

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

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

## **BACKGROUND STUDIES**

### Definitions

"Annual" or "annually" means prior to or within the same month of the subsequent calendar year [section 245A.02, subdivision 2b].

"Continuous, direct supervision" means an individual is within sight or hearing of the program's supervising individual to the extent that the program's supervising individual is capable at all times of intervening to protect the health and safety of the persons served by the program [section 245C.02, subdivision 8].

"Direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by the program [section 245C.02, subdivision 11].

"Direct contact" has the meaning given in section [245C.02, subdivision 11](#), and is used interchangeably with the term "direct support service" [section 245D.02, subdivision 6].

"Direct support staff" or "staff" means employees of the license holder who have direct contact with persons served by the program and includes temporary staff or subcontractors, regardless of employer, providing program services for hire under the control of the license holder who have direct contact with persons served by the program [section 245D.02, subdivision 6a].

### 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
	<p align="right">Date of hire:</p> <p align="center">Date completed background study was submitted:</p> <p align="center">Date of first supervised direct contact with persons served by the program:</p> <p align="center">Date notice was received from DHS allowing the individual to have direct contact with persons served by the program:</p> <p align="center">Date of first unsupervised direct contact with persons served by the program:</p>				
<b><u>245C.04,</u></b> <b>Subd. 1</b>	<b><u>When to Submit a Background Study</u></b> <b>The license holder ensured the requirements for submitting a background study were met.</b>				
245C.04, Subd. 1, (h)	The license holder submitted a completed background study request to DHS using the electronic system known as NETStudy before an individual specified in section <a href="#">245C.03</a> , subdivision 1, began a position allowing direct contact in the licensed program.				
245C.04, Subd. 1, (i)	<p>The license holder initiated a new background study through NETStudy when:</p> <p>(1) an individual returned to a position requiring a background study following an absence of 120 or more consecutive days; or</p> <p>(2) a program that discontinued providing licensed direct contact services for 120 or more consecutive days began to provide direct contact licensed services again.</p> <p>The license holder maintained a copy of the notification provided to DHS in the program's files.</p>				

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<a href="#">245D.09</a> , Subd. 6	<u>Subcontractors and Temporary Staff</u> If the license holder used a subcontractor or temporary staff to perform services licensed under Minnesota Statutes, chapter 245D on the license holder's behalf, the license holder ensured that a background study was completed according to the requirements in Minnesota Statutes, sections <a href="#">245C.03, subdivision 1</a> , and <a href="#">245C.04</a> .				
245D.09, Subd. 7	<u>Volunteers</u> The license holder ensured that for volunteers who provide direct support services to persons served by the program a background study was completed according to the requirements in Minnesota Statutes, sections <a href="#">245C.03, subdivision 1</a> , and <a href="#">245C.04</a> .				
<a href="#">245C.04</a> , Subd. 5 and <a href="#">245C.20</a> , Subd. 2	<b><u>Staff from Outside Agencies</u></b> <b>The license holder ensured that an individual from an outside agency, program, or service having direct contact with persons served by the program had a background study that was completed annually.</b>				
245C.04, Subd. 5	<u>Annual Studies</u> Personnel or professional agencies, programs, and individuals who initiate background studies under Minnesota Statutes, section <a href="#">245C.03</a> , subdivision 4, initiated the studies annually, including:  (1) personnel pool agencies;  (2) temporary personnel agencies;  (3) educational programs that train individuals by providing direct contact services in licensed programs; and  (4) professional services agencies that are not licensed and which contract with licensed programs to provide direct contact services or individuals who provide direct contact services.				

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245C.20, Subd. 2	<u>Background studies initiated by others</u> If the license holder relied on a background study initiated by a personnel pool agency, a temporary personnel agency, an educational program, or a professional services agency for a person required to have a background study completed under section <a href="#">245C.03</a> , the license holder maintained a copy of the background study results in the license holder's files.				
<a href="#">245C.07</a>	<b><u>Staff Working Across Multiple Programs for Same License Holder</u></b> <b>The license holder met the requirements for submitting a single background study for an individual who provides direct contact services in one or more of the licensed programs or services owned by the license holder.</b>				
245C.07, (a)	When a license holder, applicant, or other entity owned multiple programs or services that are licensed by the Department of Human Services, Department of Health, or Department of Corrections, only one background study was required for an individual who provides direct contact services in one or more of the licensed programs or services if:				
	(1) the license holder designated one individual				
	with one address and [one] telephone number as the person to receive sensitive background study information for the multiple licensed programs or services that depend on the same background study; and				
	(2) the individual designated to receive the sensitive background study information was capable of determining, upon request of the department, whether a background study subject was providing direct contact services in one or more of the license holder's programs or services and, if so, at which location or locations.				
245C.07, (b)	When the license holder maintained background study compliance for multiple licensed programs according to paragraph (a), and one or more of the licensed programs closed, the license holder immediately notified DHS which staff to transfer to an active license so that the background studies could be electronically paired with the license holder's active program.				

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<a href="#">245C.13</a> , Subd. 2	<p><b><u>Continuous Direct Supervision Pending Notice</u></b>  <b>The license holder ensured that pending notice from DHS, a staff person did not provide direct contact services to persons served by the program unless the subject was under continuous direct supervision.</b></p>				
245C.13, Subd. 2, (a)	<p>After the completed background study was submitted, the license holder ensured that an individual providing direct contact services to persons served by a program was under continuous direct supervision until DHS issued notice of the study results, including:</p> <p>(1) a notice of the study results under Minnesota Statutes, section <a href="#">245C.17</a> stating that:</p> <p>(i) the individual is not disqualified; or</p> <p>(ii) more time is needed to complete the study but the individual is not required to be removed from direct contact or access to people receiving services prior to completion of the study.</p> <p>(2) a notice that a disqualification has been set aside under Minnesota Statutes, section <a href="#">245C.23</a>; or</p> <p>(3) a notice that a variance has been granted related to the individual under Minnesota Statutes, section <a href="#">245C.30</a>.</p>				
<a href="#">245C.20</a>	<p><b><u>Background Study Records</u></b>  <b>The license holder ensured that background study records were maintained as required.</b></p>				
245C.20, Subd. 1	<p>The license holder documented the date the program initiated a background study in the program's personnel files.</p> <p>The license holder maintained a notice that the background study was undertaken and completed in the program's personnel files.</p>				

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	<p>Except when the background study was initiated through NETStudy, if the license holder did not receive a response from DHS within 45 days of initiation of the background study request, the license holder contacted DHS to inquire about the status of the study.</p> <p>If a license holder initiated a background study under NETStudy, but the background study subject's name did not appear in the list of active or recent studies initiated by that license holder, the license holder either contacted DHS or resubmitted the study information online for that individual.</p>				
<a href="#">245C.30</a>	<p><b>Background Study Variances</b>  <b>The license holder complied with the conditions of a variance to permit a disqualified individual to provide services.</b></p>				
	<p>The license holder complied with the conditions of a variance that permitted a disqualified individual to provide services for which the subject was disqualified.</p> <ul style="list-style-type: none"> <li>▪ If the license holder does not comply with the conditions of the variance, the commissioner may terminate the variance effective immediately and subject the license holder to a licensing action under Minnesota Statutes, sections <a href="#">245A.06</a> and <a href="#">245A.07</a>.</li> </ul>				