

**DHS DIVISION OF LICENSING
Self-Monitoring Checklist**

Home and Community-Based Services Licensed under Minnesota Statutes, chapter 245D

SERVICE RECIPIENT RIGHTS

Definitions:

“Authorized representative” means a parent, family member, advocate, or other adult authorized by the person or the person’s legal representative, to serve as a representative in connection with the provision of services licensed under this chapter. This authorization must be in writing or by another method that clearly indicates the person’s free choice. The authorized representative must have no financial interest in the provision of any services included in the person’s service delivery plan and must be capable of providing the support necessary to assist the person in the use of home and community-based services licensed under this chapter [section 245D.02, subdivision 2a].

"Coordinated service and support plan" [CSSP] 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 [section 245D.02, subdivision 4b].

The CSSP is developed by the case manager in consultation with person and/or their representative. The CSSP provides direction to license holders and assigns responsibilities, including:

- *Services/tasks that the license holder is responsible to implement*
- *Reporting requirements above the minimum reporting required in Chapter 245D*
- *Person-centered planning elements*
- *Additional assessments to be completed by the license holder, if any.*

"Coordinated service and support plan addendum" [CSSP addendum] means the documentation that this chapter requires of the license holder for each person receiving services [section 245D.02, subdivision 4c].

The person’s support team or expanded support team must participate in the development of the CSSP addendum. The CSSP addendum is not a single document. It is multiple documents or documentation the license holder is required to develop that identify how services will be delivered in order to meet a person’s identified needs and desired outcomes.

Within the scope of services and the responsibilities assigned to the license holder in the CSSP, the CSSP addendum may include the following elements:

- *Documentation when the person’s rights have been restricted, including justification and the plan for full restoration of rights [section 245D.04, subdivision 3, paragraph (c)]*
- *Documentation of the health needs procedures, including psychotropic medication monitoring [sections 245D.04, subdivision 3, paragraph (c) and 245D.051]*
- *Reports of incidents [section 245D.06, subdivision 1]*
- *Documentation of the positive support transition plan, when required [section 245D.06, subdivision 8]*
- *Individual abuse prevention plan (IAPP) [section 245A.65, subdivision 2, paragraph (b)]*
- *Assessments and service planning [sections 245D.07, subdivision 2 and 245D.071, subdivision 3]*
- *Documentation of the methods to be used to support a person’s identified needs and accomplish identified outcomes [section 245D.071, subdivisions 3 – 5] including:*
 - *Documentation of any continuous use of permitted actions and procedures [section 245D.06, subdivision 7, paragraphs (b) and (c)] and*

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Documentation of the support team's review of emergency use of manual restraint and any changes to the person's service plan [section 245D.061, subdivision 7]

- *Progress reports and recommendations [sections 245D.07, subdivision 3 and 245D.071, subdivision 5]*

"Least restrictive alternative" means the alternative method for providing supports and services that is the least intrusive and most normalized given the level of supervision and protection required for the person. This level of supervision and protection allows risk taking to the extent that there is no reasonable likelihood that serious harm will happen to the person or others [section 245D.02, subdivision 11b].

"Legal representative" means the parent of a person who is under 18 years of age, a court-appointed guardian, or other representative with legal authority to make decisions about services for a person. Other representatives with legal authority to make decisions include but are not limited to a health care agent or an attorney-in-fact authorized through a health care directive or power of attorney [section 245D.02, subdivision 12].

"Most integrated setting" means a setting that enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible [section 245D.02, subdivision 20a].

Key

Language that is contained in [brackets] or *italics* is provided for clarification.

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LAW / RULE CITE	LICENSING STANDARD	RECORD 1	RECORD 2	RECORD 3	NOTES
245D.03 , Subd. 2, (b)	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. This chapter does not apply to corporate or family child foster care homes that do not provide services licensed under this chapter.				
245D.03, Subd. 2, (d)	A license holder providing services licensed according to this chapter in a supervised living facility is exempt from compliance with section 245D.04. [These programs should refer to the Health Care Bill of Rights under section 144.651.]				
245D.03, Subd. 2, (e)	A license holder providing residential services to persons in an ICF/DD is exempt from compliance with section 245D.04. [These programs should refer to the Health Care Bill of Rights under section 144.651.]				
245D.03, Subd. 2, (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.				
245D.04 , Subd. 1	<u>Exercise and Protection of Rights</u> The license holder ensured the exercise and protection of the person's rights.				
245D.04, Subd. 1, (a)	(4) The license holder ensured the exercise and protection of the person's rights in the services provided by the license holder and as authorized in the CSSP.				
245D.04, Subd. 2	A person's service-related rights included the right to: (1) participate in the development and evaluation of the services provided to the person;				

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	(2) have services and supports identified in the CSSP and the CSSP addendum provided in a manner that respects and takes into consideration the person's preferences according to the requirements in sections 245D.07 and 245D.071 ;				
	(3) refuse or terminate services and be informed of the consequences of refusing or terminating services;				
	(4) know, in advance, limits to the services available from the license holder, including the license holder's knowledge, skill, and ability to meet the person's service and support needs;				
	(5) know conditions and terms governing the provision of services, including the license holder's admission criteria and policies and procedures related to temporary service suspension and service termination;				
	(6) a coordinated transfer to ensure continuity of care when there will be a change in the provider;				
	(7) know what the charges are for services, regardless of who will be paying for the services, and be notified of changes in those charges;				
	and be notified of changes in those charges;				
	(8) know, in advance, whether services are covered by insurance, government funding, or other sources,				
	and be told of any charges the person or other private party may have to pay; and				
	(9) receive services from an individual who is competent and trained,				
	who has professional certification or licensure, as required, and				
	who meets additional qualifications identified in the person's CSSP or CSSP addendum.				

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245D.04, Subd. 3, (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, seclusion, restrictive intervention, or other prohibited procedure identified in section 245D.06, subdivision 5, or successor provisions, except for (i) 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.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;				
	(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;					

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	<p>(11) assert these rights personally, or have them asserted by the person's family, authorized representative, or legal representative, without retaliation;</p> <p>(12) give or withhold written informed consent to participate in any research or experimental treatment;</p> <p>(13) associate with other persons of the person's choice;</p> <p>(14) personal privacy; and</p> <p>(15) engage in chosen activities.</p>				
245D.04, Subd. 3, (b)	<p>For a person residing in a residential site licensed according to chapter 245A, or where the license holder is owner, lessor, or tenant of the residential service site, protection-related rights also include the right to:</p> <p>(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;</p> <p>(2) receive and send, without interference, uncensored, unopened mail or electronic correspondence or communication;</p> <p>(3) have use of and free access to common areas in the residence; and</p> <p>(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.</p> <p>(c) Restriction of a person's rights under paragraph (a) clauses (13) to (15), or paragraph (b) was allowed only if determined necessary to ensure the health, safety, and well-being of the person.</p> <p>Any restriction of those rights was documented in the person's CSSP or CSSP addendum, and was implemented in least restrictive manner.</p>				

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	The restriction was 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 included 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	Schedule Review Dates	Schedule Review Dates	Schedule Review Dates	
	(4) signed and dated approval for the restriction from the person, or the person's legal representative, if any.				
	A restriction was implemented only when the required approval had been obtained.				
	Approval may be withdrawn at any time. If approval was withdrawn, the right was immediately and fully restored.	Withdrawal Date Restored Date	Withdrawal Date Restored Date	Withdrawal Date Restored Date	