presence of a caregiver in the adult foster care residence during normal sleeping hours; and
- (7) variances for community residential setting licenses under chapter 245D.

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

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

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

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

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

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

- (1) the role of counties in quality assurance;
- (2) the duties of county licensing staff; and
- (3) the possible use of joint powers agreements, according to section 471.59, with counties through which some licensing duties under chapter 245D may be delegated by the commissioner to the counties.

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

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

## 245D

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 9. Minnesota Statutes 2013 Supplement, section 245D.02, subdivision 3, is amended to read:

Subd. 3. **Case manager.** "Case manager" means the individual designated to provide waiver case management services, care coordination, or long-term care consultation, as specified in sections 256B.0913, 256B.0915, 256B.092, and 256B.49, or successor provisions. **[Add]** For purposes of this chapter, "case manager" includes case management services as defined in Minnesota Rules, part 9520.0902, subpart 3. **[End Add]**

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 10. Minnesota Statutes 2013 Supplement, section 245D.02, subdivision 4b, is amended to read:

Subd. 4b. **Coordinated service and support plan.** "Coordinated service and support plan" has the meaning given in sections 256B.0913, subdivision 8; 256B.0915, subdivision 6; 256B.092, subdivision 1b; and 256B.49, subdivision 15, or successor provisions. **[Add]** For purposes of this chapter, "coordinated service and support plan" includes the individual program plan or individual treatment plan as defined in Minnesota Rules, part 9520.0510, subpart 12. **[End Add]**

HF2546 / SF1997 Revisor's bill – Technical amendments

Chapter 275, Article 1

Sec. 45. Minnesota Statutes 2013 Supplement, section 245D.02, subdivision 4d, is amended to read:

Subd. 4d. **Corporate foster care.** "Corporate foster care" means a child foster residence setting licensed according to Minnesota Rules, parts ~~2960.0010~~ **[Delete]** **[Add]** 2960.3000 **[End Add]** to 2960.3340, or an adult foster care home licensed according to Minnesota Rules, parts 9555.5105 to 9555.6265, where the license holder does not live in the home.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 11. Minnesota Statutes 2013 Supplement, section 245D.02, subdivision 8b, is amended to read:

Subd. 8b. **Expanded support team.** "Expanded support team" means the members of the support team defined in subdivision ~~46~~ **[Delete]** **[Add]** 34 **[End Add]** and a licensed health or mental health professional or other licensed, certified, or qualified professionals or consultants working with the person and included in the team at the request of the person or the person's legal representative.

HF2546 / SF1997 Revisor's bill – Technical amendments

Chapter 275, Article 1

Sec. 46. Minnesota Statutes 2013 Supplement, section 245D.02, subdivision 8c, is amended to read:

Subd. 8c. **Family foster care.** "Family foster care" means a child foster family setting licensed according to Minnesota Rules, parts ~~2960.0010~~ 2960.3000 to 2960.3340, or an adult foster care home licensed according to Minnesota Rules, parts 9555.5105 to 9555.6265, where the license holder lives in the home.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 12. Minnesota Statutes 2013 Supplement, section 245D.02, subdivision 11, is amended to read:

Subd. 11. **Incident.** "Incident" means an occurrence which involves a person and requires the program to make a response that is not a part of the program's ordinary provision of services to that person, and includes:

- (1) serious injury of a person as determined by section 245.91, subdivision 6;
- (2) a person's death;
- (3) any medical emergency, unexpected serious illness, or significant unexpected change in an illness or medical condition of a person that requires the program to call 911, physician treatment, or hospitalization;
- (4) any mental health crisis that requires the program to call 911 or a mental health crisis intervention team, or a similar mental health response team or service when available and appropriate;
- (5) an act or situation involving a person that requires the program to call 911, law enforcement, or the fire department;
- (6) a person's unauthorized or unexplained absence from a program;
- (7) conduct by a person receiving services against another person receiving services that:
  - (i) is so severe, pervasive, or objectively offensive that it substantially interferes with a person's opportunities to participate in or receive service or support;
  - (ii) places the person in actual and reasonable fear of harm;
  - (iii) places the person in actual and reasonable fear of damage to property of the person; or
  - (iv) substantially disrupts the orderly operation of the program;
- (8) any sexual activity between persons receiving services involving force or coercion as defined under section 609.341, subdivisions 3 and 14;
- (9) any emergency use of manual restraint as identified in section 245D.061 or successor provisions;
- (10) a report of alleged or suspected child or vulnerable adult maltreatment under section 626.556 or 626.557.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 13. Minnesota Statutes 2013 Supplement, section 245D.02, subdivision 15b, is amended to read:

Subd. 15b. **Mechanical restraint.** (a) ~~[Delete]~~ Except for devices worn by the person that trigger electronic alarms to warn staff that a person is leaving a room or area, which do not, in and of themselves, restrict freedom of movement, or the use of adaptive aids or equipment or orthotic devices ordered by a health care professional used to treat or manage a medical condition, ~~[End delete]~~ "Mechanical restraint" means the use of devices, materials, or equipment attached or adjacent to the person's body, or the use of practices that are intended to restrict freedom of movement or normal access to one's body or body parts, or limits a person's voluntary movement or holds a person immobile as an intervention precipitated by a person's behavior. The term applies to the use of mechanical restraint used to prevent injury with persons who engage in self-injurious behaviors, such as head-banging, gouging, or other actions resulting in tissue damage that have caused or could cause medical problems resulting from the self-injury.

~~[Add]~~ (b) Mechanical restraint does not include the following:

- (1) devices worn by the person that trigger electronic alarms to warn staff that a person is leaving a room or area, which do not, in and of themselves, restrict freedom of movement; or
- (2) the use of adaptive aids or equipment or orthotic devices ordered by a health care professional used to treat or manage a medical condition. ~~[End Add]~~

HF3172 / SF 2785 Omnibus supplemental appropriations bill  
Chapter 312, Article 27

Sec. 14. Minnesota Statutes 2013 Supplement, section 245D.02, subdivision 23, is amended to read:

Subd. 23. **Person with a disability.** "Person with a disability" means a person determined to have a disability by the commissioner's state medical review team as identified in section 256B.055, subdivision 7, the Social Security Administration, or the person is determined to have a developmental disability ~~[Delete]~~ as defined in Minnesota Rules, part 9525.0016, subpart 2, item B, ~~[End delete]~~ or a related condition as defined in ~~[Delete]~~ section 252.27, subdivision 1a ~~[End delete]~~ ~~[Add]~~ Minnesota Rules, part 9525.0016, subpart 2, items A to E. ~~[End Add]~~

HF2546 / SF1997 Revisor's bill – Technical amendments  
Chapter 275, Article 1

Sec. 47. Minnesota Statutes 2013 Supplement, section 245D.02, subdivision 23b, is amended to read:

Subd. 23b. **Positive support transition plan.** "Positive support transition plan" means the plan required in section 245D.06, subdivision ~~[Delete]~~ 5, paragraph (b) ~~[End Delete]~~ ~~[Add]~~ ~~[End Add]~~, to be developed by the expanded support team to implement positive support strategies to:

- (1) eliminate the use of prohibited procedures as identified in section 245D.06, subdivision 5 ~~[Delete]~~, paragraph (a) ~~[End delete]~~;
- (2) avoid the emergency use of manual restraint as identified in section 245D.061; and
- (3) prevent the person from physically harming self or others.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 15. Minnesota Statutes 2013 Supplement, section 245D.02, subdivision 29, is amended to read:

Subd. 29. **Seclusion.** "Seclusion" means ~~the placement of a person alone in~~[Add]:

(1)

removing a person involuntarily to[End Add] a room from which exit is prohibited by a staff person or a mechanism such as a lock, a device, or an object positioned to hold the door closed or otherwise prevent the person from leaving the room~~;~~[Add]; or (2) otherwise involuntarily

removing or separating a person from an area, activity, situation, or social contact with others and blocking or preventing the person's return.[End Add]

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 16. Minnesota Statutes 2013 Supplement, section 245D.02, subdivision 34, is amended to read:

Subd. 34. **Support team.** "Support team" means the service planning team

identified in section 256B.49, subdivision 15~~;~~[Add];[End Add] the interdisciplinary team identified in

Minnesota Rules, part 9525.0004, subpart 14~~;~~[Add]; or the case management team as defined in Minnesota Rules, part 9520.0902, subpart 6. [End Add]

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 17. Minnesota Statutes 2013 Supplement, section 245D.02, subdivision 34a, is amended to read:

Subd. 34a. **Time out.** "Time out" means~~removing a person involuntarily from an ongoing activity to a room, either locked or unlocked, or otherwise separating a person from others in a way that prevents social contact and prevents the person from leaving the situation if the person chooses~~[Add]the involuntary removal of a person for a period of time to

a designated area from which the person is not prevented from leaving[End Add]. For the purpose of this chapter, "time out" does not mean voluntary removal or self-removal for the purpose of calming, prevention of escalation, or de-escalation of behavior ~~for a period of up to 15 minutes.~~ "Time out" does not include a person voluntarily moving from an ongoing activity to an unlocked room or otherwise separating from a situation or social contact with others if the person chooses. For the purposes of this definition, "voluntarily" means without being forced, compelled, or coerced.~~;~~[Add]; nor does it mean taking a brief break or rest from an activity for the purpose of providing the person an opportunity to regain self-control.[End Add]

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 18. Minnesota Statutes 2013 Supplement, section 245D.02, is amended by adding a subdivision to read:

**[Add]** Subd. 35b. **Unlicensed staff.** "Unlicensed staff" means individuals not otherwise licensed or certified by a governmental health board or agency. **[End Add]**

HF2546 / SF1997 Revisor's bill – Technical amendments

Chapter 275, Article 1

Sec. 48. Minnesota Statutes 2013 Supplement, section 245D.03, subdivision 1, is amended to read: **[see sister amendment below]**

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

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

- (1) in-home and out-of-home respite care services as defined in section 245A.02, subdivision 15, and under the brain injury, community alternative care, community alternatives for disabled individuals, developmental disability, and elderly waiver plans;
- (2) companion services as defined under the brain injury, community alternatives for disabled individuals, and elderly waiver plans, excluding companion services provided under the Corporation for National and Community Services Senior Companion Program established under the Domestic Volunteer Service Act of 1973, Public Law 98-288;
- (3) personal support as defined under the developmental disability waiver plan;
- (4) 24-hour emergency assistance, personal emergency response as defined under the community alternatives for disabled individuals and developmental disability waiver plans;
- (5) night supervision services as defined under the brain injury waiver plan; and
- (6) homemaker services as defined under the community alternatives for disabled individuals, brain injury, community alternative care, developmental disability, and elderly waiver plans, excluding providers licensed by the Department of Health under chapter 144A and those providers providing cleaning services only.

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

- (1) intervention services, including:
  - (i) behavioral support services as defined under the brain injury and community alternatives for disabled individuals waiver plans;
  - (ii) in-home or out-of-home crisis respite services as defined under the developmental disability waiver plan; and
  - (iii) specialist services as defined under the current developmental disability waiver plan;
- (2) in-home support services, including:
  - (i) in-home family support and supported living services as defined under the developmental disability waiver plan;
  - (ii) independent living services training as defined under the brain injury and

community alternatives for disabled individuals waiver plans; and  
 (iii) semi-independent living services;  
 (3) residential supports and services, including:  
 (i) supported living services as defined under the developmental disability waiver plan provided in a family or corporate child foster care residence, a family adult foster care residence, a community residential setting, or a supervised living facility;  
 (ii) foster care services as defined in the brain injury, community alternative care, and community alternatives for disabled individuals waiver plans provided in a family or corporate child foster care residence, a family adult foster care residence, or a community residential setting; and  
 (iii) residential services provided in a supervised living facility that is certified by the Department of Health as an ICF/DD;  
 (4) day services, including:  
 (i) structured day services as defined under the brain injury waiver plan;  
 (ii) day training and habilitation services under sections ~~252.40~~ 252.41 ~~to 252.46,~~  
 and as defined under the developmental disability waiver plan; and  
 (iii) prevocational services as defined under the brain injury and community alternatives for disabled individuals waiver plans; and  
 (5) supported employment as defined under the brain injury, developmental disability, and community alternatives for disabled individuals waiver plans.

HF3172 / SF 2785 Omnibus supplemental appropriations bill  
 Chapter 312, Article 27

Sec. 19. Minnesota Statutes 2013 Supplement, section 245D.03, subdivision 1, is amended to read: ***[see sister amendment above]***

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

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

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

(2) adult ~~adult~~ companion services as defined under the brain injury, community alternatives for disabled individuals, and elderly waiver plans, excluding adult ~~adult~~ companion services provided under the Corporation for National and Community Services Senior Companion Program established under the Domestic Volunteer Service Act of 1973,

Public Law 98-288;

(3) personal support as defined under the developmental disability waiver plan;  
(4) 24-hour emergency assistance, personal emergency response as defined under the community alternatives for disabled individuals and developmental disability waiver plans;  
(5) night supervision services as defined under the brain injury waiver plan; and  
(6) homemaker services as defined under the community alternatives for disabled individuals, brain injury, community alternative care, developmental disability, and elderly waiver plans, excluding providers licensed by the Department of Health under chapter 144A and those providers providing cleaning services only.

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

(1) intervention services, including:

(i) behavioral support services as defined under the brain injury and community alternatives for disabled individuals waiver plans;  
(ii) in-home or out-of-home crisis respite services as defined under the developmental disability waiver plan; and  
(iii) specialist services as defined under the current developmental disability waiver plan;

(2) in-home support services, including:

(i) in-home family support and supported living services as defined under the developmental disability waiver plan;  
(ii) independent living services training as defined under the brain injury and community alternatives for disabled individuals waiver plans; and  
(iii) semi-independent living services;

(3) residential supports and services, including:

(i) supported living services as defined under the developmental disability waiver plan provided in a family or corporate child foster care residence, a family adult foster care residence, a community residential setting, or a supervised living facility;  
(ii) foster care services as defined in the brain injury, community alternative care, and community alternatives for disabled individuals waiver plans provided in a family or corporate child foster care residence, a family adult foster care residence, or a community residential setting; and

(iii) residential services provided **[Add]** to more than four persons with developmental disabilities **[End Add]** in a supervised living facility **[Delete]** that is certified by the Department of Health as

an ICF/DD **[End delete]** **[Add]**, including ICFs/DD; **[End Add]**

(4) day services, including:

(i) structured day services as defined under the brain injury waiver plan;  
(ii) day training and habilitation services under sections 252.40 to 252.46, and as defined under the developmental disability waiver plan; and  
(iii) prevocational services as defined under the brain injury and community alternatives for disabled individuals waiver plans; and

(5) supported employment as defined under the brain injury, developmental disability, and community alternatives for disabled individuals waiver plans.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 20. Minnesota Statutes 2013 Supplement, section 245D.03, [subdivision 1a] is amended by adding a subdivision to read:

**[Add]** Subd. 1a. **Effect.** The home and community-based services standards establish health, safety, welfare, and rights protections for persons receiving services governed by this chapter. The standards recognize the diversity of persons receiving these services and require that these services are provided in a manner that meets each person's individual needs and ensures continuity in service planning, care, and coordination between the license holder and members of each person's support team or expanded support team.**[End Add]**

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 21. Minnesota Statutes 2013 Supplement, section 245D.03, subdivision 2, is amended to read:

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

(b) ~~**[Delete]**A corporate or family child foster care site controlled by a license holder and providing services governed by this chapter is exempt from compliance with section 245D.04. This exemption applies to foster care homes where at least one resident is receiving residential supports and services licensed according to this chapter.~~**[End Delete]** This chapter does not apply to corporate or family child foster care homes that do not provide services licensed under this chapter.

(c) A family adult foster care site controlled by a license holder ~~**[Delete]**~~**[End Delete]** providing services governed by this chapter is exempt from compliance with Minnesota Rules, parts 9555.6185; 9555.6225**[Add]**, subpart 8;**[End Add]** 9555.6245; 9555.6255; and 9555.6265. These exemptions apply to family adult foster care homes where at least one resident is receiving residential supports and services licensed according to this chapter. This chapter does not apply to family adult foster care homes that do not provide services licensed under this chapter.

(d) A license holder providing services licensed according to this chapter in a supervised living facility is exempt from compliance with ~~**[Delete]**~~**[End Delete]** section 245D.04;

~~**[Delete]** 245D.05, subdivision 2; and 245D.06, subdivision 2, clauses (1), (4), and (5).~~**[End Delete]**

(e) A license holder providing residential services to persons in an ICF/DD is exempt from compliance with sections 245D.04; 245D.05, subdivision 1b; 245D.06, subdivision 2, clauses (4) and (5); 245D.071, subdivisions 4 and 5; 245D.081, subdivision 2; 245D.09, subdivision 7; 245D.095, subdivision 2; and 245D.11, subdivision 3.

(f) A license holder providing homemaker services licensed according to this chapter and registered according to chapter 144A is exempt from compliance with section 245D.04.

(g) Nothing in this chapter prohibits a license holder from concurrently serving persons without disabilities or people who are or are not age 65 and older, provided this chapter's standards are met as well as other relevant standards.

(h) The documentation required under sections 245D.07 and 245D.071 must meet the individual program plan requirements identified in section 256B.092 or successor provisions.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 22. Minnesota Statutes 2013 Supplement, section 245D.03, subdivision 3, is amended to read:

Subd. 3. **Variance.** If the conditions in section 245A.04, subdivision 9, are met, the commissioner may grant a variance to any of the requirements in this chapter, except sections 245D.04; 245D.06, subdivision 4, paragraph (b) **[Add]**, and subdivision 6, or successor provisions **[End Add]**; and **[Delete]** 245D.061, subdivision 3, or **[End delete]** provisions governing data practices and information rights of persons.

HF2546 / SF1997 Revisor's bill – Technical amendments

Chapter 275, Article 1

Sec. 49. Minnesota Statutes 2013 Supplement, section 245D.04, subdivision 3, is amended to read: **[see sister amendment below]**

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

- (1) have personal, financial, service, health, and medical information kept private, and be advised of disclosure of this information by the license holder;
  - (2) access records and recorded information about the person in accordance with applicable state and federal law, regulation, or rule;
  - (3) be free from maltreatment;
  - (4) be free from restraint, time out, or seclusion except for emergency use of manual restraint to protect the person from imminent danger to self or others according to the requirements in section 245D.06;
  - (5) receive services in a clean and safe environment when the license holder is the owner, lessor, or tenant of the service site;
  - (6) be treated with courtesy and respect and receive respectful treatment of the person's property;
  - (7) reasonable observance of cultural and ethnic practice and religion;
  - (8) be free from bias and harassment regarding race, gender, age, disability, spirituality, and sexual orientation;
  - (9) be informed of and use the license holder's grievance policy and procedures, including knowing how to contact persons responsible for addressing problems and to appeal under section 256.045;
  - (10) know the name, telephone number, and the Web site, e-mail, and street addresses of protection and advocacy services, including the appropriate state-appointed ombudsman, and a brief description of how to file a complaint with these offices;
  - (11) assert these rights personally, or have them asserted by the person's family, authorized representative, or legal representative, without retaliation;
  - (12) give or withhold written informed consent to participate in any research or experimental treatment;
  - (13) associate with other persons of the person's choice;
  - (14) personal privacy; and
  - (15) engage in chosen activities.
- (b) For a person residing in a residential site licensed according to chapter 245A,

or where the license holder is the owner, lessor, or tenant of the residential service site, protection-related rights also include the right to:

- (1) have daily, private access to and use of a non-coin-operated telephone for local calls and long-distance calls made collect or paid for by the person;
- (2) receive and send, without interference, uncensored, unopened mail or electronic correspondence or communication;
- (3) have use of and free access to common areas in the residence; and
- (4) privacy for visits with the person's spouse, next of kin, legal counsel, religious advisor, or others, in accordance with section 363A.09 of the Human Rights Act, including privacy in the person's bedroom.

(c) Restriction of a person's rights under ~~subdivision 2, clause (10), or~~ paragraph (a), clauses (13) to (15), or paragraph (b) is allowed only if determined necessary to ensure the health, safety, and well-being of the person. Any restriction of those rights must be documented in the person's coordinated service and support plan or coordinated service and support plan addendum. The restriction must be implemented in the least restrictive alternative manner necessary to protect the person and provide support to reduce or eliminate the need for the restriction in the most integrated setting and inclusive manner. The documentation must include the following information:

- (1) the justification for the restriction based on an assessment of the person's vulnerability related to exercising the right without restriction;
- (2) the objective measures set as conditions for ending the restriction;
- (3) a schedule for reviewing the need for the restriction based on the conditions for ending the restriction to occur semiannually from the date of initial approval, at a minimum, or more frequently if requested by the person, the person's legal representative, if any, and case manager; and
- (4) signed and dated approval for the restriction from the person, or the person's legal representative, if any. A restriction may be implemented only when the required approval has been obtained. Approval may be withdrawn at any time. If approval is withdrawn, the right must be immediately and fully restored.

HF3172 / SF 2785 Omnibus supplemental appropriations bill  
Chapter 312, Article 27

Sec. 23. Minnesota Statutes 2013 Supplement, section 245D.04, subdivision 3, is amended to read: ***[see sister amendment above]***

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

- (1) have personal, financial, service, health, and medical information kept private, and be advised of disclosure of this information by the license holder;
- (2) access records and recorded information about the person in accordance with applicable state and federal law, regulation, or rule;
- (3) be free from maltreatment;
- (4) be free from restraint, time out, or seclusion, ~~or~~ **[Add]** restrictive intervention, or other prohibited procedure identified in section 245D.06, subdivision 5, or successor provisions, **[End Add]** except for **[Add]**: (i) **[End Add]** emergency use of manual restraint to protect the person from imminent danger to self or others according to the requirements in section ~~245D.06;~~ **[End Delete]** **[Add]** 245D.061 or successor provisions; or (ii) the use of safety interventions as part of a positive support

transition plan under section 245D.06, subdivision 8, or successor provisions; **[End Add]**

- (5) receive services in a clean and safe environment when the license holder is the owner, lessor, or tenant of the service site;
- (6) be treated with courtesy and respect and receive respectful treatment of the person's property;
- (7) reasonable observance of cultural and ethnic practice and religion;
- (8) be free from bias and harassment regarding race, gender, age, disability, spirituality, and sexual orientation;
- (9) be informed of and use the license holder's grievance policy and procedures, including knowing how to contact persons responsible for addressing problems and to appeal under section 256.045;
- (10) know the name, telephone number, and the Web site, e-mail, and street addresses of protection and advocacy services, including the appropriate state-appointed ombudsman, and a brief description of how to file a complaint with these offices;
- (11) assert these rights personally, or have them asserted by the person's family, authorized representative, or legal representative, without retaliation;
- (12) give or withhold written informed consent to participate in any research or experimental treatment;
- (13) associate with other persons of the person's choice;
- (14) personal privacy; and
- (15) engage in chosen activities.

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

- (1) have daily, private access to and use of a non-coin-operated telephone for local calls and long-distance calls made collect or paid for by the person;
- (2) receive and send, without interference, uncensored, unopened mail or electronic correspondence or communication;
- (3) have use of and free access to common areas in the residence; and
- (4) privacy for visits with the person's spouse, next of kin, legal counsel, religious advisor, or others, in accordance with section 363A.09 of the Human Rights Act, including privacy in the person's bedroom.

(c) Restriction of a person's rights under **[Delete]** subdivision 2, clause (10), or **[End Delete]** paragraph (a), clauses (13) to (15), or paragraph (b) is allowed only if determined necessary to ensure the health, safety, and well-being of the person. Any restriction of those rights must be documented in the person's coordinated service and support plan or coordinated service and support plan addendum. The restriction must be implemented in the least restrictive alternative manner necessary to protect the person and provide support to reduce or eliminate the need for the restriction in the most integrated setting and inclusive manner.

The documentation must include the following information:

- (1) the justification for the restriction based on an assessment of the person's vulnerability related to exercising the right without restriction;
- (2) the objective measures set as conditions for ending the restriction;
- (3) a schedule for reviewing the need for the restriction based on the conditions for ending the restriction to occur semiannually from the date of initial approval, at a minimum, or more frequently if requested by the person, the person's legal representative, if any, and case manager; and
- (4) signed and dated approval for the restriction from the person, or the person's

legal representative, if any. A restriction may be implemented only when the required approval has been obtained. Approval may be withdrawn at any time. If approval is withdrawn, the right must be immediately and fully restored.

HF3172 / SF 2785 Omnibus supplemental appropriations bill  
Chapter 312, Article 27

Sec. 24. Minnesota Statutes 2013 Supplement, section 245D.05, subdivision 1, is amended to read:

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

(b) If responsibility for meeting the person's health service needs has been assigned to the license holder in the coordinated service and support plan or the coordinated service and support plan addendum, the license holder must maintain documentation on how the person's health needs will be met, including a description of the procedures the license holder will follow in order to:

(1) provide medication ~~administration~~ setup, assistance or medication administration according to this chapter Unlicensed staff responsible for medication setup or medication administration under this section must complete training according to section 245D.09, subdivision 4a, paragraph (d);

(2) monitor health conditions according to written instructions from a licensed health professional;

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

(4) use medical equipment, devices, or adaptive aides or technology safely and correctly according to written instructions from a licensed health professional.

HF3172 / SF 2785 Omnibus supplemental appropriations bill  
Chapter 312, Article 27

Sec. 25. Minnesota Statutes 2013 Supplement, section 245D.05, subdivision 1a, is amended to read:

Subd. 1a. **Medication setup.** (a) For the purposes of this subdivision, "medication setup" means the arranging of medications according to instructions from the pharmacy, the prescriber, or a licensed nurse, for later administration when the license holder is assigned responsibility ~~for medication assistance or medication administration~~ in the coordinated service and support plan or the coordinated service and support plan addendum. A prescription label or the prescriber's written or electronically recorded order for the prescription is sufficient to constitute written instructions from the prescriber.

(b) If responsibility for medication setup is assigned to the license holder in the coordinated service and support plan or the coordinated service and support plan addendum, or if the license holder provides it as part of medication assistance or

medication administration, **[End Add]** the license holder must document in the person's medication administration record: dates of setup, name of medication, quantity of dose, times to be administered, and route of administration at time of setup; and, when the person will be away from home, to whom the medications were given.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 26. Minnesota Statutes 2013 Supplement, section 245D.05, subdivision 1b, is amended to read:

Subd. 1b. **Medication assistance.** **[Add]** (a) For purposes of this subdivision, "medication assistance" means any of the following:

- (1) bringing to the person and opening a container of previously set up medications, emptying the container into the person's hand, or opening and giving the medications in the original container to the person under the direction of the person;
- (2) bringing to the person liquids or food to accompany the medication; or
- (3) providing reminders, in person, remotely, or through programming devices such as telephones, alarms, or medication boxes, to take regularly scheduled medication or perform regularly scheduled treatments and exercises.

**(b)[End Add]** If responsibility for medication assistance is assigned to the license holder in the coordinated service and support plan or the coordinated service and support plan addendum, the license holder must ensure that **[Delete]** the requirements of subdivision 2, paragraph (b), have been met when staff provides **[End delete]** medication assistance **[Delete]** to enable **[End Delete]** **[Add]** is provided in a manner that enables **[End Add]** a person to self-administer medication or treatment when the person is capable of directing the person's own care, or when the person's legal representative is present and able to direct care for the person. **[Delete]** For the purposes of this subdivision, "medication assistance" means any of the following:

- ~~(1) bringing to the person and opening a container of previously set up medications, emptying the container into the person's hand, or opening and giving the medications in the original container to the person;~~
- ~~(2) bringing to the person liquids or food to accompany the medication; or~~
- ~~(3) providing reminders to take regularly scheduled medication or perform regularly scheduled treatments and exercises. **[End delete]**~~

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 27. Minnesota Statutes 2013 Supplement, section 245D.05, subdivision 2, is amended to read:

Subd. 2. **Medication administration.** (a) **[Delete]** If responsibility for medication administration is assigned to the license holder in the coordinated service and support plan or the coordinated service and support plan addendum, the license holder must implement the following medication administration procedures to ensure a person takes medications and treatments as prescribed **[End delete]** **[Add]** For purposes of this subdivision, "medication administration" means **[End Add]**:

- (1) checking the person's medication record;

- (2) preparing the medication as necessary;
- (3) administering the medication or treatment to the person;
- (4) documenting the administration of the medication or treatment or the reason for not administering the medication or treatment; and
- (5) reporting to the prescriber or a nurse any concerns about the medication or treatment, including side effects, effectiveness, or a pattern of the person refusing to take the medication or treatment as prescribed. Adverse reactions must be immediately reported to the prescriber or a nurse.

(b)(1) **[Add]** If responsibility for medication administration is assigned to the license holder in the coordinated service and support plan or the coordinated service and support plan addendum, the license holder must implement medication administration procedures to ensure a person takes medications and treatments as prescribed. **[End Add]** The license holder must ensure that the requirements in clauses (2) **[Delete]** ~~to (4)~~ **[End delete]** **[Add]** and (3) **[End Add]** have been met before administering medication or treatment.

(2) The license holder must obtain written authorization from the person or the person's legal representative to administer medication or treatment and must obtain reauthorization annually as needed. **[Add]** This authorization shall remain in effect unless it is withdrawn in writing and may be withdrawn at any time. **[End Add]** If the person or the person's legal representative refuses to authorize the license holder to administer medication, the medication must not be administered. The refusal to authorize medication administration must be reported to the prescriber as expediently as possible.

**[Delete]** (3) ~~The staff person responsible for administering the medication or treatment must complete medication administration training according to section 245D.09, subdivision 4a, paragraphs (a) and (c), and, as applicable to the person, paragraph (d).~~

**[End delete]** **[Add]** (3) **[End Add]** For a license holder providing intensive support services, the medication or treatment must be administered according to the license holder's medication administration policy and procedures as required under section 245D.11, subdivision 2, clause (3).

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

- (1) the information on the current prescription label or the prescriber's current written or electronically recorded order or prescription that includes the person's name, description of the medication or treatment to be provided, and the frequency and other information needed to safely and correctly administer the medication or treatment to ensure effectiveness;
- (2) information on any risks or other side effects that are reasonable to expect, and any contraindications to its use. This information must be readily available to all staff administering the medication;
- (3) the possible consequences if the medication or treatment is not taken or administered as directed;
- (4) instruction on when and to whom to report the following:
  - (i) if a dose of medication is not administered or treatment is not performed as prescribed, whether by error by the staff or the person or by refusal by the person; and
  - (ii) the occurrence of possible adverse reactions to the medication or treatment;
- (5) notation of any occurrence of a dose of medication not being administered or treatment not performed as prescribed, whether by error by the staff or the person or by refusal by the person, or of adverse reactions, and when and to whom the report was

made; and

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

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 28. Minnesota Statutes 2013 Supplement, section 245D.05, subdivision 4, is amended to read:

Subd. 4. **Reviewing and reporting medication and treatment issues.** (a) When assigned responsibility for medication administration, the license holder must ensure that the information maintained in the medication administration record is current and is regularly reviewed to identify medication administration errors. At a minimum, the review must be conducted every three months, or more frequently as directed in the coordinated service and support plan or coordinated service and support plan addendum or as requested by the person or the person's legal representative. Based on the review, the license holder must develop and implement a plan to correct patterns of medication administration errors when identified.

(b) If assigned responsibility for medication assistance or medication administration, the license holder must report the following to the person's legal representative and case manager as they occur or as otherwise directed in the coordinated service and support plan or the coordinated service and support plan addendum:

- (1) any reports **[Delete]**made to the person's physician or prescriber**[End delete]** required under subdivision 2, paragraph (c), clause (4);
- (2) a person's refusal or failure to take or receive medication or treatment as prescribed; or
- (3) concerns about a person's self-administration of medication or treatment.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 29. Minnesota Statutes 2013 Supplement, section 245D.05, subdivision 5, is amended to read:

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

- (1) a registered nurse or licensed practical nurse will administer the **[Delete]**subcutaneous or intramuscular**[End delete]** injection;
- (2) a supervising registered nurse with a physician's order has delegated the administration of **[Delete]**subcutaneous**[End Delete]** injectable medication to an unlicensed staff member and has provided the necessary training; or
- (3) there is an agreement signed by the license holder, the prescriber, and the person or the person's legal representative specifying what **[Delete]**subcutaneous**[End Delete]** injections may be given, when, how, and that the prescriber must retain responsibility for the license holder's giving the injections. A copy of the agreement must be placed in the person's service recipient record.

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

HF2546 / SF1997 Revisor's bill – Technical amendments

Chapter 275, Article 1

Sec. 50. Minnesota Statutes 2013 Supplement, section 245D.051, subdivision 1, is amended to read: ***[see sister amendment below]***

Subdivision 1. **Conditions for psychotropic medication administration.** (a)

When a person is prescribed a psychotropic medication and the license holder is assigned responsibility for administration of the medication in the person's coordinated service and support plan or the coordinated service and support plan addendum, the license holder must ensure that the requirements in paragraphs (b) ~~[Delete] to (d) [End Delete]~~ **[Add] and (c) [End delete]** and section 245D.05, subdivision 2, are met.

(b) Use of the medication must be included in the person's coordinated service and support plan or in the coordinated service and support plan addendum and based on a prescriber's current written or electronically recorded prescription.

(c) The license holder must develop, implement, and maintain the following documentation in the person's coordinated service and support plan addendum according to the requirements in sections 245D.07 and 245D.071:

(1) a description of the target symptoms that the psychotropic medication is to alleviate; and

(2) documentation methods the license holder will use to monitor and measure changes in the target symptoms that are to be alleviated by the psychotropic medication if required by the prescriber. The license holder must collect and report on medication and symptom-related data as instructed by the prescriber. The license holder must provide the monitoring data to the expanded support team for review every three months, or as otherwise requested by the person or the person's legal representative.

For the purposes of this section, "target symptom" refers to any perceptible diagnostic criteria for a person's diagnosed mental disorder, as defined by the Diagnostic and Statistical Manual of Mental Disorders Fourth Edition Text Revision (DSM-IV-TR) or successive editions, that has been identified for alleviation.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 30. Minnesota Statutes 2013 Supplement, section 245D.051, is amended to read: ***[see sister amendment above]***

**245D.051 PSYCHOTROPIC MEDICATION USE AND MONITORING.**

Subdivision 1. **Conditions for psychotropic medication administration.** (a)

When a person is prescribed a psychotropic medication and the license holder is assigned responsibility for administration of the medication in the person's coordinated service and support plan or the coordinated service and support plan addendum, the license holder must ensure that the requirements in ~~[Delete] paragraphs (b) to (d) and [End delete]~~ section 245D.05, subdivision 2, are met.

~~[Delete] (b) Use of the medication must be included in the person's coordinated service and~~

~~support plan or in the coordinated service and support plan addendum and based on a prescriber's current written or electronically recorded prescription.~~

~~(c)~~**[End delete][Add]** (b)**[End Add]** The license holder must develop, implement, and maintain the following

documentation in the person's coordinated service and support plan addendum according to the requirements in sections 245D.07 and 245D.071:

(1) a description of the target symptoms that the psychotropic medication is to alleviate; and

(2) documentation methods the license holder will use to monitor and measure changes in the target symptoms that are to be alleviated by the psychotropic medication if required by the prescriber. The license holder must collect and report on medication and symptom-related data as instructed by the prescriber. The license holder must provide the monitoring data to the expanded support team for review every three months, or as otherwise requested by the person or the person's legal representative.

For the purposes of this section, "target symptom" refers to any perceptible diagnostic criteria for a person's diagnosed mental disorder, as defined by the Diagnostic and Statistical Manual of Mental Disorders Fourth Edition Text Revision (DSM-IV-TR) or successive editions, that has been identified for alleviation.

**Subd. 2. Refusal to authorize psychotropic medication.** If the person or the person's legal representative refuses to authorize the administration of a psychotropic medication as ordered by the prescriber, the license holder must ~~follow the requirement in section 245D.05, subdivision 2, paragraph (b), clause (2).~~ **[Delete]** not administer the medication. **[End delete] [Add]**

The refusal to authorize medication administration must be reported to the prescriber as expediently as possible. **[End Add]** After reporting the refusal to the prescriber, the license holder must follow any directives or orders given by the prescriber. ~~A court order must be obtained to override the refusal.~~ **[Delete]** A refusal may not be overridden without a court order. **[End delete] [Add]**

Refusal to authorize administration of a specific psychotropic medication is not grounds for service termination and does not constitute an emergency. A decision to terminate services must be reached in compliance with section 245D.10, subdivision 3.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 31. Minnesota Statutes 2013 Supplement, section 245D.06, subdivision 1, is amended to read:

**Subdivision 1. Incident response and reporting.** (a) The license holder must respond to incidents under section 245D.02, subdivision 11, that occur while providing services to protect the health and safety of and minimize risk of harm to the person.

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

as required under paragraph (e).

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

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

(e) The license holder must report the death or serious injury of the person as required in paragraph (b) and to the Department of Human Services Licensing Division, and the Office of Ombudsman for Mental Health and Developmental Disabilities as required under section 245.94, subdivision 2a, within 24 hours of the death, or receipt of information that the death occurred, unless the license holder has reason to know that the death has already been reported.

(f) When a death or serious injury occurs in a facility certified as an intermediate care facility for persons with developmental disabilities, the death or serious injury must be reported to the Department of Health, Office of Health Facility Complaints, and the Office of Ombudsman for Mental Health and Developmental Disabilities, as required under sections 245.91 and 245.94, subdivision 2a, unless the license holder has reason to know that the death has already been reported.

(g) The license holder must conduct an internal review of incident reports of deaths and serious injuries that occurred while services were being provided and that were not reported by the program as alleged or suspected maltreatment, for identification of incident patterns, and implementation of corrective action as necessary to reduce occurrences. The review must include an evaluation of whether related policies and procedures were followed, whether the policies and procedures were adequate, whether there is a need for additional staff training, whether the reported event is similar to past events with the persons or the services involved, and whether there is a need for corrective action by the license holder to protect the health and safety of persons receiving services. Based on the results of this review, the license holder must develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by staff or the license holder, if any.

(h) The license holder must verbally report the emergency use of manual restraint of a person as required in paragraph (b) within 24 hours of the occurrence. The license holder must ensure the written report and internal review of all incident reports of the emergency use of manual restraints are completed according to the requirements in section 245D.061 **[Add]** or successor provisions. **[End Add]**

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 32. Minnesota Statutes 2013 Supplement, section 245D.06, subdivision 2, is amended to read:

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

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

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

(ii) that toxic substances or dangerous items are inaccessible to persons served by the program only to protect the safety of a person receiving services **[Add]**when a known safety threat exists**[End Add]** and not as a substitute for staff supervision or interactions with a person who is receiving services. If toxic substances or dangerous items are made inaccessible, the license holder must document an assessment of the physical plant, its environment, and its population identifying the risk factors which require toxic substances or dangerous items to be inaccessible and a statement of specific measures to be taken to minimize the safety risk to persons receiving services **[And]** and to restore accessibility to all persons receiving services at the service site;**[End Add]**

(iii) doors are locked from the inside to prevent a person from exiting only when necessary to protect the safety of a person receiving services and not as a substitute for staff supervision or interactions with the person. If doors are locked from the inside, the license holder must document an assessment of the physical plant, the environment and the population served, identifying the risk factors which require the use of locked doors, and a statement of specific measures to be taken to minimize the safety risk to persons receiving services at the service site; and

(iv) a staff person is available at the service site who is trained in basic first aid and, when required in a person's coordinated service and support plan or coordinated service and support plan addendum, cardiopulmonary resuscitation (CPR) whenever persons are present and staff are required to be at the site to provide direct **[Add]**support **[End Add]**service. The CPR

training must include in-person instruction, hands-on practice, and an observed skills assessment under the direct supervision of a CPR instructor;

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

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

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

(5) follow universal precautions and sanitary practices, including hand washing, for infection prevention and control, and to prevent communicable diseases.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 33. Minnesota Statutes 2013 Supplement, section 245D.06, subdivision 4, is amended to read:

Subd. 4. **Funds and property** **[Add];** **legal representative restrictions.****[End Add]** (a) Whenever the license holder assists a person with the safekeeping of funds or other property according to section 245A.04, subdivision 13, the license holder must obtain written authorization to do so from the person or the person's legal representative and the case manager. Authorization must be obtained within five working days of service initiation and renewed annually thereafter. At the time initial authorization is obtained, the license holder must survey, document, and implement the preferences of the person or the person's legal representative and the case manager for frequency of receiving a statement that itemizes receipts and disbursements of funds or other property. The license holder must document changes to these preferences when they are requested.

(b) A license holder or staff person may not accept powers-of-attorney from a person receiving services from the license holder for any purpose. This does not apply to license holders that are Minnesota counties or other units of government or to staff persons employed by license holders who were acting as attorney-in-fact for specific individuals prior to implementation of this chapter. The license holder must maintain documentation of the power-of-attorney in the service recipient record.

**[Add]**(c) A license holder or staff person is restricted from accepting an appointment as a guardian as follows:

(1) under section 524.5-309 of the Uniform Probate Code, any individual or agency that provides residence, custodial care, medical care, employment training, or other care or services for which the individual or agency receives a fee may not be appointed as guardian unless related to the respondent by blood, marriage, or adoption; and

(2) under section 245A.03, subdivision 2, paragraph (a), clause (1), a related individual as defined under section 245A.02, subdivision 13, is excluded from licensure. Services provided by a license holder to a person under the license holder's guardianship are not licensed services.**[End Add]**

~~(c)~~ (d) Upon the transfer or death of a person, any funds or other property of the person must be surrendered to the person or the person's legal representative, or given to the executor or administrator of the estate in exchange for an itemized receipt.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 34. Minnesota Statutes 2013 Supplement, section 245D.06, subdivision 6, is amended to read:

Subd. 6. **Restricted procedures.** **[Add]**(a)**[End Add]**The following procedures are allowed when the procedures are implemented in compliance with the standards governing their use as identified in clauses (1) to (3). Allowed but restricted procedures include:

(1) permitted actions and procedures subject to the requirements in subdivision 7;

(2) procedures identified in a positive support transition plan subject to the requirements in subdivision 8; or

(3) emergency use of manual restraint subject to the requirements in section 245D.061.

For purposes of this chapter, this section supersedes the requirements identified in Minnesota Rules, part 9525.2740.

**[Add]**(b) A restricted procedure identified in paragraph (a) must not:

(1) be implemented with a child in a manner that constitutes sexual abuse, neglect, physical abuse, or mental injury, as defined in section 626.556, subdivision 2;

(2) be implemented with an adult in a manner that constitutes abuse or neglect as defined in section 626.5572, subdivision 2 or 17;

(3) be implemented in a manner that violates a person's rights identified in section 245D.04;

(4) restrict a person's normal access to a nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions, necessary clothing, or any protection required by state licensing standards or federal regulations governing the program;

(5) deny the person visitation or ordinary contact with legal counsel, a legal representative, or next of kin;

(6) be used for the convenience of staff, as punishment, as a substitute for adequate staffing, or as a consequence if the person refuses to participate in the treatment or services provided by the program;

(7) use prone restraint. For purposes of this section, "prone restraint" means use of manual restraint that places a person in a face-down position. Prone restraint does not include brief physical holding of a person who, during an emergency use of manual restraint, rolls into a prone position, if the person is restored to a standing, sitting, or side-lying position as quickly as possible;

(8) apply back or chest pressure while a person is in a prone position as identified in clause (7), supine position, or side-lying position; or

(9) be implemented in a manner that is contraindicated for any of the person's known medical or psychological limitations.**[End Add]**

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 35. Minnesota Statutes 2013 Supplement, section 245D.06, subdivision 7, is amended to read:

Subd. 7. **Permitted actions and procedures.** (a) Use of the instructional techniques and intervention procedures as identified in paragraphs (b) and (c) is permitted when used on an intermittent or continuous basis. When used on a continuous basis, it must be addressed in a person's coordinated service and support plan addendum as identified in sections 245D.07 and 245D.071. For purposes of this chapter, the requirements of this subdivision supersede the requirements identified in Minnesota Rules, part 9525.2720.

(b) Physical contact or instructional techniques must use the least restrictive alternative possible to meet the needs of the person and may be used:

(1) to calm or comfort a person by holding that person with no resistance from that person;

(2) to protect a person known to be at risk **[Delete]or[End Delete] [Add]of[End Add]** injury due to frequent falls as a result of a medical condition;

(3) to facilitate the person's completion of a task or response when the person does not resist or the person's resistance is minimal in intensity and duration; **[Delete]or[End Delete]**

(4) to **[Delete]briefly[End Delete]** block or redirect a person's limbs or body without holding the person or

limiting the person's movement to interrupt the person's behavior that may result in injury to self or others**[Delete]-[End Delete][Add]**with less than 60 seconds of physical contact by staff; or

(5) to redirect a person's behavior when the behavior does not pose a serious threat to the person or others and the behavior is effectively redirected with less than 60 seconds of physical contact by staff.**[End Add]**

(c) Restraint may be used as an intervention procedure to:

(1) allow a licensed health care professional to safely conduct a medical examination or to provide medical treatment ordered by a licensed health care professional to a person necessary to promote healing or recovery from an acute, meaning short-term, medical condition;

(2) assist in the safe evacuation or redirection of a person in the event of an emergency and the person is at imminent risk of harm**[Delete]-[End Delete][End Add];[End Add] [Add]or[End Add]**

~~[Delete] Any use of manual restraint as allowed in this paragraph must comply with the restrictions identified in section 245D.061, subdivision 3; or~~**[End Delete]**

(3) position a person with physical disabilities in a manner specified in the person's coordinated service and support plan addendum.

**[Add]**Any use of manual restraint as allowed in this paragraph must comply with the restrictions identified in subdivision 6, paragraph (b).**[End Add]**

(d) Use of adaptive aids or equipment, orthotic devices, or other medical equipment ordered by a licensed health professional to treat a diagnosed medical condition do not in and of themselves constitute the use of mechanical restraint.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 36. Minnesota Statutes 2013 Supplement, section 245D.06, subdivision 8, is amended to read:

Subd. 8. **Positive support transition plan.** **[Add]**(a)**[End Add]**License holders must develop a positive support transition plan on the forms and in the manner prescribed by the commissioner for a person who requires intervention in order to maintain safety when it is known that the person's behavior poses an immediate risk of physical harm to self or others. The positive support transition plan forms and instructions will supersede the requirements in Minnesota Rules, parts 9525.2750; 9525.2760; and 9525.2780. The positive support transition plan must phase out any existing plans for the emergency or programmatic use of ~~[Delete]aversive or deprivation procedures~~**[End delete]****[Add]**restrictive interventions**[End Add]**

prohibited under this chapter within the following timelines:

(1) for persons receiving services from the license holder before January 1, 2014, the plan must be developed and implemented by February 1, 2014, and phased out no later than December 31, 2014; and

(2) for persons admitted to the program on or after January 1, 2014, the plan must be developed and implemented within 30 calendar days of service initiation and phased out no later than 11 months from the date of plan implementation.

**[Add]**(b) The commissioner has limited authority to grant approval for the emergency use of procedures identified in subdivision 6 that had been part of an approved positive support transition plan when a person is at imminent risk of serious injury as defined in section 245.91, subdivision 6, due to self-injurious behavior and the following conditions are met:

(1) the person's expanded support team approves the emergency use of the procedures; and

(2) the interim review panel established in section 245.8251, subdivision 4, recommends commissioner approval of the emergency use of the procedures.

(c) Written requests for the emergency use of the procedures must be developed and submitted to the commissioner by the designated coordinator with input from the person's expanded support team in accordance with the requirements set by the interim review panel, in addition to the following:

(1) a copy of the person's current positive support transition plan and copies of each positive support transition plan review containing data on the progress of the plan from the previous year;

(2) documentation of a good faith effort to eliminate the use of the procedures that had been part of an approved positive support transition plan;

(3) justification for the continued use of the procedures that identifies the imminent risk of serious injury due to the person's self-injurious behavior if the procedures were eliminated;

(4) documentation of the clinicians consulted in creating and maintaining the positive support transition plan; and

(5) documentation of the expanded support team's approval and the recommendation from the interim panel required under paragraph (b).

(d) A copy of the written request, supporting documentation, and the commissioner's final determination on the request must be maintained in the person's service recipient record.**[End Add]**

HF2402 / SF2087 Omnibus health and human services policy bill (ARRM's Bill)

Chapter 291, Article 8

Section 1. Minnesota Statutes 2013 Supplement, section 245D.071, subdivision 1, is amended to read:

**[Add]**Subdivision 1. **Requirements for intensive support services.** Except for services identified in section 245D.03, subdivision 1, paragraph (c), clauses (1) and (2),**[End Add]** a license holder providing intensive support services identified in section 245D.03, subdivision 1, paragraph (c), must comply with the requirements in this section and section 245D.07, subdivisions 1 and 3. **[Add]**Services identified in section 245D.03, subdivision 1, paragraph (c), clauses (1) and (2), must comply with the requirements in section 245D.07, subdivision 2.**[End Add]**

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 37. Minnesota Statutes 2013 Supplement, section 245D.071, subdivision 3, is amended to read:

Subd. 3. **Assessment and initial service planning.** (a) Within 15 days of service initiation the license holder must complete a preliminary coordinated service and support plan addendum based on the coordinated service and support plan.

~~**[Delete]** b) Within 45 days of service initiation the license holder must meet with the person, the person's legal representative, the case manager, and other members of the support team or expanded support team to assess and determine the following based on the person's coordinated service and support plan and the requirements in subdivision 4 and section 245D.07, subdivision 1a:~~

~~(1) the scope of the services to be provided to support the person's daily needs and activities;~~

~~(2) the person's desired outcomes and the supports necessary to accomplish the person's desired outcomes;~~

~~(3) the person's preferences for how services and supports are provided;~~

~~(4) whether the current service setting is the most integrated setting available and appropriate for the person; and~~

~~(5) how services must be coordinated across other providers licensed under this chapter serving the same person to ensure continuity of care for the person.~~

~~(c) Within the scope of services, the license holder must, at a minimum, assess the following areas:~~

~~(1) the person's ability to self-manage health and medical needs to maintain or improve physical, mental, and emotional well-being, including, when applicable, allergies, seizures, choking, special dietary needs, chronic medical conditions, self-administration of medication or treatment orders, preventative screening, and medical and dental appointments;~~  
~~(2) the person's ability to self-manage personal safety to avoid injury or accident in the service setting, including, when applicable, risk of falling, mobility, regulating water temperature, community survival skills, water safety skills, and sensory disabilities; and~~  
~~(3) the person's ability to self-manage symptoms or behavior that may otherwise result in an incident as defined in section 245D.02, subdivision 11, clauses (4) to (7), suspension or termination of services by the license holder, or other symptoms or behaviors that may jeopardize the health and safety of the person or others. The assessments must produce information about the person that is descriptive of the person's overall strengths, functional skills and abilities, and behaviors or symptoms. [End delete]~~

**[Add]** (b) Within the scope of services, the license holder must, at a minimum, complete assessments in the following areas before the 45-day planning meeting:

(1) the person's ability to self-manage health and medical needs to maintain or improve physical, mental, and emotional well-being, including, when applicable, allergies, seizures, choking, special dietary needs, chronic medical conditions, self-administration of medication or treatment orders, preventative screening, and medical and dental appointments;  
(2) the person's ability to self-manage personal safety to avoid injury or accident in the service setting, including, when applicable, risk of falling, mobility, regulating water temperature, community survival skills, water safety skills, and sensory disabilities; and  
(3) the person's ability to self-manage symptoms or behavior that may otherwise result in an incident as defined in section 245D.02, subdivision 11, clauses (4) to (7), suspension or termination of services by the license holder, or other symptoms or behaviors that may jeopardize the health and safety of the person or others.

Assessments must produce information about the person that describes the person's overall strengths, functional skills and abilities, and behaviors or symptoms. Assessments must be based on the person's status within the last 12 months at the time of service initiation. Assessments based on older information must be documented and justified. Assessments must be conducted annually at a minimum or within 30 days of a written request from the person or the person's legal representative or case manager. The results must be reviewed by the support team or expanded support team as part of a service plan review.

(c) Within 45 days of service initiation, the license holder must meet with the person, the person's legal representative, the case manager, and other members of the support team or expanded support team to determine the following based on information obtained from the assessments identified in paragraph (b), the person's identified needs in the coordinated service and support plan, and the requirements in subdivision 4 and section 245D.07, subdivision 1a:

(1) the scope of the services to be provided to support the person's daily needs and activities;  
(2) the person's desired outcomes and the supports necessary to accomplish the person's desired outcomes;  
(3) the person's preferences for how services and supports are provided;  
(4) whether the current service setting is the most integrated setting available and appropriate for the person; and

(5) how services must be coordinated across other providers licensed under this chapter serving the person and members of the support team or expanded support team to ensure continuity of care and coordination of services for the person.**[End Add]**

HF2402 / SF2087 Omnibus health and human services policy bill (ARRM's Bill)  
Chapter 291, Article 8

Sec. 2. Minnesota Statutes 2013 Supplement, section 245D.071, subdivision 4, is amended to read: **[see sister amendment below]**

Subd. 4. **Service outcomes and supports.** (a) Within ten working days of the 45-day meeting, the license holder must develop and document the service outcomes and supports based on the assessments completed under subdivision 3 and the requirements in section 245D.07, subdivision 1a. The outcomes and supports must be included in the coordinated service and support plan addendum.

(b) The license holder must document the supports and methods to be implemented to support the accomplishment of outcomes related to acquiring, retaining, or improving skills. The documentation must include:

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

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

(ii) any equipment and materials required; and

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

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

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

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

(c) Within 20 working days of the 45-day meeting, the license holder must **[Add]**submit to and**[End Add]** obtain dated signatures from the person or the person's legal representative and case manager to document completion and approval of the assessment and coordinated service and support plan addendum.**[Add]** If, within ten working days of the submission of the assessment or coordinated service and support plan addendum, the person or the person's legal representative or case manager has not signed and returned to the license holder the assessment and coordinated service and support plan addendum or has not proposed written modifications to the license holder's submission, the submission is deemed approved and the assessment and coordinated service and support plan addendum become effective and remain in effect until the legal representative or case manager submits a written request to revise the assessment or coordinated service and support plan addendum.**[End Add]**

HF3172 / SF 2785 Omnibus supplemental appropriations bill  
Chapter 312, Article 27

Sec. 38. Minnesota Statutes 2013 Supplement, section 245D.071, subdivision 4, is amended to read: **[see sister amendment above]**

Subd. 4. **Service outcomes and supports.** (a) Within ten working days of the 45-day ~~[Add]~~planning~~[End Add]~~ meeting, the license holder must develop ~~[Delete]~~and document~~[End Delete]~~~~[Add]~~a service plan that documents~~[End Add]~~ the service outcomes and supports based on the assessments completed under subdivision 3 and the requirements in section 245D.07, subdivision 1a. The outcomes and supports must be included in the coordinated service and support plan addendum.

(b) The license holder must document the supports and methods to be implemented to support the ~~[Delete]~~accomplishment of~~[End delete]~~~~[Delete]~~person and accomplish~~[End Delete]~~ outcomes related to acquiring, retaining, or improving skills~~[Add]~~and physical, mental, and emotional health and well-being~~[End Add]~~. The documentation must include:

- (1) the methods or actions that will be used to support the person and to accomplish the service outcomes, including information about:
  - (i) any changes or modifications to the physical and social environments necessary when the service supports are provided;
  - (ii) any equipment and materials required; and
  - (iii) techniques that are consistent with the person's communication mode and learning style;
- (2) the measurable and observable criteria for identifying when the desired outcome has been achieved and how data will be collected;
- (3) the projected starting date for implementing the supports and methods and the date by which progress towards accomplishing the outcomes will be reviewed and evaluated; and
- (4) the names of the staff or position responsible for implementing the supports and methods.

(c) Within 20 working days of the 45-day meeting, the license holder must obtain dated signatures from the person or the person's legal representative and case manager to document completion and approval of the assessment and coordinated service and support plan addendum.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 39. Minnesota Statutes 2013 Supplement, section 245D.071, subdivision 5, is amended to read:

Subd. 5. ~~[Delete]~~Progress reviews~~[End delete]~~~~[Add]~~**Service plan review and evaluation**~~[End Add]~~. (a) The license

holder must give the person or the person's legal representative and case manager an opportunity to participate in the ongoing review and development of the ~~[Add]~~service plan and the~~[End Add]~~ methods used to support the person and accomplish outcomes identified in subdivisions 3 and 4. The license holder, in coordination with the person's support team or expanded support team, must meet with the person, the person's legal representative, and the case manager, and participate in ~~[Delete]~~progress~~[End Delete]~~~~[Add]~~ service plan~~[End Add]~~ review meetings following stated timelines established in the person's coordinated service and support plan or coordinated service and support plan addendum or within 30 days of a written request by the person, the person's legal representative, or the case manager, at a minimum of once per year.~~[Add]~~ The purpose of the service plan review is to determine whether changes

are needed to the service plan based on the assessment information, the license holder's evaluation of progress towards accomplishing outcomes, or other information provided by the support team or expanded support team.**[End Add]**

(b) The license holder must summarize the person's **[Add]**status and**[End Add]** progress toward achieving the identified outcomes and make recommendations and identify the rationale for changing, continuing, or discontinuing implementation of supports and methods identified in subdivision 4 in a written report sent to the person or the person's legal representative and case manager five working days prior to the review meeting, unless the person, the person's legal representative, or the case manager requests to receive the report at the time of the meeting.

(c) Within ten working days of the progress review meeting, the license holder must obtain dated signatures from the person or the person's legal representative and the case manager to document approval of any changes to the coordinated service and support plan addendum.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 40. Minnesota Statutes 2013 Supplement, section 245D.081, subdivision 2, is amended to read:

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

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

(2) taking the action necessary to facilitate the accomplishment of the outcomes according to the requirements in section 245D.07;

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

(4) evaluation of the effectiveness of service delivery, methodologies, and progress on the person's outcomes based on the measurable and observable criteria for identifying when the desired outcome has been achieved according to the requirements in section 245D.07.

(b) The license holder must ensure that the designated coordinator is competent to perform the required duties identified in paragraph (a) through education ~~and~~ training **[Delete]**in human services and disability-related fields**[End delete]**, and work experience **[Delete]**in providing direct care services and supports to persons with disabilities**[End delete]****[Add]**relevant to the primary disability of

persons served by the license holder and the individual persons for whom the designated coordinator is responsible.**[End Add]** The designated coordinator must have the skills and ability necessary to develop effective plans and to design and use data systems to measure effectiveness of services and supports. The license holder must verify and document competence according to the requirements in section 245D.09, subdivision 3. The designated coordinator must minimally have:

(1) a baccalaureate degree in a field related to human services, and one year of

- full-time work experience providing direct care services to persons with disabilities or persons age 65 and older;
- (2) an associate degree in a field related to human services, and two years of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older;
- (3) a diploma in a field related to human services from an accredited postsecondary institution and three years of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older; or
- (4) a minimum of 50 hours of education and training related to human services and disabilities; and
- (5) four years of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older under the supervision of a staff person who meets the qualifications identified in clauses (1) to (3).

HF3172 / SF 2785 Omnibus supplemental appropriations bill  
Chapter 312, Article 27

Sec. 41. Minnesota Statutes 2013 Supplement, section 245D.09, subdivision 3, is amended to read:

- Subd. 3. **Staff qualifications.** (a) The license holder must ensure that staff providing direct support, or staff who have responsibilities related to supervising or managing the provision of direct support service, are competent as demonstrated through skills and knowledge training, experience, and education **[Add]** relevant to the primary disability of the person and **[End Add]** to meet the person's needs and additional requirements as written in the coordinated service and support plan or coordinated service and support plan addendum, or when otherwise required by the case manager or the federal waiver plan. The license holder must verify and maintain evidence of staff competency, including documentation of:
- (1) education and experience qualifications relevant to the job responsibilities assigned to the staff and **[Add]** to **[End Add]** the **[Delete]** ~~needs of the general population~~ **[End delete]** **[Add]** primary disability **[End Add]** of persons served by the program, including a valid degree and transcript, or a current license, registration, or certification, when a degree or licensure, registration, or certification is required by this chapter or in the coordinated service and support plan or coordinated service and support plan addendum;
- (2) demonstrated competency in the orientation and training areas required under this chapter, and when applicable, completion of continuing education required to maintain professional licensure, registration, or certification requirements. Competency in these areas is determined by the license holder through knowledge testing **[Delete]** ~~and~~ **[End Delete]** **[Add]** or **[End Add]** observed skill assessment conducted by the trainer or instructor; and
- (3) except for a license holder who is the sole direct support staff, periodic performance evaluations completed by the license holder of the direct support staff person's ability to perform the job functions based on direct observation.
- (b) Staff under 18 years of age may not perform overnight duties or administer medication.

HF2402 / SF2087 Omnibus health and human services policy bill (ARRM's Bill)

Chapter 291, Article 8

Sec. 3. Minnesota Statutes 2013 Supplement, section 245D.09, subdivision 4, is amended to read:

Subd. 4. **Orientation to program requirements.** Except for a license holder who does not supervise any direct support staff, within 60 [Add]calendar[End Add] days of hire, unless stated otherwise, the license holder must provide and ensure completion of [Add]ten hours of orientation for direct support staff providing basic services and[End Add] 30 hours of orientation for direct support staff [Add]providing intensive services[End Add] that combines supervised on-the-job training with review of and instruction in the following areas:

- (1) the job description and how to complete specific job functions, including:
  - (i) responding to and reporting incidents as required under section 245D.06, subdivision 1; and
  - (ii) following safety practices established by the license holder and as required in section 245D.06, subdivision 2;
- (2) the license holder's current policies and procedures required under this chapter, including their location and access, and staff responsibilities related to implementation of those policies and procedures;
- (3) data privacy requirements according to sections 13.01 to 13.10 and 13.46, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), and staff responsibilities related to complying with data privacy practices;
- (4) the service recipient rights and staff responsibilities related to ensuring the exercise and protection of those rights according to the requirements in section 245D.04;
- (5) sections 245A.65, 245A.66, 626.556, and 626.557, governing maltreatment reporting and service planning for children and vulnerable adults, and staff responsibilities related to protecting persons from maltreatment and reporting maltreatment. This orientation must be provided within 72 hours of first providing direct contact services and annually thereafter according to section 245A.65, subdivision 3;
- (6) the principles of person-centered service planning and delivery as identified in section 245D.07, subdivision 1a, and how they apply to direct support service provided by the staff person; ~~and~~
- (7) [Add] the safe and correct use of manual restraint on an emergency basis according to the requirements in section 245D.061 and what constitutes the use of restraints, time out, and seclusion, including chemical restraint;
- (8) staff responsibilities related to prohibited procedures under section 245D.06, subdivision 5, why such procedures are not effective for reducing or eliminating symptoms or undesired behavior, and why such procedures are not safe;
- (9) basic first aid; and
- (10) [End Add] other topics as determined necessary in the person's coordinated service and support plan by the case manager or other areas identified by the license holder.

HF2402 / SF2087 Omnibus health and human services policy bill (ARRM's Bill)

Chapter 291, Article 8

Sec. 4. Minnesota Statutes 2013 Supplement, section 245D.09, subdivision 4a, is amended to read: *[see sister amendment below]*

Subd. 4a. **Orientation to individual service recipient needs.** (a) Before having unsupervised direct contact with a person served by the program, or for whom the staff person has not previously provided direct support, or any time the plans or procedures

identified in paragraphs (b) to ~~(f)~~ (e) are revised, the staff person must review and receive instruction on the requirements in paragraphs (b) to ~~(f)~~ (e) as they relate to the staff person's job functions for that person.

(b) For community residential services, training and competency evaluations must include the following , if identified in the coordinated service and support plan:

(1) appropriate and safe techniques in personal hygiene and grooming, including hair care; bathing; care of teeth, gums, and oral prosthetic devices; and other activities of daily living (ADLs) as defined under section 256B.0659, subdivision 1;

(2) an understanding of what constitutes a healthy diet according to data from the Centers for Disease Control and Prevention and the skills necessary to prepare that diet; and

(3) skills necessary to provide appropriate support in instrumental activities of daily living (IADLs) as defined under section 256B.0659, subdivision 1 ~~;~~ and

~~(4) demonstrated competence in providing first aid.~~

(c) The staff person must review and receive instruction on the person's coordinated service and support plan or coordinated service and support plan addendum as it relates to the responsibilities assigned to the license holder, and when applicable, the person's individual abuse prevention plan, to achieve and demonstrate an understanding of the person as a unique individual, and how to implement those plans.

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

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

(1) specialized or intensive medical or nursing supervision; and

(2) nonmedical service providers to adapt their services to accommodate the health and safety needs of the person.

(e) The staff person must review and receive instruction on the safe and correct operation of medical equipment used by the person to sustain life or to monitor a medical condition that could become life-threatening without proper use of the medical equipment,

including but not limited to ventilators, feeding tubes, or endotracheal tubes. The training must be provided by a licensed health care professional or a manufacturer's representative and incorporate an observed skill assessment to ensure staff demonstrate the ability to safely and correctly operate the equipment according to the treatment orders and the manufacturer's instructions.

~~(f) The staff person must review and receive instruction on what constitutes use of restraints, time out, and seclusion, including chemical restraint, and staff responsibilities related to the prohibitions of their use according to the requirements in section 245D.06,~~

subdivision 5, why such procedures are not effective for reducing or eliminating symptoms or undesired behavior and why they are not safe, and the safe and correct use of manual restraint on an emergency basis according to the requirements in section 245D.061.

(g) [End delete] In the event of an emergency service initiation, the license holder must ensure the training required in this subdivision occurs within 72 hours of the direct support staff person first having unsupervised contact with the person receiving services. The license holder must document the reason for the unplanned or emergency service initiation and maintain the documentation in the person's service recipient record.

[Delete] (h) [End delete] [Add] (g) [End Add] License holders who provide direct support services themselves must complete the orientation required in subdivision 4, clauses (3) to [Delete] (7) [End delete] (10).

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 42. Minnesota Statutes 2013 Supplement, section 245D.09, subdivision 4a, is amended to read: *[see sister amendment above]*

Subd. 4a. **Orientation to individual service recipient needs.** (a) Before having unsupervised direct contact with a person served by the program, or for whom the staff person has not previously provided direct support, or any time the plans or procedures identified in paragraphs (b) to [Delete] (f) [End delete] (g) are revised, the staff person must review and receive

instruction on the requirements in paragraphs (b) to [Delete] (f) [End delete] (g) as they relate to the staff

person's job functions for that person.

(b) Training and competency evaluations must include the following:

- (1) appropriate and safe techniques in personal hygiene and grooming, including hair care; bathing; care of teeth, gums, and oral prosthetic devices; and other activities of daily living (ADLs) as defined under section 256B.0659, subdivision 1;
- (2) an understanding of what constitutes a healthy diet according to data from the Centers for Disease Control and Prevention and the skills necessary to prepare that diet;
- (3) skills necessary to provide appropriate support in instrumental activities of daily living (IADLs) as defined under section 256B.0659, subdivision 1; and
- (4) demonstrated competence in providing first aid.

(c) The staff person must review and receive instruction on the person's coordinated service and support plan or coordinated service and support plan addendum as it relates to the responsibilities assigned to the license holder, and when applicable, the person's individual abuse prevention plan, to achieve and demonstrate an understanding of the person as a unique individual, and how to implement those plans.

(d) The staff person must review and receive instruction on medication [Add] setup, assistance, or [End Add] administration procedures established for the person when [Delete] medication administration is [End delete] assigned to the license holder according to section 245D.05, subdivision 1, paragraph (b). Unlicensed staff may [Delete] administer medications [End delete] [Add] perform medication setup

or medication administration [End Add] only after successful completion of a medication [Add] setup or medication [End Add] administration training, from a training curriculum developed by a registered nurse [Delete], clinical nurse specialist in psychiatric and mental health nursing, certified nurse practitioner, physician's assistant, or physician [End delete] [Add] or appropriate licensed health

professional[End Add].

The training curriculum must incorporate an observed skill assessment conducted by the trainer to ensure [Add]unlicensed[End Add] staff demonstrate the ability to safely and correctly follow medication procedures.

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

- (1) specialized or intensive medical or nursing supervision; and
- (2) nonmedical service providers to adapt their services to accommodate the health and safety needs of the person.

(e) The staff person must review and receive instruction on the safe and correct operation of medical equipment used by the person to sustain life, including but not limited to ventilators, feeding tubes, or endotracheal tubes. The training must be provided by a licensed health care professional or a manufacturer's representative and incorporate an observed skill assessment to ensure staff demonstrate the ability to safely and correctly operate the equipment according to the treatment orders and the manufacturer's instructions.

(f) The staff person must review and receive instruction on what constitutes use of restraints, time out, and seclusion, including chemical restraint, and staff responsibilities related to the prohibitions of their use according to the requirements in section 245D.06, subdivision 5 [Add]or successor provisions,[End Add] why such procedures are not effective for reducing

or eliminating symptoms or undesired behavior and why they are not safe, and the safe and correct use of manual restraint on an emergency basis according to the requirements in section 245D.061 [Add]or successor provisions.

(g) The staff person must review and receive instruction on mental health crisis response, de-escalation techniques, and suicide intervention when providing direct support to a person with a serious mental illness.[End Add]

~~(g)~~[End Delete] [Add](h)[End Add] In the event of an emergency service initiation, the license holder must ensure

the training required in this subdivision occurs within 72 hours of the direct support staff person first having unsupervised contact with the person receiving services. The license holder must document the reason for the unplanned or emergency service initiation and maintain the documentation in the person's service recipient record.

~~(h)~~[End Delete] [Add](i)[End Add] License holders who provide direct support services themselves must complete the orientation required in subdivision 4, clauses (3) to (7).

HF2402 / SF2087

Omnibus health and human services policy bill

Chapter 291, Article 8

Sec. 5. Minnesota Statutes 2013 Supplement, section 245D.09, subdivision 5, is amended to read:

Subd. 5. **Annual training.** A license holder must provide annual training to direct support staff on the topics identified in subdivision 4, clauses (3) to ~~(7)~~ and subdivision ~~4~~**[End delete] (10)**. A license holder must provide a minimum of 24 hours of annual training to direct service staff ~~with~~**[End delete]** providing intensive services and having fewer than five



- (iv) licensed professional clinical counselor licensed under sections 148B.29 to 148B.39 with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services who has demonstrated competencies in the areas identified in clauses (1) to (11);
- (v) person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services with demonstrated competencies in the areas identified in clauses (1) to (11); or
- (vi) registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist or as a nurse practitioner in adult or family psychiatric and mental health nursing by a national nurse certification organization, or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services.

HF3172 / SF 2785 Omnibus supplemental appropriations bill  
Chapter 312, Article 27

Sec. 44. Minnesota Statutes 2013 Supplement, section 245D.091, subdivision 3, is amended to read:

Subd. 3. **Behavior analyst qualifications.** (a) A behavior analyst **[Add]** providing behavioral support services as identified in section 245D.03, subdivision 1, paragraph (c), clause (1), item (i) **[End Add]**, **[Delete]** as defined in the brain injury and community alternatives for disabled individuals waiver plans or successor plans, **[End delete]** must **[Add]** have competencies in the following areas as required under the brain injury and community alternatives for disabled individuals waiver plans or successor plans: **[End Add]**

- (1) have obtained a baccalaureate degree, master's degree, or PhD in a social services discipline; or
  - (2) meet the qualifications of a mental health practitioner as defined in section 245.462, subdivision 17.
- (b) In addition, a behavior analyst must:
- (1) have four years of supervised experience working with individuals who exhibit challenging behaviors as well as co-occurring mental disorders or neurocognitive disorder;
  - (2) have received ten hours of instruction in functional assessment and functional analysis;
  - (3) have received 20 hours of instruction in the understanding of the function of behavior;
  - (4) have received ten hours of instruction on design of positive practices behavior support strategies;
  - (5) have received 20 hours of instruction on the use of behavior reduction approved strategies used only in combination with behavior positive practices strategies;
  - (6) be determined by a behavior professional to have the training and prerequisite skills required to provide positive practice strategies as well as behavior reduction approved and permitted intervention to the person who receives behavioral support; and
  - (7) be under the direct supervision of a behavior professional.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 45. Minnesota Statutes 2013 Supplement, section 245D.091, subdivision 4, is amended to read:

Subd. 4. **Behavior specialist qualifications.** (a) A behavior specialist [Add] providing behavioral support services as identified in section 245D.03, subdivision 1, paragraph (c), clause (1), item (i), [End Add] [Delete] as defined in the brain injury and community alternatives for disabled

individuals waiver plans or successor plans, [End delete] must [Delete] meet the following qualifications [End delete] [Add] have

competencies in the following areas as required under the brain injury and community alternatives for disabled individuals waiver plans or successor plans: [End Add]

(1) have an associate's degree in a social services discipline; or  
(2) have two years of supervised experience working with individuals who exhibit challenging behaviors as well as co-occurring mental disorders or neurocognitive disorder.

(b) In addition, a behavior specialist must:

- (1) have received a minimum of four hours of training in functional assessment;
- (2) have received 20 hours of instruction in the understanding of the function of behavior;
- (3) have received ten hours of instruction on design of positive practices behavioral support strategies;
- (4) be determined by a behavior professional to have the training and prerequisite skills required to provide positive practices strategies as well as behavior reduction approved intervention to the person who receives behavioral support; and
- (5) be under the direct supervision of a behavior professional.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 46. Minnesota Statutes 2013 Supplement, section 245D.10, subdivision 3, is amended to read:

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

(b) The policy must include the following requirements:

- (1) the license holder must notify the person or the person's legal representative and case manager in writing of the intended termination or temporary service suspension, and the person's right to seek a temporary order staying the termination of service according to the procedures in section 256.045, subdivision 4a, or 6, paragraph (c);
- (2) notice of the proposed termination of services, including those situations that began with a temporary service suspension, must be given at least 60 days before the proposed termination is to become effective when a license holder is providing intensive supports and services identified in section 245D.03, subdivision 1, paragraph (c), and 30 days prior to termination for all other services licensed under this chapter [Add]. This notice may be given in conjunction with a notice of temporary service suspension;
- (3) notice of temporary service suspension must be given on the first day of the service suspension; [End Add]

[Delete] (3) [End delete] [Add] (4) [End Add] the license holder must provide information requested by

the person or case manager when services are temporarily suspended or upon notice of termination; ~~(4)~~ (5) prior to giving notice of service termination or temporary service suspension, the license holder must document actions taken to minimize or eliminate the need for service suspension or termination; ~~(5)~~ (6) during the temporary service suspension or service termination notice period, the license holder ~~will~~ must work with the ~~appropriate county agency~~ support team or expanded support team to develop reasonable alternatives to protect the person and others; ~~(6)~~ (7) the license holder must maintain information about the service suspension or termination, including the written termination notice, in the service recipient record; and ~~(7)~~ (8) the license holder must restrict temporary service suspension to situations in which the person's conduct poses an imminent risk of physical harm to self or others and less restrictive or positive support strategies would not achieve and maintain safety.

HF2546 / SF1997 Revisor's bill – Technical amendments

Chapter 275, Article 1

Sec. 51. Minnesota Statutes 2013 Supplement, section 245D.10, subdivision 4, is amended to read: ***[see sister amendment below]***

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

(b) (1) The license holder must inform the person and case manager of the policies and procedures affecting a person's rights under section 245D.04, and provide copies of those policies and procedures, within five working days of service initiation.

(2) If a license holder only provides basic services and supports, this includes the:

- (i) grievance policy and procedure required under subdivision 2; and
- (ii) service suspension and termination policy and procedure required under subdivision 3.

(3) For all other license holders this includes the:

- (i) policies and procedures in clause (2);
- (ii) emergency use of manual restraints policy and procedure required under section 245D.061, subdivision ~~10~~ 9; and
- (iii) data privacy requirements under section 245D.11, subdivision 3.

(c) The license holder must provide a written notice to all persons or their legal representatives and case managers at least 30 days before implementing any procedural revisions to policies affecting a person's service-related or protection-related rights under section 245D.04 and maltreatment reporting policies and procedures. The notice must explain the revision that was made and include a copy of the revised policy and procedure. The license holder must document the reasonable cause for not providing the notice at least 30 days before implementing the revisions.

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

(e) The license holder must annually notify all persons, or their legal representatives, and case managers of any procedural revisions to policies required under this chapter, other than those in paragraph (c). Upon request, the license holder must provide the person, or the person's legal representative, and case manager with copies of the revised policies and procedures.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 47. Minnesota Statutes 2013 Supplement, section 245D.10, subdivision 4, is amended to read: **[see sister amendment below]**

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

(b) (1) The license holder must inform the person and case manager of the policies and procedures affecting a person's rights under section 245D.04, and provide copies of those policies and procedures, within five working days of service initiation.

(2) If a license holder only provides basic services and supports, this includes the:

(i) grievance policy and procedure required under subdivision 2; and  
(ii) service suspension and termination policy and procedure required under subdivision 3.

(3) For all other license holders this includes the:

(i) policies and procedures in clause (2);

(ii) emergency use of manual restraints policy and procedure required under section 245D.061, subdivision 10 **[Add]**, or successor provisions; **[End Add]** and

(iii) data privacy requirements under section 245D.11, subdivision 3.

(c) The license holder must provide a written notice to all persons or their legal representatives and case managers at least 30 days before implementing any procedural revisions to policies affecting a person's service-related or protection-related rights under section 245D.04 and maltreatment reporting policies and procedures. The notice must explain the revision that was made and include a copy of the revised policy and procedure. The license holder must document the reasonable cause for not providing the notice at least 30 days before implementing the revisions.

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

(e) The license holder must annually notify all persons, or their legal representatives, and case managers of any procedural revisions to policies required under this chapter, other than those in paragraph (c). Upon request, the license holder must provide the person, or the person's legal representative, and case manager with copies of the revised policies and procedures.

HF3172 / SF 2785 Omnibus supplemental appropriations bill

Chapter 312, Article 27

Sec. 48. Minnesota Statutes 2013 Supplement, section 245D.11, subdivision 2, is amended to read:

Subd. 2. **Health and safety.** The license holder must establish policies and

procedures that promote health and safety by ensuring:

- (1) use of universal precautions and sanitary practices in compliance with section 245D.06, subdivision 2, clause (5);
- (2) if the license holder operates a residential program, health service coordination and care according to the requirements in section 245D.05, subdivision 1;
- (3) safe medication assistance and administration according to the requirements in sections 245D.05, subdivisions 1a, 2, and 5, and 245D.051, that are established in consultation with a registered nurse, nurse practitioner, physician's assistant, or medical doctor and require completion of medication administration training according to the requirements in section 245D.09, subdivision 4a, paragraph (d). Medication assistance and administration includes, but is not limited to:
  - (i) providing medication-related services for a person;
  - (ii) medication setup;
  - (iii) medication administration;
  - (iv) medication storage and security;
  - (v) medication documentation and charting;
  - (vi) verification and monitoring of effectiveness of systems to ensure safe medication handling and administration;
  - (vii) coordination of medication refills;
  - (viii) handling changes to prescriptions and implementation of those changes;
  - (ix) communicating with the pharmacy; and
  - (x) coordination and communication with prescriber;
- (4) safe transportation, when the license holder is responsible for transportation of persons, with provisions for handling emergency situations according to the requirements in section 245D.06, subdivision 2, clauses (2) to (4);
- (5) a plan for ensuring the safety of persons served by the program in emergencies as defined in section 245D.02, subdivision 8, and procedures for staff to report emergencies to the license holder. A license holder with a community residential setting or a day service facility license must ensure the policy and procedures comply with the requirements in section 245D.22, subdivision 4;
- (6) a plan for responding to all incidents as defined in section 245D.02, subdivision 11; and reporting all incidents required to be reported according to section 245D.06, subdivision 1. The plan must:
  - (i) provide the contact information of a source of emergency medical care and transportation; and
  - (ii) require staff to first call 911 when the staff believes a medical emergency may be life threatening, or to call the mental health crisis intervention team **[Add]**or similar mental health response team or service when such a team is available and appropriate **[End Add]**when the person is experiencing a mental health crisis; and
- (7) a procedure for the review of incidents and emergencies to identify trends or patterns, and corrective action if needed. The license holder must establish and maintain a record-keeping system for the incident and emergency reports. Each incident and emergency report file must contain a written summary of the incident. The license holder must conduct a review of incident reports for identification of incident patterns, and implementation of corrective action as necessary to reduce occurrences. Each incident report must include:
  - (i) the name of the person or persons involved in the incident. It is not necessary to identify all persons affected by or involved in an emergency unless the emergency

- resulted in an incident;
- (ii) the date, time, and location of the incident or emergency;
  - (iii) a description of the incident or emergency;
  - (iv) a description of the response to the incident or emergency and whether a person's coordinated service and support plan addendum or program policies and procedures were implemented as applicable;
  - (v) the name of the staff person or persons who responded to the incident or emergency; and
  - (vi) the determination of whether corrective action is necessary based on the results of the review.

HF2546 / SF1997 Revisor's bill – Technical amendments

Chapter 275, Article 1

Sec. 52. Minnesota Statutes 2013 Supplement, section 245D.11, subdivision 4, is amended to read:

Subd. 4. **Admission criteria.** The license holder must establish policies and procedures that promote continuity of care by ensuring that admission or service initiation criteria:

- (1) is consistent with the ~~license holder's registration information identified in the requirements in section 245D.031, subdivision 2, and with the~~ **[Delete]** service-related rights identified in section 245D.04, subdivisions 2, clauses (4) to (7), and 3, clause (8);
- (2) identifies the criteria to be applied in determining whether the license holder can develop services to meet the needs specified in the person's coordinated service and support plan;
- (3) requires a license holder providing services in a health care facility to comply with the requirements in section 243.166, subdivision 4b, to provide notification to residents when a registered predatory offender is admitted into the program or to a potential admission when the facility was already serving a registered predatory offender. For purposes of this clause, "health care facility" means a facility licensed by the commissioner as a residential facility under chapter 245A to provide adult foster care or residential services to persons with disabilities; and
- (4) requires that when a person or the person's legal representative requests services from the license holder, a refusal to admit the person must be based on an evaluation of the person's assessed needs and the license holder's lack of capacity to meet the needs of the person. The license holder must not refuse to admit a person based solely on the type of residential services the person is receiving, or solely on the person's severity of disability, orthopedic or neurological handicaps, sight or hearing impairments, lack of communication skills, physical disabilities, toilet habits, behavioral disorders, or past failure to make progress. Documentation of the basis for refusal must be provided to the person or the person's legal representative and case manager upon request.

HF2546 / SF1997 Revisor's bill – Technical amendments

Chapter 275, Article 1

Sec. 53. Minnesota Statutes 2013 Supplement, section 245D.31, subdivision 10, is amended to read:

Subd. 10. **Supervision requirements.** (a) At no time must one direct support

staff member be assigned responsibility for supervision and training of more than ten persons receiving supervision and training, except as otherwise stated in each person's ~~[Delete]risk management[End delete]~~~~[Add]~~ coordinated service and support~~[End Add]~~ plan ~~[Add]~~or coordinated service and support plan addendum~~[End Add]~~.

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

HF2402 / SF2087 Omnibus health and human services policy bill  
Chapter 291, Article 3

Sec. 2. Minnesota Statutes 2013 Supplement, section 245D.33, is amended to read:

**245D.33 ADULT MENTAL HEALTH CERTIFICATION STANDARDS.**

(a) The commissioner of human services shall issue a mental health certification for services licensed under this chapter when a license holder is determined to have met the requirements under ~~[Add]~~section 245A.03, subdivision 6a,~~[End Add]~~ paragraph (b). This certification is voluntary for license holders. The certification shall be printed on the license and identified on the commissioner's public Web site.

(b) ~~[Delete]~~The requirements for certification are:

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

- ~~(i) mental health diagnoses;~~
- ~~(ii) mental health crisis response and de-escalation techniques;~~
- ~~(iii) recovery from mental illness;~~
- ~~(iv) treatment options, including evidence-based practices;~~
- ~~(v) medications and their side effects;~~
- ~~(vi) co-occurring substance abuse and health conditions; and~~
- ~~(vii) community resources;~~

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

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

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

~~[Delete] (c) [End delete]~~ License holders seeking certification under this section must request this certification on forms and in the manner prescribed by the commissioner.

~~[Delete] (d) [End delete]~~ (c) If the commissioner finds that the license holder has failed to comply with the certification requirements under~~[Add]~~ section 245A.03, subdivision 6a,~~[End Add]~~ paragraph (b), the commissioner may issue a correction order and an order of conditional license in accordance with section 245A.06 or may issue a sanction in accordance with section 245A.07, including and up to removal of the certification.

~~[Delete] (e) [End delete]~~ (d) A denial of the certification or the removal of the certification based on a determination that the requirements under ~~[Add]~~section 245A.03, subdivision 6a,~~[End Add]~~ paragraph (b) have not been met is not subject to appeal. A license holder that has been denied a certification or that has had a certification removed may again request certification when the license holder is in compliance with the requirements of~~[Add]~~section 245A.03, subdivision 6a,~~[End Add]~~ paragraph (b).

