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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

**EIGHTY-SIXTH  
SESSION**

**HOUSE FILE No. 1750**

March 16, 2009

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The bill was read for the first time and referred to the Committee on Health Care and Human Services Policy and Oversight

March 23, 2009

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Early Childhood Finance and Policy Division

1.1 A bill for an act  
1.2 relating to human services; making changes to data practices and licensing  
1.3 provisions; modifying license disqualifications and background study  
1.4 requirements; making other changes to programs and services licensed by the  
1.5 Department of Human Services; amending Minnesota Statutes 2008, sections  
1.6 13.46, subdivisions 3, 4; 157.16, by adding a subdivision; 245.4871, subdivision  
1.7 10; 245A.03, subdivision 2; 245A.04, subdivisions 5, 7; 245A.05; 245A.07,  
1.8 subdivisions 1, 3; 245A.11, by adding a subdivision; 245A.1435; 245A.144;  
1.9 245A.1444; 245A.16, subdivision 1; 245A.40, subdivision 5; 245A.50,  
1.10 subdivision 5; 245C.03, subdivision 1; 245C.04, subdivision 1; 245C.07;  
1.11 245C.08; 245C.13, subdivision 2; 245C.15, subdivisions 1, 2, 3, 4; 245C.22,  
1.12 subdivision 7; 245C.24, subdivisions 2, 3; 245C.25; 245C.27, subdivision  
1.13 1; 256.045, subdivisions 3, 3b; 256B.0943, subdivisions 4, 6, 9; 626.556,  
1.14 subdivisions 2, 10e, 10f; 626.557, subdivisions 9c, 12b; 626.5572, subdivision  
1.15 13; proposing coding for new law in Minnesota Statutes, chapter 256; repealing  
1.16 Minnesota Statutes 2008, section 245C.10, subdivision 1.

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

1.18 **ARTICLE 1**  
1.19 **DATA PRACTICES**

1.20 Section 1. Minnesota Statutes 2008, section 13.46, subdivision 3, is amended to read:

1.21 Subd. 3. **Investigative data.** (a) Data on persons, including data on vendors of  
1.22 services ~~and data on~~ licensees, and applicants, that is collected, maintained, used, or  
1.23 disseminated by the welfare system in an investigation, authorized by statute and relating  
1.24 to the enforcement of rules or law, is confidential data on individuals pursuant to section  
1.25 13.02, subdivision 3, or protected nonpublic data not on individuals pursuant to section  
1.26 13.02, subdivision 13, and shall not be disclosed except:

- 1.27 (1) pursuant to section 13.05;
- 1.28 (2) pursuant to statute or valid court order;

2.1 (3) to a party named in a civil or criminal proceeding, administrative or judicial, for  
 2.2 preparation of defense; or

2.3 (4) to provide notices required or permitted by statute.

2.4 The data referred to in this subdivision shall be classified as public data upon  
 2.5 its submission to an administrative law judge or court in an administrative or judicial  
 2.6 proceeding. Inactive welfare investigative data shall be treated as provided in section  
 2.7 13.39, subdivision 3.

2.8 (b) Notwithstanding any other provision in law, the commissioner of human services  
 2.9 shall provide all active and inactive investigative data, including the name of the reporter  
 2.10 of alleged maltreatment under section 626.556 or 626.557, to the ombudsman for mental  
 2.11 health and developmental disabilities upon the request of the ombudsman.

2.12 Sec. 2. Minnesota Statutes 2008, section 13.46, subdivision 4, is amended to read:

2.13 Subd. 4. **Licensing data.** (a) As used in this subdivision:

2.14 (1) "licensing data" means all data collected, maintained, used, or disseminated by  
 2.15 the welfare system pertaining to persons licensed or registered or who apply for licensure  
 2.16 or registration or who formerly were licensed or registered under the authority of the  
 2.17 commissioner of human services;

2.18 (2) "client" means a person who is receiving services from a licensee or from an  
 2.19 applicant for licensure; and

2.20 (3) "personal and personal financial data" means Social Security numbers, identity  
 2.21 of and letters of reference, insurance information, reports from the Bureau of Criminal  
 2.22 Apprehension, health examination reports, and social/home studies.

2.23 (b)(1) Except as provided in paragraph (c), the following data on applicants, license  
 2.24 holders, and former licensees are public: name, address, telephone number of licensees,  
 2.25 date of receipt of a completed application, dates of licensure, licensed capacity, type of  
 2.26 client preferred, variances granted, record of training and education in child care and child  
 2.27 development, type of dwelling, name and relationship of other family members, previous  
 2.28 license history, class of license, the existence and status of complaints, and the number  
 2.29 of serious injuries to or deaths of individuals in the licensed program as reported to the  
 2.30 commissioner of human services, the local social services agency, or any other county  
 2.31 welfare agency. For purposes of this clause, a serious injury is one that is treated by  
 2.32 a physician. When a correction order ~~or~~, an order to forfeit a fine, an order of license  
 2.33 suspension, an order of temporary immediate suspension, an order of license revocation,  
 2.34 an order of license denial, or an order of conditional license has been issued, ~~a license is~~  
 2.35 ~~suspended, immediately suspended, revoked, denied, or made conditional,~~ or a complaint

3.1 is resolved, the following data on current and former licensees and applicants are public:  
3.2 the substance and investigative findings of the licensing or maltreatment complaint,  
3.3 licensing violation, or substantiated maltreatment; the record of informal resolution of a  
3.4 licensing violation; orders of hearing; findings of fact; conclusions of law; specifications of  
3.5 the final correction order, fine, suspension, temporary immediate suspension, revocation,  
3.6 denial, or conditional license contained in the record of licensing action; whether a fine  
3.7 has been paid; and the status of any appeal of these actions. If a licensing sanction under  
3.8 section 245A.07, or a license denial under section 245A.05, is based on a determination  
3.9 that the license holder or applicant is responsible for maltreatment or is disqualified under  
3.10 chapter 245C, the identity of the license holder or applicant as the individual responsible  
3.11 for maltreatment or as the disqualified individual is public data at the time of the issuance  
3.12 of the licensing sanction or denial.

3.13 (2) Notwithstanding sections 626.556, subdivision 11, and 626.557, subdivision 12b,  
3.14 when any person subject to disqualification under section 245C.14 in connection with a  
3.15 license to provide family day care for children, child care center services, foster care  
3.16 for children in the provider's home, or foster care or day care services for adults in the  
3.17 provider's home is a substantiated perpetrator of maltreatment, and the substantiated  
3.18 maltreatment is a reason for a licensing action, the identity of the substantiated perpetrator  
3.19 of maltreatment is public data. For purposes of this clause, a person is a substantiated  
3.20 perpetrator if the maltreatment determination has been upheld under section 256.045;  
3.21 626.556, subdivision 10i; 626.557, subdivision 9d; or chapter 14, or if an individual or  
3.22 facility has not timely exercised appeal rights under these sections, except as provided  
3.23 under clause (1).

3.24 (3) For applicants who withdraw their application prior to licensure or denial of a  
3.25 license, the following data are public: the name of the applicant, the city and county in  
3.26 which the applicant was seeking licensure, the dates of the commissioner's receipt of the  
3.27 initial application and completed application, the type of license sought, and the date  
3.28 of withdrawal of the application.

3.29 (4) For applicants who are denied a license, the following data are public: the name  
3.30 and address of the applicant, the city and county in which the applicant was seeking  
3.31 licensure, the dates of the commissioner's receipt of the initial application and completed  
3.32 application, the type of license sought, the date of denial of the application, the nature of  
3.33 the basis for the denial, the record of informal resolution of a denial, orders of hearings,  
3.34 findings of fact, conclusions of law, specifications of the final order of denial, and the  
3.35 status of any appeal of the denial.

4.1 (5) The following data on persons subject to disqualification under section 245C.14  
4.2 in connection with a license to provide family day care for children, child care center  
4.3 services, foster care for children in the provider's home, or foster care or day care services  
4.4 for adults in the provider's home, are public: the nature of any disqualification set  
4.5 aside under section 245C.22, subdivisions 2 and 4, and the reasons for setting aside the  
4.6 disqualification; the nature of any disqualification for which a variance was granted under  
4.7 sections 245A.04, subdivision 9; and 245C.30, and the reasons for granting any variance  
4.8 under section 245A.04, subdivision 9; and, if applicable, the disclosure that any person  
4.9 subject to a background study under section 245C.03, subdivision 1, has successfully  
4.10 passed a background study. If a licensing sanction under section 245A.07, or a license  
4.11 denial under section 245A.05, is based on a determination that an individual subject to  
4.12 disqualification under chapter 245C is disqualified, the disqualification as a basis for the  
4.13 licensing sanction or denial is public data. As specified in clause (1), if the disqualified  
4.14 individual is the license holder or applicant, the identity of the license holder or applicant  
4.15 is public data. If the disqualified individual is an individual other than the license holder  
4.16 or applicant, the identity of the disqualified individual shall remain private data unless  
4.17 otherwise specified under sections 245C.22, subdivision 7, and 245C.301.

4.18 (6) When maltreatment is substantiated under section 626.556 or 626.557 and the  
4.19 victim and the substantiated perpetrator are affiliated with a program licensed under  
4.20 chapter 245A, the commissioner of human services, local social services agency, or  
4.21 county welfare agency may inform the license holder where the maltreatment occurred of  
4.22 the identity of the substantiated perpetrator and the victim.

4.23 (7) Notwithstanding clause (1), for child foster care, only the name of the license  
4.24 holder and the status of the license are public if the county attorney has requested that data  
4.25 otherwise classified as public data under clause (1) be considered private data based on the  
4.26 best interests of a child in placement in a licensed program.

4.27 (c) The following are private data on individuals under section 13.02, subdivision  
4.28 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial  
4.29 data on family day care program and family foster care program applicants and licensees  
4.30 and their family members who provide services under the license.

4.31 (d) The following are private data on individuals: the identity of persons who have  
4.32 made reports concerning licensees or applicants that appear in inactive investigative data,  
4.33 and the records of clients or employees of the licensee or applicant for licensure whose  
4.34 records are received by the licensing agency for purposes of review or in anticipation of a  
4.35 contested matter. The names of reporters of complaints or alleged violations of licensing  
4.36 standards under chapters 245A, 245B, 245C, and applicable rules and alleged maltreatment

5.1 under sections 626.556 and 626.557, are confidential data and may be disclosed only as  
5.2 provided in section 626.556, subdivision 11, or 626.557, subdivision 12b.

5.3 (e) Data classified as private, confidential, nonpublic, or protected nonpublic under  
5.4 this subdivision become public data if submitted to a court or administrative law judge as  
5.5 part of a disciplinary proceeding in which there is a public hearing concerning a license  
5.6 which has been suspended, immediately suspended, revoked, or denied.

5.7 (f) Data generated in the course of licensing investigations that relate to an alleged  
5.8 violation of law chapters 245A, 245B, 245C, and applicable rules, and sections 626.556  
5.9 and 626.557, are investigative data under subdivision 3.

5.10 (g) Data that are not public data collected, maintained, used, or disseminated under  
5.11 this subdivision that relate to or are derived from a report as defined in section 626.556,  
5.12 subdivision 2, or 626.5572, subdivision 18, are subject to the destruction provisions of  
5.13 sections 626.556, subdivision 11c, and 626.557, subdivision 12b.

5.14 (h) Upon request, not public data collected, maintained, used, or disseminated under  
5.15 this subdivision that relate to or are derived from a report of substantiated maltreatment as  
5.16 defined in section 626.556 or 626.557 may be exchanged with the Department of Health  
5.17 for purposes of completing background studies pursuant to section 144.057 and with  
5.18 the Department of Corrections for purposes of completing background studies pursuant  
5.19 to section 241.021.

5.20 (i) Data on individuals collected according to licensing activities under chapters  
5.21 245A and 245C, and data on individuals collected by the commissioner of human services  
5.22 according to maltreatment investigations under sections 626.556 and 626.557, may be  
5.23 shared with the Department of Human Rights, the Department of Health, the Department  
5.24 of Corrections, the ombudsman for mental health and developmental disabilities, and  
5.25 the individual's professional regulatory board when there is reason to believe that laws  
5.26 or standards under the jurisdiction of those agencies may have been violated. Unless  
5.27 otherwise specified in this chapter, the identity of a reporter of alleged maltreatment or  
5.28 licensing violations may not be disclosed.

5.29 (j) In addition to the notice of determinations required under section 626.556,  
5.30 subdivision 10f, if the commissioner or the local social services agency has determined  
5.31 that an individual is a substantiated perpetrator of maltreatment of a child based on sexual  
5.32 abuse, as defined in section 626.556, subdivision 2, and the commissioner or local social  
5.33 services agency knows that the individual is a person responsible for a child's care in  
5.34 another facility, the commissioner or local social services agency shall notify the head  
5.35 of that facility of this determination. The notification must include an explanation of the  
5.36 individual's available appeal rights and the status of any appeal. If a notice is given under

6.1 this paragraph, the government entity making the notification shall provide a copy of the  
6.2 notice to the individual who is the subject of the notice.

6.3 (k) All not public data collected, maintained, used, or disseminated under this  
6.4 subdivision and subdivision 3 may be exchanged between the Department of Human  
6.5 Services, Licensing Division, and the Department of Corrections for purposes of  
6.6 regulating services for which the Department of Human Services and the Department  
6.7 of Corrections have regulatory authority.

6.8 **ARTICLE 2**  
6.9 **LICENSING**

6.10 Section 1. Minnesota Statutes 2008, section 157.16, is amended by adding a  
6.11 subdivision to read:

6.12 Subd. 5. Exemption for certain establishments. This section does not apply to  
6.13 group residential facilities of ten or fewer beds licensed by the commissioner of human  
6.14 services under Minnesota Rules, chapter 2960, provided the facility employs or contracts  
6.15 with a certified food manager under Minnesota Rules, part 4626.2015.

6.16 Sec. 2. Minnesota Statutes 2008, section 245.4871, subdivision 10, is amended to read:

6.17 Subd. 10. **Day treatment services.** "Day treatment," "day treatment services," or  
6.18 "day treatment program" means a structured program of treatment and care provided to a  
6.19 child in:

6.20 (1) an outpatient hospital accredited by the Joint Commission on Accreditation of  
6.21 Health Organizations and licensed under sections 144.50 to 144.55;

6.22 (2) a community mental health center under section 245.62;

6.23 (3) an entity that is under contract with the county board to operate a program that  
6.24 meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts  
6.25 9505.0170 to 9505.0475; or

6.26 (4) an entity that operates a program that meets the requirements of section  
6.27 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475, that is  
6.28 under contract with an entity that is under contract with a county board.

6.29 Day treatment consists of group psychotherapy and other intensive therapeutic  
6.30 services that are provided for a minimum ~~three-hour~~ two-hour time block by a  
6.31 multidisciplinary staff under the clinical supervision of a mental health professional.  
6.32 Day treatment may include education and consultation provided to families and  
6.33 other individuals as an extension of the treatment process. The services are aimed at  
6.34 stabilizing the child's mental health status, and developing and improving the child's daily

7.1 independent living and socialization skills. Day treatment services are distinguished from  
7.2 day care by their structured therapeutic program of psychotherapy services. Day treatment  
7.3 services are not a part of inpatient hospital or residential treatment services. ~~Day treatment~~  
7.4 ~~services for a child are an integrated set of education, therapy, and family interventions.~~

7.5 A day treatment service must be available to a child ~~at least five days~~ up to 15 hours  
7.6 a week throughout the year and must be coordinated with, integrated with, or part of an  
7.7 education program offered by the child's school.

7.8 Sec. 3. Minnesota Statutes 2008, section 245A.03, subdivision 2, is amended to read:

7.9 Subd. 2. **Exclusion from licensure.** (a) This chapter does not apply to:

7.10 (1) residential or nonresidential programs that are provided to a person by an  
7.11 individual who is related unless the residential program is a child foster care placement  
7.12 made by a local social services agency or a licensed child-placing agency, except as  
7.13 provided in subdivision 2a;

7.14 (2) nonresidential programs that are provided by an unrelated individual to persons  
7.15 from a single related family;

7.16 (3) residential or nonresidential programs that are provided to adults who do  
7.17 not abuse chemicals or who do not have a chemical dependency, a mental illness, a  
7.18 developmental disability, a functional impairment, or a physical disability;

7.19 (4) sheltered workshops or work activity programs that are certified by the  
7.20 commissioner of economic security;

7.21 (5) programs operated by a public school for children 33 months or older;

7.22 (6) nonresidential programs primarily for children that provide care or supervision  
7.23 for periods of less than three hours a day while the child's parent or legal guardian is in  
7.24 the same building as the nonresidential program or present within another building that is  
7.25 directly contiguous to the building in which the nonresidential program is located;

7.26 (7) nursing homes or hospitals licensed by the commissioner of health except as  
7.27 specified under section 245A.02;

7.28 (8) board and lodge facilities licensed by the commissioner of health that provide  
7.29 services for five or more persons whose primary diagnosis is mental illness that do not  
7.30 provide intensive residential treatment;

7.31 (9) homes providing programs for persons placed by a county or a licensed agency  
7.32 for legal adoption, unless the adoption is not completed within two years;

7.33 (10) programs licensed by the commissioner of corrections;

- 8.1 (11) recreation programs for children or adults that are operated or approved by a  
8.2 park and recreation board whose primary purpose is to provide social and recreational  
8.3 activities;
- 8.4 (12) programs operated by a school as defined in section 120A.22, subdivision 4,  
8.5 whose primary purpose is to provide child care to school-age children;
- 8.6 (13) Head Start nonresidential programs which operate for less than 45 days in  
8.7 each calendar year;
- 8.8 (14) noncertified boarding care homes unless they provide services for five or more  
8.9 persons whose primary diagnosis is mental illness or a developmental disability;
- 8.10 (15) programs for children such as scouting, boys clubs, girls clubs, and sports and  
8.11 art programs, and nonresidential programs for children provided for a cumulative total of  
8.12 less than 30 days in any 12-month period;
- 8.13 (16) residential programs for persons with mental illness, that are located in hospitals;
- 8.14 (17) the religious instruction of school-age children; Sabbath or Sunday schools; or  
8.15 the congregate care of children by a church, congregation, or religious society during the  
8.16 period used by the church, congregation, or religious society for its regular worship;
- 8.17 (18) camps licensed by the commissioner of health under Minnesota Rules, chapter  
8.18 4630;
- 8.19 (19) mental health outpatient services for adults with mental illness or children  
8.20 with emotional disturbance;
- 8.21 (20) residential programs serving school-age children whose sole purpose is cultural  
8.22 or educational exchange, until the commissioner adopts appropriate rules;
- 8.23 (21) unrelated individuals who provide out-of-home respite care services to persons  
8.24 with developmental disabilities from a single related family for no more than 90 days in a  
8.25 12-month period and the respite care services are for the temporary relief of the person's  
8.26 family or legal representative;
- 8.27 (22) respite care services provided as a home and community-based service to a  
8.28 person with a developmental disability, in the person's primary residence;
- 8.29 (23) community support services programs as defined in section 245.462, subdivision  
8.30 6, and family community support services as defined in section 245.4871, subdivision 17;
- 8.31 (24) the placement of a child by a birth parent or legal guardian in a preadoptive  
8.32 home for purposes of adoption as authorized by section 259.47;
- 8.33 (25) settings registered under chapter 144D which provide home care services  
8.34 licensed by the commissioner of health to fewer than seven adults; ~~or~~
- 8.35 (26) chemical dependency or substance abuse treatment activities of licensed  
8.36 professionals in private practice as defined in Minnesota Rules, part 9530.6405, subpart



9.1 15, when the treatment activities are not paid for by the consolidated chemical dependency  
9.2 treatment fund; or

9.3 (27) consumer-directed community support service funded under the Medicaid  
9.4 waiver for persons with developmental disabilities when the individual who provided  
9.5 the service is:

9.6 (i) the same individual who is the direct payee of these specific waiver funds or paid  
9.7 by a fiscal agent, fiscal intermediary, or employer of record; and

9.8 (ii) not otherwise under the control of a residential or nonresidential program that is  
9.9 required to be licensed under this chapter when providing the service.

9.10 (b) For purposes of paragraph (a), clause (6), a building is directly contiguous to a  
9.11 building in which a nonresidential program is located if it shares a common wall with the  
9.12 building in which the nonresidential program is located or is attached to that building by  
9.13 skyway, tunnel, atrium, or common roof.

9.14 (c) Nothing in this chapter shall be construed to require licensure for any services  
9.15 provided and funded according to an approved federal waiver plan where licensure is  
9.16 specifically identified as not being a condition for the services and funding.

9.17 Sec. 4. Minnesota Statutes 2008, section 245A.04, subdivision 5, is amended to read:

9.18 Subd. 5. **Commissioner's right of access.** When the commissioner is exercising the  
9.19 powers conferred by this chapter and ~~section~~ sections 245.69, 626.556, and 626.557, the  
9.20 commissioner must be given access to the physical plant and grounds where the program  
9.21 is provided, documents and records, including records maintained in electronic format,  
9.22 persons served by the program, and staff whenever the program is in operation and the  
9.23 information is relevant to inspections or investigations conducted by the commissioner.  
9.24 The commissioner must be given access without prior notice and as often as the  
9.25 commissioner considers necessary if the commissioner is conducting an investigation of  
9.26 allegations of maltreatment or other violation of applicable laws or rules. In conducting  
9.27 inspections, the commissioner may request and shall receive assistance from other state,  
9.28 county, and municipal governmental agencies and departments. The applicant or license  
9.29 holder shall allow the commissioner to photocopy, photograph, and make audio and video  
9.30 tape recordings during the inspection of the program at the commissioner's expense. The  
9.31 commissioner shall obtain a court order or the consent of the subject of the records or the  
9.32 parents or legal guardian of the subject before photocopying hospital medical records.

9.33 Persons served by the program have the right to refuse to consent to be interviewed,  
9.34 photographed, or audio or videotaped. Failure or refusal of an applicant or license holder

10.1 to fully comply with this subdivision is reasonable cause for the commissioner to deny the  
10.2 application or immediately suspend or revoke the license.

10.3 Sec. 5. Minnesota Statutes 2008, section 245A.04, subdivision 7, is amended to read:

10.4 Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines  
10.5 that the program complies with all applicable rules and laws, the commissioner shall issue  
10.6 a license. At minimum, the license shall state:

10.7 (1) the name of the license holder;

10.8 (2) the address of the program;

10.9 (3) the effective date and expiration date of the license;

10.10 (4) the type of license;

10.11 (5) the maximum number and ages of persons that may receive services from the  
10.12 program; and

10.13 (6) any special conditions of licensure.

10.14 (b) The commissioner may issue an initial license for a period not to exceed two  
10.15 years if:

10.16 (1) the commissioner is unable to conduct the evaluation or observation required  
10.17 by subdivision 4, paragraph (a), clauses (3) and (4), because the program is not yet  
10.18 operational;

10.19 (2) certain records and documents are not available because persons are not yet  
10.20 receiving services from the program; and

10.21 (3) the applicant complies with applicable laws and rules in all other respects.

10.22 (c) A decision by the commissioner to issue a license does not guarantee that any  
10.23 person or persons will be placed or cared for in the licensed program. A license shall not  
10.24 be transferable to another individual, corporation, partnership, voluntary association, other  
10.25 organization, or controlling individual or to another location.

10.26 (d) A license holder must notify the commissioner and obtain the commissioner's  
10.27 approval before making any changes that would alter the license information listed under  
10.28 paragraph (a).

10.29 (e) The commissioner shall not issue or reissue a license if the applicant, license  
10.30 holder, or controlling individual has:

10.31 (1) been disqualified and the disqualification was not set aside and no variance has  
10.32 been granted;

10.33 (2) has been denied a license within the past two years; ~~or~~

10.34 (3) had a license revoked within the past five years; or

11.1 (4) has an outstanding debt related to a license fee, licensing fine, or settlement  
 11.2 agreement for which payment is delinquent.

11.3 When a license is revoked under clause (1) or (3), the license holder and controlling  
 11.4 individual may not hold any license under chapter 245A or 245B for five years following  
 11.5 the revocation, and other licenses held by the applicant, license holder, or controlling  
 11.6 individual shall also be revoked.

11.7 (f) The commissioner shall not issue a license if an individual living in the household  
 11.8 where the licensed services will be provided as specified under section 245C.03,  
 11.9 subdivision 1, has been disqualified and the disqualification has not been set aside and no  
 11.10 variance has been granted.

11.11 (g) For purposes of reimbursement for meals only, under the Child and Adult Care  
 11.12 Food Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A,  
 11.13 part 226, relocation within the same county by a licensed family day care provider, shall  
 11.14 be considered an extension of the license for a period of no more than 30 calendar days or  
 11.15 until the new license is issued, whichever occurs first, provided the county agency has  
 11.16 determined the family day care provider meets licensure requirements at the new location.

11.17 (h) Unless otherwise specified by statute, all licenses expire at 12:01 a.m. on the  
 11.18 day after the expiration date stated on the license. A license holder must apply for and  
 11.19 be granted a new license to operate the program or the program must not be operated  
 11.20 after the expiration date.

11.21 Sec. 6. Minnesota Statutes 2008, section 245A.05, is amended to read:

11.22 **245A.05 DENIAL OF APPLICATION.**

11.23 (a) The commissioner may deny a license if an applicant or controlling individual:  
 11.24 (1) fails to comply with applicable laws or rules; or, (2) knowingly withholds relevant  
 11.25 information from or gives false or misleading information to the commissioner in  
 11.26 connection with an application for a license or during an investigation; (3) has a  
 11.27 disqualification which has not been set aside under section 245C.22 and no variance has  
 11.28 been granted; or (4) has an individual required to have a background study under section  
 11.29 245C.03, subdivision 1, paragraph (a), clause (2) or (6), that has a disqualification which  
 11.30 has not been set aside under section 245C.22 and no variance has been granted.

11.31 (b) An applicant whose application has been denied by the commissioner must  
 11.32 be given notice of the denial. Notice must be given by certified mail or personal  
 11.33 service. The notice must state the reasons the application was denied and must inform  
 11.34 the applicant of the right to a contested case hearing under chapter 14 and Minnesota  
 11.35 Rules, parts 1400.8505 to 1400.8612. The applicant may appeal the denial by notifying

12.1 the commissioner in writing by certified mail or personal service ~~within 20 calendar~~  
12.2 ~~days after receiving notice that the application was denied.~~ If mailed, the appeal must be  
12.3 postmarked and sent to the commissioner within 20 calendar days after the applicant  
12.4 received the notice of denial. If an appeal request is made by personal service, it must  
12.5 be received by the commissioner within 20 calendar days after the applicant received the  
12.6 notice of denial. Section 245A.08 applies to hearings held to appeal the commissioner's  
12.7 denial of an application.

12.8 Sec. 7. Minnesota Statutes 2008, section 245A.07, subdivision 1, is amended to read:

12.9 Subdivision 1. **Sanctions; appeals; license.** (a) In addition to making a license  
12.10 conditional under section 245A.06, the commissioner may ~~propose to~~ suspend or revoke  
12.11 the license, impose a fine, or secure an injunction against the continuing operation of the  
12.12 program of a license holder who does not comply with applicable law or rule. When  
12.13 applying sanctions authorized under this section, the commissioner shall consider the  
12.14 nature, chronicity, or severity of the violation of law or rule and the effect of the violation  
12.15 on the health, safety, or rights of persons served by the program.

12.16 (b) If a license holder appeals the suspension or revocation of a license and the  
12.17 license holder continues to operate the program pending a final order on the appeal, and  
12.18 the license expires during this time period, the commissioner shall issue the license holder  
12.19 a temporary provisional license. The temporary provisional license is effective on the date  
12.20 issued and expires on the date that a final order is issued. Unless otherwise specified by  
12.21 the commissioner, variances in effect on the date of the license sanction under appeal  
12.22 continue under the temporary provisional license. If a license holder fails to comply  
12.23 with applicable law or rule while operating under a temporary provisional license, the  
12.24 commissioner may impose sanctions under this section and section 245A.06, and may  
12.25 terminate any prior variance. If the license holder prevails on the appeal and the effective  
12.26 period of the previous license has expired, a new license shall be issued to the license  
12.27 holder upon payment of any fee required under section 245A.10. The effective date of the  
12.28 new license shall be retroactive to the date the license would have shown had no sanction  
12.29 been initiated. The expiration date shall be the expiration date of that license had no  
12.30 license sanction been initiated.

12.31 (c) If a license holder is under investigation and the license is due to expire  
12.32 before completion of the investigation, the program shall be issued a new license upon  
12.33 completion of the reapplication requirements. Upon completion of the investigation, a  
12.34 licensing sanction may be imposed against the new license under this section, section  
12.35 245A.06, or 245A.08.

13.1 (d) Failure to reapply or closure of a license by the license holder prior to the  
13.2 completion of any investigation shall not preclude the commissioner from issuing a  
13.3 licensing sanction under this section, section 245A.06, or 245A.08 at the conclusion  
13.4 of the investigation.

13.5 Sec. 8. Minnesota Statutes 2008, section 245A.07, subdivision 3, is amended to read:

13.6 Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may  
13.7 suspend or revoke a license, or impose a fine if a license holder fails to comply fully with  
13.8 applicable laws or rules, if a license holder, a controlling individual, or an individual  
13.9 living in the household where the licensed services are provided or is otherwise subject  
13.10 to a background study has a disqualification which has not been set aside under section  
13.11 245C.22, or if a license holder knowingly withholds relevant information from or gives  
13.12 false or misleading information to the commissioner in connection with an application  
13.13 for a license, in connection with the background study status of an individual, during an  
13.14 investigation, or regarding compliance with applicable laws or rules. A license holder  
13.15 who has had a license suspended, revoked, or has been ordered to pay a fine must be  
13.16 given notice of the action by certified mail or personal service. If mailed, the notice  
13.17 must be mailed to the address shown on the application or the last known address of the  
13.18 license holder. The notice must state the reasons the license was suspended, revoked, or  
13.19 a fine was ordered.

13.20 (b) If the license was suspended or revoked, the notice must inform the license  
13.21 holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts  
13.22 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking  
13.23 a license. The appeal of an order suspending or revoking a license must be made in writing  
13.24 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to  
13.25 the commissioner within ten calendar days after the license holder receives notice that the  
13.26 license has been suspended or revoked. If a request is made by personal service, it must be  
13.27 received by the commissioner within ten calendar days after the license holder received  
13.28 the order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits  
13.29 a timely appeal of an order suspending or revoking a license shall stay the suspension or  
13.30 revocation, the license holder may continue to operate until the commissioner issues a  
13.31 final order on the suspension or revocation.

13.32 (c)(1) If the license holder was ordered to pay a fine, the notice must inform the  
13.33 license holder of the responsibility for payment of fines and the right to a contested case  
13.34 hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal  
13.35 of an order to pay a fine must be made in writing by certified mail or personal service. If

14.1 mailed, the appeal must be postmarked and sent to the commissioner within ten calendar  
14.2 days after the license holder receives notice that the fine has been ordered. If a request is  
14.3 made by personal service, it must be received by the commissioner within ten calendar  
14.4 days after the license holder received the order.

14.5 (2) The license holder shall pay the fines assessed on or before the payment date  
14.6 specified. If the license holder fails to fully comply with the order, the commissioner  
14.7 may issue a second fine or suspend the license until the license holder complies. If the  
14.8 license holder receives state funds, the state, county, or municipal agencies or departments  
14.9 responsible for administering the funds shall withhold payments and recover any payments  
14.10 made while the license is suspended for failure to pay a fine. A timely appeal shall stay  
14.11 payment of the fine until the commissioner issues a final order.

14.12 (3) A license holder shall promptly notify the commissioner of human services,  
14.13 in writing, when a violation specified in the order to forfeit a fine is corrected. If upon  
14.14 reinspection the commissioner determines that a violation has not been corrected as  
14.15 indicated by the order to forfeit a fine, the commissioner may issue a second fine. The  
14.16 commissioner shall notify the license holder by certified mail or personal service that a  
14.17 second fine has been assessed. The license holder may appeal the second fine as provided  
14.18 under this subdivision.

14.19 (4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for  
14.20 each determination of maltreatment of a child under section 626.556 or the maltreatment  
14.21 of a vulnerable adult under section 626.557 for which the license holder is determined  
14.22 responsible for the maltreatment under section 626.556, subdivision 10e, paragraph (i),  
14.23 or 626.557, subdivision 9c, paragraph (c); the license holder shall forfeit \$200 for each  
14.24 occurrence of a violation of law or rule governing matters of health, safety, or supervision,  
14.25 including but not limited to the provision of adequate staff-to-child or adult ratios, and  
14.26 failure to ~~submit a~~ comply with background study requirements under chapter 245C; and  
14.27 the license holder shall forfeit \$100 for each occurrence of a violation of law or rule  
14.28 other than those subject to a \$1,000 or \$200 fine above. For purposes of this section,  
14.29 "occurrence" means each violation identified in the commissioner's fine order. Fines  
14.30 assessed against a license holder that holds a license to provide the residential-based  
14.31 habilitation services, as defined under section 245B.02, subdivision 20, and a license to  
14.32 provide foster care, may be assessed against both licenses for the same occurrence, but  
14.33 the combined amount of the fines shall not exceed the amount specified in this clause  
14.34 for that occurrence.

14.35 (5) When a fine has been assessed, the license holder may not avoid payment by  
14.36 closing, selling, or otherwise transferring the licensed program to a third party. In such an

15.1 event, the license holder will be personally liable for payment. In the case of a corporation,  
15.2 each controlling individual is personally and jointly liable for payment.

15.3 Sec. 9. Minnesota Statutes 2008, section 245A.11, is amended by adding a subdivision  
15.4 to read:

15.5 Subd. 8. **Alternate overnight supervision; adult foster care license.** (a) The  
15.6 commissioner may grant an applicant or license holder an adult foster care license for a  
15.7 residence that does not have a caregiver in residence during normal sleeping hours as  
15.8 required under Minnesota Rules, part 9555.5105, subpart 37, item B, but uses monitoring  
15.9 technology to alert the license holder when an incident occurs that may jeopardize the  
15.10 health, safety, or rights of a foster care recipient. The applicant or license holder must  
15.11 comply with all other requirements under Minnesota Rules, parts 9555.5105 to 9555.6265,  
15.12 and the requirements under this subdivision. The license printed by the commissioner  
15.13 must state in bold and large font:

15.14 (1) that staff are not present on site overnight; and

15.15 (2) the telephone number of the county's common entry point for making reports of  
15.16 suspected maltreatment of vulnerable adults under section 626.557, subdivision 9.

15.17 (b) Before a license is issued by the commissioner, and for the duration of the license,  
15.18 the applicant or license holder must establish, maintain, and document the implementation  
15.19 of written policies and procedures addressing the requirements in paragraphs (c) to (f).

15.20 (c) The applicant or license holder must have policies and procedures that:

15.21 (1) establish characteristics of target populations that must be admitted into the  
15.22 home, and characteristics of populations that must not be accepted into the home;

15.23 (2) explain the discharge process when a foster care recipient requires overnight  
15.24 supervision or other services that cannot be provided by the license holder due to the  
15.25 limited hours of on-site staff;

15.26 (3) describe the types of events to which the program must respond with a physical  
15.27 presence when those events occur in the home during time when staff are not on site, and  
15.28 how the license holder's response plan meets the requirements in paragraph (d), clause  
15.29 (1) or (2);

15.30 (4) establish a process for documenting a review of the implementation and  
15.31 effectiveness of the response protocol for the response required under paragraph (d),  
15.32 clause (1) or (2). The documentation must include:

15.33 (i) a description of the triggering incident;

15.34 (ii) the date and time of the triggering incident;

15.35 (iii) the time of the response or responses under paragraph (d), clause (1) or (2);

- 16.1 (iv) whether the response met the resident's needs;
- 16.2 (v) whether the existing policies and response protocols were followed; and
- 16.3 (vi) whether the existing policies and protocols are adequate or need modification.
- 16.4 When no physical presence response is completed for a three-month period, the
- 16.5 license holder's written policies and procedures must require a physical presence response
- 16.6 drill be conducted for which the effectiveness of the response protocol under paragraph
- 16.7 (d), clause (1) or (2), must be reviewed and documented as required under this clause; and
- 16.8 (5) establish that emergency and nonemergency phone numbers are posted in a
- 16.9 prominent location in a common area of the home where they can be easily observed by a
- 16.10 person responding to an incident who is not otherwise affiliated with the home.
- 16.11 (d) The license holder must document and include in the license application which
- 16.12 method under clause (1) or (2) is in place for responding to situations that present a serious
- 16.13 risk to the health, safety, or rights of people receiving foster care services in the home:
- 16.14 (1) no more than ten minutes must pass before the license holder or the license
- 16.15 holder's staff person must be physically present on site to respond to the situation; or
- 16.16 (2) more than ten minutes must pass before the license holder or the license
- 16.17 holder's staff person is present on site to respond to the situation, and all of the following
- 16.18 conditions are met:
- 16.19 (i) each foster care recipient's individualized plan of care, individual service plan
- 16.20 under section 256B.092, subdivision 1b, if required, or individual resident placement
- 16.21 agreement under Minnesota Rules, part 9555.5105, subpart 19, if required, identifies the
- 16.22 maximum response time, greater than ten minutes, for a caretaker to be on site for that
- 16.23 foster care recipient;
- 16.24 (ii) the license holder has a written description of the interactive technological
- 16.25 applications that will assist a remote caretaker in communicating with and assessing the
- 16.26 needs related to care, health, and life safety of the foster care recipients;
- 16.27 (iii) the license holder documents how the remote care attendants are qualified
- 16.28 and capable of meeting the needs of the foster care recipients and assessing foster care
- 16.29 recipients' needs under item (ii) during the absence of the license holder or license holder's
- 16.30 staff person on site;
- 16.31 (iv) the license holder maintains written procedures to dispatch emergency response
- 16.32 personnel to the site in the event of an observed emergency.
- 16.33 (e) All placement agreements, individual service agreements, and plans applicable
- 16.34 to the foster care recipient must clearly state that the adult foster care license category is
- 16.35 a program without the presence of a caregiver in the residence during normal sleeping
- 16.36 hours; the protocols in place for responding to situations that present a serious risk



17.1 to health, safety, or rights of foster care recipients under paragraph (d), clause (1) or  
17.2 (2); and a signed informed consent from each foster care recipient or the person's  
17.3 legal representative documenting the person's or legal representative's agreement with  
17.4 placement in the program. If electronic monitoring technology is used in the home, the  
17.5 informed consent form must also explain the following:

17.6 (1) how any electronic monitoring is incorporated into the alternative supervision  
17.7 system;

17.8 (2) the backup system for any electronic monitoring in times of electrical outages or  
17.9 other equipment malfunctions;

17.10 (3) how staff are trained on the use of the technology;

17.11 (4) the event types and staff response times established under paragraph (d);

17.12 (5) how the license holder protects the foster care recipient's privacy related to  
17.13 electronic monitoring and related to any electronically recorded data generated by the  
17.14 monitoring system. The consent form must explain where and how the electronically  
17.15 recorded data is stored, with whom it will be shared, and how long it is retained; and

17.16 (6) the risks and benefits of the alternative overnight supervision system.

17.17 The written explanations under clauses (1) to (6) may be accomplished through  
17.18 cross-references to other policies and procedures as long as they are explained to the  
17.19 person giving consent, and the person giving consent is offered a copy.

17.20 (f) The license holder's lead county contract under section 256.0112 must clearly  
17.21 specify that this foster care service does not have on-site overnight human supervision  
17.22 present.

17.23 Sec. 10. Minnesota Statutes 2008, section 245A.1435, is amended to read:

17.24 **245A.1435 REDUCTION OF RISK OF SUDDEN INFANT DEATH**  
17.25 **SYNDROME IN LICENSED PROGRAMS.**

17.26 (a) When a license holder is placing an infant to sleep, the license holder must place  
17.27 the infant on the infant's back, unless the license holder has documentation from the  
17.28 infant's parent directing an alternative sleeping position for the infant, ~~and~~. The parent  
17.29 directive must be on a form approved by the commissioner and must include a statement  
17.30 that the parent or legal guardian has read the information provided by the Minnesota  
17.31 Sudden Infant Death Center, related to the risk of SIDS and the importance of placing an  
17.32 infant or child on the back to sleep to reduce the risk of SIDS.

17.33 (b) The license holder must place the infant in a crib ~~with~~ directly on a firm mattress

17.34 with a fitted crib sheet that fits tightly on the mattress and overlaps the mattress so it cannot

17.35 be dislodged by pulling on the corner of the sheet. The license holder must not place

18.1 pillows, quilts, comforters, sheepskin, pillow-like stuffed toys, or other soft products in  
18.2 the crib with the infant. The requirements of this section apply to license holders serving  
18.3 infants up to and including 12 months of age. Licensed child care providers must meet the  
18.4 crib requirements under section 245A.146.

18.5 Sec. 11. Minnesota Statutes 2008, section 245A.144, is amended to read:

18.6 **245A.144 SUDDEN INFANT DEATH AND SHAKEN BABY SYNDROME**  
18.7 **FOR CHILD FOSTER CARE PROVIDERS.**

18.8 (a) Licensed child foster care providers that care for infants or children through five  
18.9 years of age must document that before staff persons and caregivers assist in the care of  
18.10 infants or children through five years of age, they are instructed on the standards in section  
18.11 245A.1435 and receive training on reducing the risk of sudden infant death syndrome and  
18.12 shaken baby syndrome for infants and young children. This section does not apply to  
18.13 emergency relative foster care under section 245A.035. The training on reducing the risk  
18.14 of sudden infant death syndrome and shaken baby syndrome may be provided as:

18.15 (1) orientation training to child foster care providers, who care for infants or children  
18.16 through five years of age, under Minnesota Rules, part 2960.3070, subpart 1; or

18.17 (2) in-service training to child foster care providers, who care for infants or children  
18.18 through five years of age, under Minnesota Rules, part 2960.3070, subpart 2.

18.19 (b) Training required under this section must be at least one hour in length and must  
18.20 be completed at least once every five years. At a minimum, the training must address the  
18.21 risk factors related to sudden infant death syndrome and shaken baby syndrome, means  
18.22 of reducing the risk of sudden infant death syndrome and shaken baby syndrome, and  
18.23 license holder communication with parents regarding reducing the risk of sudden infant  
18.24 death syndrome and shaken baby syndrome.

18.25 (c) Training for child foster care providers must be approved by the county licensing  
18.26 agency and fulfills, in part, training required under Minnesota Rules, part 2960.3070.

18.27 Sec. 12. Minnesota Statutes 2008, section 245A.1444, is amended to read:

18.28 **245A.1444 TRAINING ON RISK OF SUDDEN INFANT DEATH SYNDROME**  
18.29 **AND SHAKEN BABY SYNDROME BY OTHER PROGRAMS.**

18.30 A licensed chemical dependency treatment program that serves clients with infants  
18.31 or children through five years of age who sleep at the program and a licensed children's  
18.32 residential facility that serves infants or children through five years of age must document  
18.33 that before program staff persons or volunteers assist in the care of infants or children  
18.34 through five years of age, they are instructed on the standards in section 245A.1435 and

19.1 receive training on reducing the risk of sudden infant death syndrome and shaken baby  
19.2 syndrome. The training conducted under this section may be used to fulfill training  
19.3 requirements under Minnesota Rules, parts 2960.0100, subpart 3; and 9530.6490, subpart  
19.4 4, item B.

19.5 This section does not apply to child care centers or family child care programs  
19.6 governed by sections 245A.40 and 245A.50.

19.7 Sec. 13. Minnesota Statutes 2008, section 245A.16, subdivision 1, is amended to read:

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

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

19.20 (2) adult foster care maximum capacity;

19.21 (3) adult foster care minimum age requirement;

19.22 (4) child foster care maximum age requirement;

19.23 (5) variances regarding disqualified individuals except that county agencies may  
19.24 issue variances under section 245C.30 regarding disqualified individuals when the county  
19.25 is responsible for conducting a consolidated reconsideration according to sections 245C.25  
19.26 and 245C.27, subdivision 2, clauses (a) and (b), of a county maltreatment determination  
19.27 and a disqualification based on serious or recurring maltreatment; and

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

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

19.33 (b) County agencies must report information about disqualification reconsiderations  
19.34 under sections 245C.25 and 245C.27, subdivision 2, paragraphs (a) and (b), and variances

20.1 granted under paragraph (a), clause (5), to the commissioner at least monthly in a format  
 20.2 prescribed by the commissioner.

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

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

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

20.8 Sec. 14. Minnesota Statutes 2008, section 245A.40, subdivision 5, is amended to read:

20.9 Subd. 5. **Sudden infant death syndrome and shaken baby syndrome training.**

20.10 (a) License holders must document that before staff persons care for infants, they are  
 20.11 instructed on the standards in section 245A.1435 and receive training on reducing the risk  
 20.12 of sudden infant death syndrome ~~and~~. In addition, license holders must document that  
 20.13 before staff persons care for infants or children under school age, they receive training on  
 20.14 the risk of shaken baby syndrome. The training in this subdivision may be provided as  
 20.15 orientation training under subdivision 1 and in-service training under subdivision 7.

20.16 (b) Sudden infant death syndrome reduction training required under this subdivision  
 20.17 must be at least ~~one~~ one-half hour in length and must be completed at least once every  
 20.18 five years. At a minimum, the training must address the risk factors related to sudden  
 20.19 infant death syndrome ~~and shaken baby syndrome~~, means of reducing the risk of sudden  
 20.20 infant death syndrome ~~and shaken baby syndrome~~ in child care, and license holder  
 20.21 communication with parents regarding reducing the risk of sudden infant death syndrome  
 20.22 and shaken baby syndrome.

20.23 (c) Shaken baby syndrome training under this subdivision must be at least one-half  
 20.24 hour in length, and must be completed at least once every five years. At a minimum, the  
 20.25 training must address the risk factors related to shaken baby syndrome for infants and  
 20.26 young children, means to reduce the risk of shaken baby syndrome in child care, and  
 20.27 license holder communication with parents regarding reducing the risk of shaken baby  
 20.28 syndrome.

20.29 ~~(e)~~ (d) The commissioner shall make available for viewing a video presentation on  
 20.30 the dangers associated with shaking infants and young children. The video presentation  
 20.31 must be part of the orientation and annual in-service training of licensed child care ~~centers~~  
 20.32 center staff persons caring for children under school age. The commissioner shall provide  
 20.33 to child care providers and interested individuals, at cost, copies of a video approved by  
 20.34 the commissioner of health under section 144.574 on the dangers associated with shaking  
 20.35 infants and young children.

21.1 Sec. 15. Minnesota Statutes 2008, section 245A.50, subdivision 5, is amended to read:

21.2 Subd. 5. **Sudden infant death syndrome and shaken baby syndrome training.**

21.3 (a) License holders must document that before staff persons, caregivers, and helpers  
 21.4 assist in the care of infants, they are instructed on the standards in section 245A.1435 and  
 21.5 receive training on reducing the risk of sudden infant death syndrome ~~and~~. In addition,  
 21.6 license holders must document that before staff persons, caregivers, and helpers assist in  
 21.7 the care of infants and children under school age, they receive training on reducing the  
 21.8 risk of shaken baby syndrome. The training in this subdivision may be provided as initial  
 21.9 training under subdivision 1 or ongoing training under subdivision 7.

21.10 (b) Sudden infant death syndrome reduction training required under this subdivision  
 21.11 must be at least ~~one~~ one-half hour in length and must be completed at least once every  
 21.12 five years. At a minimum, the training must address the risk factors related to sudden  
 21.13 infant death syndrome ~~and shaken baby syndrome~~, means of reducing the risk of sudden  
 21.14 infant death syndrome ~~and shaken baby syndrome~~ in child care, and license holder  
 21.15 communication with parents regarding reducing the risk of sudden infant death syndrome  
 21.16 ~~and shaken baby syndrome~~.

21.17 (c) Shaken baby syndrome training required under this subdivision must be at  
 21.18 least one-half hour in length and must be completed at least once every five years. At a  
 21.19 minimum, the training must address the risk factors related to shaken baby syndrome,  
 21.20 means of reducing the risk of shaken baby syndrome in child care, and license holder  
 21.21 communication with parents regarding reducing the risk of shaken baby syndrome.

21.22 (d) Training for family and group family child care providers must be approved  
 21.23 by the county licensing agency.

21.24 ~~(d)~~ (e) The commissioner shall make available for viewing by all licensed child care  
 21.25 providers a video presentation on the dangers associated with shaking infants and young  
 21.26 children. The video presentation shall be part of the initial and ongoing annual training  
 21.27 of licensed child care providers caring for children under school age. The commissioner  
 21.28 shall provide to child care providers and interested individuals, at cost, copies of a video  
 21.29 approved by the commissioner of health under section 144.574 on the dangers associated  
 21.30 with shaking infants and young children.

21.31 Sec. 16. Minnesota Statutes 2008, section 245C.03, subdivision 1, is amended to read:

21.32 Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a  
 21.33 background study on:

21.34 (1) the person or persons applying for a license;

22.1 (2) an individual age 13 and over living in the household where the licensed  
22.2 program will be provided;

22.3 (3) current or prospective employees or contractors of the applicant who will have  
22.4 direct contact with persons served by the facility, agency, or program;

22.5 (4) volunteers or student volunteers who will have direct contact with persons served  
22.6 by the program to provide program services if the contact is not under the continuous,  
22.7 direct supervision by an individual listed in clause (1) or (3);

22.8 (5) an individual age ten to 12 living in the household where the licensed services  
22.9 will be provided when the commissioner has reasonable cause;

22.10 (6) an individual who, without providing direct contact services at a licensed  
22.11 program, may have unsupervised access to children or vulnerable adults receiving services  
22.12 from a program, when the commissioner has reasonable cause; and

22.13 (7) all managerial officials as defined under section 245A.02, subdivision 5a.

22.14 (b) For family child foster care settings, a short-term substitute caregiver providing  
22.15 direct contact services for a child for less than 72 hours of continuous care is not required  
22.16 to receive a background study under this chapter.

22.17 Sec. 17. Minnesota Statutes 2008, section 245C.04, subdivision 1, is amended to read:

22.18 Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a  
22.19 background study of an individual required to be studied under section 245C.03,  
22.20 subdivision 1, at least upon application for initial license for all license types.

22.21 (b) The commissioner shall conduct a background study of an individual required to  
22.22 be studied under section 245C.03, subdivision 1, at reapplication for a license for adult  
22.23 foster care, family adult day services, and family child care.

22.24 (c) The commissioner is not required to conduct a study of an individual at the time  
22.25 of reapplication for a license if the individual's background study was completed by the  
22.26 commissioner of human services for an adult foster care license holder that is also:

22.27 (1) registered under chapter 144D; or

22.28 (2) licensed to provide home and community-based services to people with  
22.29 disabilities at the foster care location and the license holder does not reside in the foster  
22.30 care residence; and

22.31 (3) the following conditions are met:

22.32 (i) a study of the individual was conducted either at the time of initial licensure or  
22.33 when the individual became affiliated with the license holder;

22.34 (ii) the individual has been continuously affiliated with the license holder since  
22.35 the last study was conducted; and

23.1 (iii) the last study of the individual was conducted on or after October 1, 1995.

23.2 (d) From July 1, 2007, to June 30, 2009, the commissioner of human services shall  
23.3 conduct a study of an individual required to be studied under section 245C.03, at the  
23.4 time of reapplication for a child foster care license. The county or private agency shall  
23.5 collect and forward to the commissioner the information required under section 245C.05,  
23.6 subdivisions 1, paragraphs (a) and (b), and 5, paragraphs (a) and (b). The background  
23.7 study conducted by the commissioner of human services under this paragraph must  
23.8 include a review of the information required under section 245C.08, subdivisions 1,  
23.9 paragraph (a), clauses (1) to (5), 3, and 4.

23.10 (e) The commissioner of human services shall conduct a background study of an  
23.11 individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2)  
23.12 to (6), who is newly affiliated with a child foster care license holder. The county or  
23.13 private agency shall collect and forward to the commissioner the information required  
23.14 under section 245C.05, subdivisions 1 and 5. The background study conducted by the  
23.15 commissioner of human services under this paragraph must include a review of the  
23.16 information required under section 245C.08, subdivisions 1, 3, and 4.

23.17 (f) Applicants for licensure, license holders, and other entities as provided in this  
23.18 chapter must submit completed background study forms to the commissioner before  
23.19 individuals specified in section 245C.03, subdivision 1, begin positions allowing direct  
23.20 contact in any licensed program.

23.21 (g) For purposes of this section, a physician licensed under chapter 147 is considered  
23.22 to be continuously affiliated upon the license holder's receipt from the commissioner of  
23.23 health or human services of the physician's background study results.

23.24 (h) A license holder must provide the commissioner notice through the  
23.25 commissioner's online background study system or through a letter mailed to the  
23.26 commissioner when:

23.27 (1) an individual returns to a position requiring a background study following an  
23.28 absence of 45 or more consecutive days; or

23.29 (2) a program, which discontinued providing licensed direct contact services for 45  
23.30 or more consecutive days, again begins to provide direct contact licensed services.

23.31 The license holder shall maintain a copy of the notification provided to the  
23.32 commissioner under this paragraph in the program's files.

23.33 Sec. 18. Minnesota Statutes 2008, section 245C.07, is amended to read:

23.34 **245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.**

24.1 (a) When a license holder, applicant, or other entity owns multiple programs or  
 24.2 services that are licensed by the Department of Human Services, Department of Health, or  
 24.3 Department of Corrections, only one background study is required for an individual who  
 24.4 provides direct contact services in one or more of the licensed programs or services if:

24.5 (1) the license holder designates one individual with one address and telephone  
 24.6 number as the person to receive sensitive background study information for the multiple  
 24.7 licensed programs or services that depend on the same background study; and

24.8 (2) the individual designated to receive the sensitive background study information  
 24.9 is capable of determining, upon request of the department, whether a background study  
 24.10 subject is providing direct contact services in one or more of the license holder's programs  
 24.11 or services and, if so, at which location or locations.

24.12 (b) When a license holder maintains background study compliance for multiple  
 24.13 licensed programs according to paragraph (a), and one or more of the licensed programs  
 24.14 closes, the license holder shall immediately notify the commissioner which staff must be  
 24.15 transferred to an active license so that the background studies can be electronically paired  
 24.16 with the license holder's active program.

24.17 ~~(b)~~ (c) When a background study is being initiated by a licensed program or service  
 24.18 or a foster care provider that is also registered under chapter 144D, a study subject  
 24.19 affiliated with multiple licensed programs or services may attach to the background study  
 24.20 form a cover letter indicating the additional names of the programs or services, addresses,  
 24.21 and background study identification numbers.

24.22 When the commissioner receives a notice, the commissioner shall notify each  
 24.23 program or service identified by the background study subject of the study results.

24.24 The background study notice the commissioner sends to the subsequent agencies  
 24.25 shall satisfy those programs' or services' responsibilities for initiating a background study  
 24.26 on that individual.

24.27 Sec. 19. Minnesota Statutes 2008, section 245C.08, is amended to read:

24.28 **245C.08 BACKGROUND STUDY; COMMISSIONER REVIEWS.**

24.29 Subdivision 1. **Background studies conducted by ~~commissioner~~ Department of**  
 24.30 **Human Services.** (a) For a background study conducted by the ~~commissioner~~ Department  
 24.31 of Human Services, the commissioner shall review:

24.32 (1) information related to names of substantiated perpetrators of maltreatment of  
 24.33 vulnerable adults that has been received by the commissioner as required under section  
 24.34 626.557, subdivision 9c, paragraph (i);



25.1 (2) the commissioner's records relating to the maltreatment of minors in licensed  
 25.2 programs, and from findings of maltreatment of minors as indicated through the social  
 25.3 service information system;

25.4 (3) information from juvenile courts as required in subdivision 4 for individuals listed  
 25.5 in section 245C.03, subdivision 1, ~~clauses (2), (5), and (6)~~ when there is reasonable cause;

25.6 (4) information from the Bureau of Criminal Apprehension;

25.7 (5) except as provided in clause (6), information from the national crime information  
 25.8 system when the commissioner has reasonable cause as defined under section 245C.05,  
 25.9 subdivision 5; and

25.10 (6) for a background study related to a child foster care application for licensure or  
 25.11 adoptions, the commissioner shall also review:

25.12 (i) information from the child abuse and neglect registry for any state in which the  
 25.13 background study subject has resided for the past five years; and

25.14 (ii) information from national crime information databases, when the background  
 25.15 study ~~object~~ subject is 18 years of age or older.

25.16 (b) Notwithstanding expungement by a court, the commissioner may consider  
 25.17 information obtained under paragraph (a), clauses (3) and (4), unless the commissioner  
 25.18 received notice of the petition for expungement and the court order for expungement is  
 25.19 directed specifically to the commissioner.

25.20 **Subd. 2. Background studies conducted by a county agency.** (a) For a background  
 25.21 study conducted by a county agency for adult foster care, family adult day services, and  
 25.22 family child care services, the commissioner shall review:

25.23 (1) information from the county agency's record of substantiated maltreatment  
 25.24 of adults and the maltreatment of minors;

25.25 (2) information from juvenile courts as required in subdivision 4 for ~~individuals~~  
 25.26 ~~listed in section 245C.03, subdivision 1, clauses (2), (5), and (6)~~;

25.27 (i) individuals listed in section 245C.03, subdivision 1, who are ages 13 through 23  
 25.28 living in the household where the licensed services will be provided; and

25.29 (ii) any other individual listed under section 245C.03, subdivision 1, when there  
 25.30 is reasonable cause; and

25.31 (3) information from the Bureau of Criminal Apprehension.

25.32 (b) If the individual has resided in the county for less than five years, the study shall  
 25.33 include the records specified under paragraph (a) for the previous county or counties of  
 25.34 residence for the past five years.

25.35 (c) Notwithstanding expungement by a court, the county agency may consider  
 25.36 information obtained under paragraph (a), clause (3), unless the commissioner received

26.1 notice of the petition for expungement and the court order for expungement is directed  
26.2 specifically to the commissioner.

26.3 Subd. 3. **Arrest and investigative information.** (a) For any background study  
26.4 completed under this section, if the commissioner has reasonable cause to believe the  
26.5 information is pertinent to the disqualification of an individual, the commissioner also  
26.6 may review arrest and investigative information from:

- 26.7 (1) the Bureau of Criminal Apprehension;
- 26.8 (2) the commissioner of health;
- 26.9 (3) a county attorney;
- 26.10 (4) a county sheriff;
- 26.11 (5) a county agency;
- 26.12 (6) a local chief of police;
- 26.13 (7) other states;
- 26.14 (8) the courts;
- 26.15 (9) the Federal Bureau of Investigation;
- 26.16 (10) the National Criminal Records Repository; and
- 26.17 (11) criminal records from other states.

26.18 (b) The commissioner is not required to conduct more than one review of a subject's  
26.19 records from the Federal Bureau of Investigation if a review of the subject's criminal  
26.20 history with the Federal Bureau of Investigation has already been completed by the  
26.21 commissioner and there has been no break in the subject's affiliation with the license  
26.22 holder who initiated the background study.

26.23 Subd. 4. **Juvenile court records.** (a) For a background study conducted by the  
26.24 Department of Human Services, the commissioner shall review records from the juvenile  
26.25 courts for an individual studied under section 245C.03, subdivision 1, ~~clauses (2) and (5)~~  
26.26 when the commissioner has reasonable cause.

26.27 (b) ~~For individuals studied under section 245C.03, subdivision 1, clauses (1), (3),~~  
26.28 ~~(4), and (6), and subdivision 2, who are ages 13 to 17, the commissioner shall review~~  
26.29 ~~records from the juvenile courts~~ a background study conducted by a county agency, the  
26.30 commissioner shall review records from the juvenile courts for individuals listed in section  
26.31 245C.03, subdivision 1, who are ages 13 through 23 living in the household where the  
26.32 licensed services will be provided. The commissioner shall also review records from  
26.33 juvenile courts for any other individual listed under section 245C.03, subdivision 1, when  
26.34 the commissioner has reasonable cause.

26.35 (c) The juvenile courts shall help with the study by giving the commissioner existing  
26.36 juvenile court records relating to delinquency proceedings held on individuals described

27.1 in section 245C.03, subdivision 1, ~~clauses (2), (5), and (6), relating to delinquency~~  
27.2 ~~proceedings held within either the five years immediately preceding the background study~~  
27.3 ~~or the five years immediately preceding the individual's 18th birthday, whichever time~~  
27.4 ~~period is longer~~ when requested pursuant to this subdivision.

27.5 (d) For purposes of this chapter, a finding that a delinquency petition is proven in  
27.6 juvenile court shall be considered a conviction in state district court.

27.7 (e) Juvenile courts shall provide orders of involuntary and voluntary termination of  
27.8 parental rights under section 260C.301 to the commissioner upon request for purposes of  
27.9 conducting a background study under this chapter.

27.10 Sec. 20. Minnesota Statutes 2008, section 245C.13, subdivision 2, is amended to read:

27.11 Subd. 2. **Direct contact pending completion of background study.** The subject  
27.12 of a background study may not perform any activity requiring a background study under  
27.13 paragraph (b) until the commissioner has issued one of the notices under paragraph (a).

27.14 (a) Notices from the commissioner required prior to activity under paragraph (b)  
27.15 include:

27.16 (1) a notice of the study results under section 245C.17 stating that:

27.17 (i) the individual is not disqualified; or

27.18 (ii) more time is needed to complete the study but the individual is not required to be  
27.19 removed from direct contact or access to people receiving services prior to completion  
27.20 of the study as provided under section 245C.17, subdivision 1, paragraph (b) or (c). The  
27.21 notice that more time is needed to complete the study must also indicate whether the  
27.22 individual is required to be under continuous direct supervision prior to completion of the  
27.23 background study;

27.24 (2) a notice that a disqualification has been set aside under section 245C.23; or

27.25 (3) a notice that a variance has been granted related to the individual under section  
27.26 245C.30.

27.27 (b) Activities prohibited prior to receipt of notice under paragraph (a) include:

27.28 (1) being issued a license;

27.29 (2) living in the household where the licensed program will be provided;

27.30 (3) providing direct contact services to persons served by a program unless the  
27.31 subject is under continuous direct supervision; or

27.32 (4) having access to persons receiving services if the background study was  
27.33 completed under section 144.057, subdivision 1, or 245C.03, subdivision 1, paragraph (a),  
27.34 clause (2), (5), or (6), unless the subject is under continuous direct supervision.

28.1 Sec. 21. Minnesota Statutes 2008, section 245C.15, subdivision 1, is amended to read:

28.2 Subdivision 1. **Permanent disqualification.** (a) An individual is disqualified under  
28.3 section 245C.14 if: (1) regardless of how much time has passed since the discharge of the  
28.4 sentence imposed, if any, for the offense; and (2) unless otherwise specified, regardless  
28.5 of the level of the offense, the individual has committed any of the following offenses:  
28.6 sections 243.166 (violation of predatory offender registration law); 609.185 (murder in the  
28.7 first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree);  
28.8 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); a  
28.9 felony offense under 609.221 or 609.222 (assault in the first or second degree); a felony  
28.10 offense under sections 609.2242 and 609.2243 (domestic assault), spousal abuse, child  
28.11 abuse or neglect, or a crime against children; 609.2247 (domestic assault by strangulation);  
28.12 609.228 (great bodily harm caused by distribution of drugs); 609.245 (aggravated  
28.13 robbery); 609.25 (kidnapping); 609.2661 (murder of an unborn child in the first degree);  
28.14 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an  
28.15 unborn child in the third degree); 609.322 (solicitation, inducement, and promotion of  
28.16 prostitution); 609.324, subdivision 1 (other prohibited acts); 609.342 (criminal sexual  
28.17 conduct in the first degree); 609.343 (criminal sexual conduct in the second degree);  
28.18 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct  
28.19 in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree); 609.3453  
28.20 (criminal sexual predatory conduct); 609.352 (solicitation of children to engage in sexual  
28.21 conduct); 609.365 (incest); a felony offense under 609.377 (malicious punishment of a  
28.22 child); a felony offense under 609.378 (neglect or endangerment of a child); 609.561  
28.23 (arson in the first degree); 609.66, subdivision 1e (drive-by shooting); 609.749, subdivision  
28.24 3, 4, or 5 (felony-level harassment; stalking); 609.855, subdivision 5 (shooting at or in a  
28.25 public transit vehicle or facility); 617.23, subdivision 2, clause (1), or subdivision 3, clause  
28.26 (1) (indecent exposure involving a minor); 617.246 (use of minors in sexual performance  
28.27 prohibited); or 617.247 (possession of pictorial representations of minors). An individual  
28.28 also is disqualified under section 245C.14 regardless of how much time has passed since  
28.29 the involuntary termination of the individual's parental rights under section 260C.301.

28.30 (b) An individual's aiding and abetting, attempt, or conspiracy to commit any of the  
28.31 offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes,  
28.32 permanently disqualifies the individual under section 245C.14.

28.33 (c) An individual's offense in any other state or country, where the elements of the  
28.34 offense are substantially similar to any of the offenses listed in paragraph (a), permanently  
28.35 disqualifies the individual under section 245C.14.

29.1 (d) When a disqualification is based on a judicial determination other than a  
29.2 conviction, the disqualification period begins from the date of the court order. When a  
29.3 disqualification is based on an admission, the disqualification period begins from the  
29.4 date of an admission in court. When a disqualification is based on an Alford Plea, the  
29.5 disqualification period begins from the date the Alford Plea is entered in court. When  
29.6 a disqualification is based on a preponderance of evidence of a disqualifying act, the  
29.7 disqualification date begins from the date of the dismissal, the date of discharge of the  
29.8 sentence imposed for a conviction for a disqualifying crime of similar elements, or the  
29.9 date of the incident, whichever occurs last.

29.10 (e) If the individual studied commits one of the offenses listed in paragraph (a) that  
29.11 is specified as a felony-level only offense, but the sentence or level of offense is a gross  
29.12 misdemeanor or misdemeanor, the individual is disqualified, but the disqualification  
29.13 look-back period for the offense is the period applicable to gross misdemeanor or  
29.14 misdemeanor offenses.

29.15 Sec. 22. Minnesota Statutes 2008, section 245C.15, subdivision 2, is amended to read:

29.16 Subd. 2. **15-year disqualification.** (a) An individual is disqualified under section  
29.17 245C.14 if: (1) less than 15 years have passed since the discharge of the sentence imposed,  
29.18 if any, for the offense; and (2) the individual has committed a felony-level violation  
29.19 of any of the following offenses: sections 256.98 (wrongfully obtaining assistance);  
29.20 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph  
29.21 (c) (federal Food Stamp Program fraud); 609.165 (felon ineligible to possess firearm);  
29.22 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.223 or 609.2231  
29.23 (assault in the third or fourth degree); repeat offenses under 609.224 (assault in the fifth  
29.24 degree); 609.229 (crimes committed for benefit of a gang); 609.2325 (criminal abuse of a  
29.25 vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.235 (use of  
29.26 drugs to injure or facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment);  
29.27 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter  
29.28 of an unborn child in the second degree); 609.267 (assault of an unborn child in the first  
29.29 degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury  
29.30 or death of an unborn child in the commission of a crime); 609.27 (coercion); 609.275  
29.31 (attempt to coerce); 609.466 (medical assistance fraud); 609.495 (aiding an offender);  
29.32 609.498, subdivision 1 or 1b (aggravated first-degree or first-degree tampering with a  
29.33 witness); 609.52 (theft); 609.521 (possession of shoplifting gear); 609.525 (bringing  
29.34 stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property);  
29.35 609.535 (issuance of dishonored checks); 609.562 (arson in the second degree);

30.1 609.563 (arson in the third degree); 609.582 (burglary); 609.59 (possession of burglary  
30.2 tools); 609.611 (insurance fraud); 609.625 (aggravated forgery); 609.63 (forgery);  
30.3 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by  
30.4 false pretense); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled  
30.5 shotguns); 609.687 (adulteration); 609.71 (riot); 609.713 (terroristic threats); 609.82  
30.6 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent  
30.7 exposure), not involving a minor; repeat offenses under 617.241 (obscene materials and  
30.8 performances; distribution and exhibition prohibited; penalty); 624.713 (certain persons  
30.9 not to possess firearms); chapter 152 (drugs; controlled substance); or a felony-level  
30.10 conviction involving alcohol or drug use.

30.11 (b) An individual is disqualified under section 245C.14 if less than 15 years has  
30.12 passed since the individual's aiding and abetting, attempt, or conspiracy to commit any  
30.13 of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota  
30.14 Statutes.

30.15 (c) For foster care and family child care an individual is disqualified under section  
30.16 245C.14 if less than 15 years has passed since the individual's voluntary termination of  
30.17 the individual's parental rights under section 260C.301, subdivision 1, paragraph (b), or  
30.18 260C.301, subdivision 3.

30.19 (d) An individual is disqualified under section 245C.14 if less than 15 years has  
30.20 passed since the discharge of the sentence imposed for an offense in any other state or  
30.21 country, the elements of which are substantially similar to the elements of the offenses  
30.22 listed in paragraph (a).

30.23 (e) If the individual studied commits one of the offenses listed in paragraph (a), but  
30.24 the sentence or level of offense is a gross misdemeanor or misdemeanor, the individual  
30.25 is disqualified but the disqualification look-back period for the offense is the period  
30.26 applicable to the gross misdemeanor or misdemeanor disposition.

30.27 (f) When a disqualification is based on a judicial determination other than a  
30.28 conviction, the disqualification period begins from the date of the court order. When a  
30.29 disqualification is based on an admission, the disqualification period begins from the  
30.30 date of an admission in court. When a disqualification is based on an Alford Plea, the  
30.31 disqualification period begins from the date the Alford Plea is entered in court. When  
30.32 a disqualification is based on a preponderance of evidence of a disqualifying act, the  
30.33 disqualification date begins from the date of the dismissal, the date of discharge of the  
30.34 sentence imposed for a conviction for a disqualifying crime of similar elements, or the  
30.35 date of the incident, whichever occurs last.

31.1 Sec. 23. Minnesota Statutes 2008, section 245C.15, subdivision 3, is amended to read:

31.2 Subd. 3. **Ten-year disqualification.** (a) An individual is disqualified under section  
31.3 245C.14 if: (1) less than ten years have passed since the discharge of the sentence imposed,  
31.4 if any, for the offense; and (2) the individual has committed a gross misdemeanor-level  
31.5 violation of any of the following offenses: sections 256.98 (wrongfully obtaining  
31.6 assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10,  
31.7 paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide  
31.8 and injury); 609.221 or 609.222 (assault in the first or second degree); 609.223 or  
31.9 609.2231 (assault in the third or fourth degree); 609.224 (assault in the fifth degree);  
31.10 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a  
31.11 vulnerable adult); 609.2242 and 609.2243 (domestic assault); 609.23 (mistreatment of  
31.12 persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal  
31.13 abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335  
31.14 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a  
31.15 vulnerable adult); 609.265 (abduction); 609.275 (attempt to coerce); 609.324, subdivision  
31.16 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house);  
31.17 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child);  
31.18 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into  
31.19 Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance  
31.20 of dishonored checks); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611  
31.21 (insurance fraud); 609.631 (check forgery; offering a forged check); 609.66 (dangerous  
31.22 weapons); 609.71 (riot); 609.72, subdivision 3 (disorderly conduct against a vulnerable  
31.23 adult); repeat offenses under 609.746 (interference with privacy); 609.749, subdivision 2  
31.24 (harassment; stalking); 609.82 (fraud in obtaining credit); 609.821 (financial transaction  
31.25 card fraud); 617.23 (indecent exposure), not involving a minor; 617.241 (obscene  
31.26 materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful  
31.27 materials; dissemination and display to minors prohibited); or violation of an order for  
31.28 protection under section 518B.01, subdivision 14.

31.29 (b) An individual is disqualified under section 245C.14 if less than ten years has  
31.30 passed since the individual's aiding and abetting, attempt, or conspiracy to commit any  
31.31 of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota  
31.32 Statutes.

31.33 (c) An individual is disqualified under section 245C.14 if less than ten years has  
31.34 passed since the discharge of the sentence imposed for an offense in any other state or  
31.35 country, the elements of which are substantially similar to the elements of any of the  
31.36 offenses listed in paragraph (a).

32.1 (d) If the individual studied commits one of the offenses listed in paragraph (a), but  
32.2 the sentence or level of offense is a misdemeanor disposition, the individual is disqualified  
32.3 but the disqualification lookback period for the offense is the period applicable to  
32.4 misdemeanors.

32.5 (e) When a disqualification is based on a judicial determination other than a  
32.6 conviction, the disqualification period begins from the date of the court order. When a  
32.7 disqualification is based on an admission, the disqualification period begins from the  
32.8 date of an admission in court. When a disqualification is based on an Alford Plea, the  
32.9 disqualification period begins from the date the Alford Plea is entered in court. When  
32.10 a disqualification is based on a preponderance of evidence of a disqualifying act, the  
32.11 disqualification date begins from the date of the dismissal, the date of discharge of the  
32.12 sentence imposed for a conviction for a disqualifying crime of similar elements, or the  
32.13 date of the incident, whichever occurs last.

32.14 Sec. 24. Minnesota Statutes 2008, section 245C.15, subdivision 4, is amended to read:

32.15 Subd. 4. **Seven-year disqualification.** (a) An individual is disqualified under  
32.16 section 245C.14 if: (1) less than seven years has passed since the discharge of the sentence  
32.17 imposed, if any, for the offense; and (2) the individual has committed a misdemeanor-level  
32.18 violation of any of the following offenses: sections 256.98 (wrongfully obtaining  
32.19 assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10,  
32.20 paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide  
32.21 and injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree);  
32.22 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224  
32.23 (assault in the fifth degree); 609.2242 (domestic assault); 609.2335 (financial exploitation  
32.24 of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult);  
32.25 609.2672 (assault of an unborn child in the third degree); 609.27 (coercion); violation  
32.26 of an order for protection under 609.3232 (protective order authorized; procedures;  
32.27 penalties); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen  
32.28 goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property);  
32.29 609.535 (issuance of dishonored checks); 609.611 (insurance fraud); 609.66 (dangerous  
32.30 weapons); 609.665 (spring guns); 609.746 (interference with privacy); 609.79 (obscene or  
32.31 harassing telephone calls); 609.795 (letter, telegram, or package; opening; harassment);  
32.32 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23  
32.33 (indecent exposure), not involving a minor; 617.293 (harmful materials; dissemination  
32.34 and display to minors prohibited); or violation of an order for protection under section  
32.35 518B.01 (Domestic Abuse Act).



33.1 (b) An individual is disqualified under section 245C.14 if less than seven years has  
33.2 passed since a determination or disposition of the individual's:

33.3 (1) failure to make required reports under section 626.556, subdivision 3, or  
33.4 626.557, subdivision 3, for incidents in which: (i) the final disposition under section  
33.5 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was  
33.6 recurring or serious; or

33.7 (2) substantiated serious or recurring maltreatment of a minor under section 626.556,  
33.8 a vulnerable adult under section 626.557, or serious or recurring maltreatment in any other  
33.9 state, the elements of which are substantially similar to the elements of maltreatment under  
33.10 section 626.556 or 626.557 for which: (i) there is a preponderance of evidence that the  
33.11 maltreatment occurred, and (ii) the subject was responsible for the maltreatment.

33.12 (c) An individual is disqualified under section 245C.14 if less than seven years has  
33.13 passed since the individual's aiding and abetting, attempt, or conspiracy to commit any  
33.14 of the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in  
33.15 Minnesota Statutes.

33.16 (d) An individual is disqualified under section 245C.14 if less than seven years has  
33.17 passed since the discharge of the sentence imposed for an offense in any other state or  
33.18 country, the elements of which are substantially similar to the elements of any of the  
33.19 offenses listed in paragraphs (a) and (b).

33.20 (e) When a disqualification is based on a judicial determination other than a  
33.21 conviction, the disqualification period begins from the date of the court order. When a  
33.22 disqualification is based on an admission, the disqualification period begins from the  
33.23 date of an admission in court. When a disqualification is based on an Alford Plea, the  
33.24 disqualification period begins from the date the Alford Plea is entered in court. When  
33.25 a disqualification is based on a preponderance of evidence of a disqualifying act, the  
33.26 disqualification date begins from the date of the dismissal, the date of discharge of the  
33.27 sentence imposed for a conviction for a disqualifying crime of similar elements, or the  
33.28 date of the incident, whichever occurs last.

33.29 (f) An individual is disqualified under section 245C.14 if less than seven years has  
33.30 passed since the individual was disqualified under section 256.98, subdivision 8.

33.31 Sec. 25. Minnesota Statutes 2008, section 245C.22, subdivision 7, is amended to read:

33.32 Subd. 7. **Classification of certain data.** (a) Notwithstanding section 13.46, upon  
33.33 setting aside a disqualification under this section, the identity of the disqualified individual  
33.34 who received the set-aside and the individual's disqualifying characteristics are public  
33.35 data if the set-aside was:

34.1 (1) for any disqualifying characteristic under section 245C.15, when the set-aside  
34.2 relates to a child care center or a family child care provider licensed under chapter 245A; or

34.3 (2) for a disqualifying characteristic under section 245C.15, subdivision 2.

34.4 (b) Notwithstanding section 13.46, upon granting a variance to a license holder  
34.5 under section 245C.30, the identity of the disqualified individual who is the subject of  
34.6 the variance, the individual's disqualifying characteristics under section 245C.15, and the  
34.7 terms of the variance are public data, when the variance:

34.8 (1) is issued to a child care center or a family child care provider licensed under  
34.9 chapter 245A; or

34.10 (2) relates to an individual with a disqualifying characteristic under section 245C.15,  
34.11 subdivision 2.

34.12 (c) The identity of a disqualified individual and the reason for disqualification  
34.13 remain private data when:

34.14 (1) a disqualification is not set aside and no variance is granted, except as provided  
34.15 under section 13.46, subdivision 4;

34.16 (2) the data are not public under paragraph (a) or (b);

34.17 (3) the disqualification is rescinded because the information relied upon to disqualify  
34.18 the individual is incorrect; or

34.19 (4) the disqualification relates to a license to provide relative child foster care.

34.20 As used in this clause, "relative" has the meaning given it under section 260C.007,  
34.21 subdivision 27.

34.22 (d) Licensed family child care providers and child care centers must provide notices  
34.23 as required under section 245C.301.

34.24 (e) Notwithstanding paragraphs (a) and (b), the identity of household members who  
34.25 are the subject of a disqualification related set-aside or variance is not public data if:

34.26 (1) the household member resides in the residence where the family child care is  
34.27 provided;

34.28 (2) the subject of the set-aside or variance is under the age of 18 years; and

34.29 (3) the set-aside or variance only relates to a disqualification under section 245C.15,  
34.30 subdivision 4, for a misdemeanor-level theft crime as defined in section 609.52.

34.31 Sec. 26. Minnesota Statutes 2008, section 245C.24, subdivision 2, is amended to read:

34.32 Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as provided in  
34.33 paragraph (b), the commissioner may not set aside the disqualification of any individual  
34.34 disqualified pursuant to this chapter, regardless of how much time has passed, if the  
34.35 individual was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

35.1 (b) For an individual in the chemical dependency or corrections field who was  
35.2 disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and whose  
35.3 disqualification was set aside prior to July 1, 2005, the commissioner must consider  
35.4 granting a variance pursuant to section 245C.30 for the license holder for a program  
35.5 dealing primarily with adults. A request for reconsideration evaluated under this paragraph  
35.6 must include a letter of recommendation from the license holder that was subject to the  
35.7 prior set-aside decision addressing the individual's quality of care to children or vulnerable  
35.8 adults and the circumstances of the individual's departure from that service.

35.9 (c) When a licensed foster care provider adopts an individual who had received  
35.10 foster care services from the provider for over six months, and the adopted individual is  
35.11 required to receive a background study under section 245C.03, subdivision 1, paragraph  
35.12 (a), clause (2) or (6), the commissioner may grant a variance to the license holder under  
35.13 section 245C.30 to permit the adopted individual with a permanent disqualification  
35.14 to remain affiliated with the license holder under the conditions of the variance when  
35.15 the variance is recommended by the county of responsibility for each of the remaining  
35.16 individuals in placement in the home and the licensing agency for the home.

35.17 Sec. 27. Minnesota Statutes 2008, section 245C.24, subdivision 3, is amended to read:

35.18 Subd. 3. **Ten-year bar to set aside disqualification.** (a) The commissioner may  
35.19 not set aside the disqualification of an individual in connection with a license to provide  
35.20 family child care for children, foster care for children in the provider's home, or foster  
35.21 care or day care services for adults in the provider's home if: (1) less than ten years  
35.22 has passed since the discharge of the sentence imposed, if any, for the offense; or (2)  
35.23 when disqualified based on a preponderance of evidence determination under section  
35.24 245C.14, subdivision 1, paragraph (a), clause (2), or an admission under section 245C.14,  
35.25 subdivision 1, paragraph (a), clause (1), and less than ten years has passed since the  
35.26 individual committed the act or admitted to committing the act, whichever is later; and  
35.27 (3) the individual has committed a violation of any of the following offenses: sections  
35.28 609.165 (felon ineligible to possess firearm); criminal vehicular homicide or criminal  
35.29 vehicular operation causing death under 609.21 (criminal vehicular homicide and injury);  
35.30 609.215 (aiding suicide or aiding attempted suicide); felony violations under 609.223 or  
35.31 609.2231 (assault in the third or fourth degree); 609.229 (crimes committed for benefit  
35.32 of a gang); 609.713 (terroristic threats); 609.235 (use of drugs to injure or to facilitate  
35.33 crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.562 (arson in the  
35.34 second degree); 609.71 (riot); 609.498, subdivision 1 or 1b (aggravated first-degree or  
35.35 first-degree tampering with a witness); burglary in the first or second degree under 609.582

36.1 (burglary); 609.66 (dangerous weapon); 609.665 (spring guns); 609.67 (machine guns  
 36.2 and short-barreled shotguns); 609.749, subdivision 2 (gross misdemeanor harassment;  
 36.3 stalking); 152.021 or 152.022 (controlled substance crime in the first or second degree);  
 36.4 152.023, subdivision 1, clause (3) or (4) or subdivision 2, clause (4) (controlled substance  
 36.5 crime in the third degree); 152.024, subdivision 1, clause (2), (3), or (4) (controlled  
 36.6 substance crime in the fourth degree); 609.224, subdivision 2, paragraph (c) (fifth-degree  
 36.7 assault by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons  
 36.8 confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a  
 36.9 vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial  
 36.10 exploitation of a vulnerable adult); 609.234 (failure to report); 609.265 (abduction);  
 36.11 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree);  
 36.12 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree);  
 36.13 609.268 (injury or death of an unborn child in the commission of a crime); repeat offenses  
 36.14 under 617.23 (indecent exposure); 617.293 (disseminating or displaying harmful material  
 36.15 to minors); a felony-level conviction involving alcohol or drug use, a gross misdemeanor  
 36.16 offense under 609.324, subdivision 1 (other prohibited acts); a gross misdemeanor offense  
 36.17 under 609.378 (neglect or endangerment of a child); a gross misdemeanor offense under  
 36.18 609.377 (malicious punishment of a child); 609.72, subdivision 3 (disorderly conduct  
 36.19 against a vulnerable adult); or 624.713 (certain persons not to possess firearms).

36.20 (b) The commissioner may not set aside the disqualification of an individual if  
 36.21 less than ten years have passed since the individual's aiding and abetting, attempt, or  
 36.22 conspiracy to commit any of the offenses listed in paragraph (a) as each of these offenses  
 36.23 is defined in Minnesota Statutes.

36.24 (c) The commissioner may not set aside the disqualification of an individual if less  
 36.25 than ten years have passed since the discharge of the sentence imposed for an offense in  
 36.26 any other state or country, the elements of which are substantially similar to the elements  
 36.27 of any of the offenses listed in paragraph (a).

36.28 Sec. 28. Minnesota Statutes 2008, section 245C.25, is amended to read:

36.29 **245C.25 CONSOLIDATED RECONSIDERATION OF MALTREATMENT**  
 36.30 **DETERMINATION AND DISQUALIFICATION.**

36.31 (a) If an individual is disqualified on the basis of a determination of maltreatment  
 36.32 under section 626.556 or 626.557, which was serious or recurring, and the individual  
 36.33 requests reconsideration of the maltreatment determination under section 626.556,  
 36.34 subdivision 10i, or 626.557, subdivision 9d, and also requests reconsideration of  
 36.35 the disqualification under section 245C.21, the commissioner shall consolidate the

37.1 reconsideration of the maltreatment determination and the disqualification into a single  
37.2 reconsideration.

37.3 (b) For maltreatment and disqualification determinations made by county agencies,  
37.4 the county agency shall conduct the consolidated reconsideration. If the county agency  
37.5 has disqualified an individual on multiple bases, one of which is a county maltreatment  
37.6 determination for which the individual has a right to request reconsideration, the county  
37.7 shall conduct the reconsideration of all disqualifications.

37.8 (c) If the county has previously conducted a consolidated reconsideration under  
37.9 paragraph (b) of a maltreatment determination and a disqualification based on serious or  
37.10 recurring maltreatment, and the county subsequently disqualifies the individual based  
37.11 on that determination, the county shall conduct the reconsideration of the subsequent  
37.12 disqualification. The scope of the subsequent disqualification shall be limited to whether  
37.13 the individual poses a risk of harm in accordance with section 245C.22, subdivision 4. If  
37.14 the commissioner subsequently disqualifies the individual in connection with a child foster  
37.15 care license based on the county's previous maltreatment determination, the commissioner  
37.16 shall conduct the reconsideration of the subsequent disqualification.

37.17 Sec. 29. Minnesota Statutes 2008, section 245C.27, subdivision 1, is amended to read:

37.18 Subdivision 1. **Fair hearing when disqualification is not set aside.** (a) If the  
37.19 commissioner does not set aside a disqualification of an individual under section  
37.20 245C.22 who is disqualified on the basis of a preponderance of evidence that the  
37.21 individual committed an act or acts that meet the definition of any of the crimes listed in  
37.22 section 245C.15; for a determination under section 626.556 or 626.557 of substantiated  
37.23 maltreatment that was serious or recurring under section 245C.15; or for failure to make  
37.24 required reports under section 626.556, subdivision 3; or 626.557, subdivision 3, pursuant  
37.25 to section 245C.15, subdivision 4, paragraph (b), clause (1), the individual may request  
37.26 a fair hearing under section 256.045, unless the disqualification is deemed conclusive  
37.27 under section 245C.29.

37.28 (b) The fair hearing is the only administrative appeal of the final agency  
37.29 determination for purposes of appeal by the disqualified individual. The disqualified  
37.30 individual does not have the right to challenge the accuracy and completeness of data  
37.31 under section 13.04.

37.32 (c) Except as provided under paragraph (e), if the individual was disqualified  
37.33 based on a conviction ~~or of,~~ admission to, or Alford Plea to any crimes listed in section  
37.34 245C.15, subdivisions 1 to 4, or for a disqualification under section 256.98, subdivision  
37.35 8, the reconsideration decision under section 245C.22 is the final agency determination

38.1 for purposes of appeal by the disqualified individual and is not subject to a hearing under  
38.2 section 256.045. If the individual was disqualified based on a judicial determination, that  
38.3 determination is treated the same as a conviction for purposes of appeal.

38.4 (d) This subdivision does not apply to a public employee's appeal of a disqualification  
38.5 under section 245C.28, subdivision 3.

38.6 (e) Notwithstanding paragraph (c), if the commissioner does not set aside a  
38.7 disqualification of an individual who was disqualified based on both a preponderance  
38.8 of evidence and a conviction or admission, the individual may request a fair hearing  
38.9 under section 256.045, unless the disqualifications are deemed conclusive under section  
38.10 245C.29. The scope of the hearing conducted under section 256.045 with regard to the  
38.11 disqualification based on a conviction or admission shall be limited solely to whether the  
38.12 individual poses a risk of harm, according to section 256.045, subdivision 3b. In this case,  
38.13 the reconsideration decision under section 245C.22 is not the final agency decision for  
38.14 purposes of appeal by the disqualified individual.

38.15 Sec. 30. Minnesota Statutes 2008, section 256.045, subdivision 3, is amended to read:

38.16 Subd. 3. **State agency hearings.** (a) State agency hearings are available for the  
38.17 following:

38.18 (1) any person applying for, receiving or having received public assistance, medical  
38.19 care, or a program of social services granted by the state agency or a county agency or  
38.20 the federal Food Stamp Act whose application for assistance is denied, not acted upon  
38.21 with reasonable promptness, or whose assistance is suspended, reduced, terminated, or  
38.22 claimed to have been incorrectly paid;

38.23 (2) any patient or relative aggrieved by an order of the commissioner under section  
38.24 252.27;

38.25 (3) a party aggrieved by a ruling of a prepaid health plan;

38.26 (4) except as provided under chapter 245C, any individual or facility determined by  
38.27 a lead agency to have maltreated a vulnerable adult under section 626.557 after they have  
38.28 exercised their right to administrative reconsideration under section 626.557;

38.29 (5) any person whose claim for foster care payment according to a placement of the  
38.30 child resulting from a child protection assessment under section 626.556 is denied or not  
38.31 acted upon with reasonable promptness, regardless of funding source;

38.32 (6) any person to whom a right of appeal according to this section is given by other  
38.33 provision of law;

38.34 (7) an applicant aggrieved by an adverse decision to an application for a hardship  
38.35 waiver under section 256B.15;

39.1 (8) an applicant aggrieved by an adverse decision to an application or redetermination  
39.2 for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

39.3 (9) except as provided under chapter 245A, an individual or facility determined  
39.4 to have maltreated a minor under section 626.556, after the individual or facility has  
39.5 exercised the right to administrative reconsideration under section 626.556; or

39.6 (10) except as provided under chapter 245C, an individual disqualified under  
39.7 sections 245C.14 and 245C.15, which has not been set aside under sections 245C.22  
39.8 and 245C.23, on the basis of serious or recurring maltreatment; a preponderance of the  
39.9 evidence that the individual has committed an act or acts that meet the definition of any of  
39.10 the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports  
39.11 required under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings  
39.12 regarding a maltreatment determination under clause (4) or (9) and a disqualification under  
39.13 this clause in which the basis for a disqualification is serious or recurring maltreatment,  
39.14 which has not been set aside under sections 245C.22 and 245C.23, shall be consolidated  
39.15 into a single fair hearing. In such cases, the scope of review by the human services referee  
39.16 shall include both the maltreatment determination and the disqualification. The failure to  
39.17 exercise the right to an administrative reconsideration shall not be a bar to a hearing under  
39.18 this section if federal law provides an individual the right to a hearing to dispute a finding  
39.19 of maltreatment. Individuals and organizations specified in this section may contest the  
39.20 specified action, decision, or final disposition before the state agency by submitting a  
39.21 written request for a hearing to the state agency within 30 days after receiving written  
39.22 notice of the action, decision, or final disposition, or within 90 days of such written notice  
39.23 if the applicant, recipient, patient, or relative shows good cause why the request was  
39.24 not submitted within the 30-day time limit.

39.25 (b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or  
39.26 (10), is the only administrative appeal to the final agency determination specifically,  
39.27 including a challenge to the accuracy and completeness of data under section 13.04.  
39.28 Hearings requested under paragraph (a), clause (4), apply only to incidents of maltreatment  
39.29 that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing  
39.30 homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a  
39.31 contested case proceeding under the provisions of chapter 14. Hearings requested under  
39.32 paragraph (a), clause (9), apply only to incidents of maltreatment that occur on or after  
39.33 July 1, 1997. A hearing for an individual or facility under paragraph (a), clause (9), is  
39.34 only available when there is no juvenile court or adult criminal action pending. If such  
39.35 action is filed in either court while an administrative review is pending, the administrative  
39.36 review must be suspended until the judicial actions are completed. If the juvenile court

40.1 action or criminal charge is dismissed or the criminal action overturned, the matter may be  
40.2 considered in an administrative hearing.

40.3 (c) For purposes of this section, bargaining unit grievance procedures are not an  
40.4 administrative appeal.

40.5 (d) The scope of hearings involving claims to foster care payments under paragraph  
40.6 (a), clause (5), shall be limited to the issue of whether the county is legally responsible  
40.7 for a child's placement under court order or voluntary placement agreement and, if so,  
40.8 the correct amount of foster care payment to be made on the child's behalf and shall not  
40.9 include review of the propriety of the county's child protection determination or child  
40.10 placement decision.

40.11 (e) A vendor of medical care as defined in section 256B.02, subdivision 7, or a  
40.12 vendor under contract with a county agency to provide social services is not a party and  
40.13 may not request a hearing under this section, except if assisting a recipient as provided in  
40.14 subdivision 4.

40.15 (f) An applicant or recipient is not entitled to receive social services beyond the  
40.16 services prescribed under chapter 256M or other social services the person is eligible  
40.17 for under state law.

40.18 (g) The commissioner may summarily affirm the county or state agency's proposed  
40.19 action without a hearing when the sole issue is an automatic change due to a change in  
40.20 state or federal law.

40.21 Sec. 31. Minnesota Statutes 2008, section 256.045, subdivision 3b, is amended to read:

40.22 Subd. 3b. **Standard of evidence for maltreatment and disqualification hearings.**

40.23 (a) The state human services referee shall determine that maltreatment has occurred if a  
40.24 preponderance of evidence exists to support the final disposition under sections 626.556  
40.25 and 626.557. For purposes of hearings regarding disqualification, the state human services  
40.26 referee shall affirm the proposed disqualification in an appeal under subdivision 3,  
40.27 paragraph (a), clause (9), if a preponderance of the evidence shows the individual has:

40.28 (1) committed maltreatment under section 626.556 or 626.557, which is serious or  
40.29 recurring;

40.30 (2) committed an act or acts meeting the definition of any of the crimes listed in  
40.31 section 245C.15, subdivisions 1 to 4; or

40.32 (3) failed to make required reports under section 626.556 or 626.557, for incidents  
40.33 in which the final disposition under section 626.556 or 626.557 was substantiated  
40.34 maltreatment that was serious or recurring.



41.1 (b) If the disqualification is affirmed, the state human services referee shall  
41.2 determine whether the individual poses a risk of harm in accordance with the requirements  
41.3 of section ~~245C.16~~ 245C.22, and whether the disqualification should be set aside or not set  
41.4 aside. In determining whether the disqualification should be set aside, the human services  
41.5 referee shall consider all of the characteristics that cause the individual to be disqualified,  
41.6 including those characteristics that were not subject to review under paragraph (a), in  
41.7 order to determine whether the individual poses a risk of harm. A decision to set aside  
41.8 a disqualification that is the subject of the hearing constitutes a determination that the  
41.9 individual does not pose a risk of harm and that the individual may provide direct contact  
41.10 services in the individual program specified in the set aside. If a determination that the  
41.11 information relied upon to disqualify an individual was correct and is conclusive under  
41.12 section 245C.29, and the individual is subsequently disqualified under section 245C.14,  
41.13 the individual has a right to again request reconsideration on the risk of harm under section  
41.14 245C.21. Subsequent determinations regarding risk of harm are not subject to another  
41.15 hearing under this section.

41.16 (c) The state human services referee shall recommend an order to the commissioner  
41.17 of health, education, or human services, as applicable, who shall issue a final order. The  
41.18 commissioner shall affirm, reverse, or modify the final disposition. Any order of the  
41.19 commissioner issued in accordance with this subdivision is conclusive upon the parties  
41.20 unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal  
41.21 under chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to 144A.46,  
41.22 the commissioner's determination as to maltreatment is conclusive, as provided under  
41.23 section 245C.29.

41.24 Sec. 32. **[256.364] LICENSE; PERMIT.**

41.25 Notwithstanding any law to the contrary, a municipality shall not require a massage  
41.26 therapist to obtain a license or permit when the therapist is working for or an employee of  
41.27 a medical professional licensed under chapter 147 or 148.

41.28 Sec. 33. Minnesota Statutes 2008, section 256B.0943, subdivision 4, is amended to  
41.29 read:

41.30 Subd. 4. **Provider entity certification.** (a) Effective July 1, 2003, the commissioner  
41.31 shall establish an initial provider entity application and certification process and  
41.32 recertification process to determine whether a provider entity has an administrative  
41.33 and clinical infrastructure that meets the requirements in subdivisions 5 and 6. The  
41.34 commissioner shall recertify a provider entity at least every three years. The commissioner

42.1 shall establish a process for decertification of a provider entity that no longer meets the  
42.2 requirements in this section. The county, tribe, and the commissioner shall be mutually  
42.3 responsible and accountable for the county's, tribe's, and state's part of the certification,  
42.4 recertification, and decertification processes.

42.5 (b) For purposes of this section, a provider entity must be:

42.6 (1) an Indian health services facility or a facility owned and operated by a tribe or  
42.7 tribal organization operating as a 638 facility under Public Law 93-638 certified by the  
42.8 state;

42.9 (2) a county-operated entity certified by the state; or

42.10 (3) a noncounty entity ~~recommended for certification by the provider's host county~~  
42.11 ~~and~~ certified by the state.

42.12 Sec. 34. Minnesota Statutes 2008, section 256B.0943, subdivision 6, is amended to  
42.13 read:

42.14 Subd. 6. **Provider entity clinical infrastructure requirements.** (a) To be  
42.15 an eligible provider entity under this section, a provider entity must have a clinical  
42.16 infrastructure that utilizes diagnostic assessment, an individualized treatment plan,  
42.17 service delivery, and individual treatment plan review that are culturally competent,  
42.18 child-centered, and family-driven to achieve maximum benefit for the client. The provider  
42.19 entity must review, and update as necessary, the clinical policies and procedures every  
42.20 three years and must distribute the policies and procedures to staff initially and upon  
42.21 each subsequent update.

42.22 (b) The clinical infrastructure written policies and procedures must include policies  
42.23 and procedures for:

42.24 (1) providing or obtaining a client's diagnostic assessment that identifies acute and  
42.25 chronic clinical disorders, co-occurring medical conditions, sources of psychological  
42.26 and environmental problems, ~~and including~~ a functional assessment. The functional  
42.27 assessment component must clearly summarize the client's individual strengths and needs;

42.28 (2) developing an individual treatment plan that is:

42.29 (i) based on the information in the client's diagnostic assessment;

42.30 (ii) developed no later than the end of the first psychotherapy session after the  
42.31 completion of the client's diagnostic assessment by the mental health professional who  
42.32 provides the client's psychotherapy;

42.33 (iii) developed through a child-centered, family-driven planning process that  
42.34 identifies service needs and individualized, planned, and culturally appropriate

43.1 interventions that contain specific treatment goals and objectives for the client and the  
43.2 client's family or foster family;

43.3 (iv) reviewed at least once every 90 days and revised, if necessary; and

43.4 (v) signed by the client or, if appropriate, by the client's parent or other person  
43.5 authorized by statute to consent to mental health services for the client;

43.6 (3) developing an individual behavior plan that documents services to be provided  
43.7 by the mental health behavioral aide. The individual behavior plan must include:

43.8 (i) detailed instructions on the service to be provided;

43.9 (ii) time allocated to each service;

43.10 (iii) methods of documenting the child's behavior;

43.11 (iv) methods of monitoring the child's progress in reaching objectives; and

43.12 (v) goals to increase or decrease targeted behavior as identified in the individual  
43.13 treatment plan;

43.14 (4) clinical supervision of the mental health practitioner and mental health behavioral  
43.15 aide. A mental health professional must document the clinical supervision the professional  
43.16 provides by cosigning individual treatment plans and making entries in the client's record  
43.17 on supervisory activities. Clinical supervision does not include the authority to make or  
43.18 terminate court-ordered placements of the child. A clinical supervisor must be available  
43.19 for urgent consultation as required by the individual client's needs or the situation. Clinical  
43.20 supervision may occur individually or in a small group to discuss treatment and review  
43.21 progress toward goals. The focus of clinical supervision must be the client's treatment  
43.22 needs and progress and the mental health practitioner's or behavioral aide's ability to  
43.23 provide services;

43.24 (4a) CTSS certified provider entities providing day treatment programs must meet  
43.25 the conditions in items (i) to (iii):

43.26 (i) the supervisor must be present and available on the premises more than 50  
43.27 percent of the time in a five-working-day period during which the supervisee is providing  
43.28 a mental health service;

43.29 (ii) the diagnosis and the client's individual treatment plan or a change in the  
43.30 diagnosis or individual treatment plan must be made by or reviewed, approved, and signed  
43.31 by the supervisor; and

43.32 (iii) every 30 days, the supervisor must review and sign the record ~~of~~ indicating the  
43.33 supervisor has reviewed the client's care for all activities in the preceding 30-day period;

43.34 (4b) for all other services provided under CTSS, clinical supervision standards  
43.35 provided in items (i) to (iii) must be used:

44.1 (i) medical assistance shall reimburse a mental health practitioner who maintains a  
44.2 consulting relationship with a mental health professional who accepts full professional  
44.3 responsibility ~~and is present on site for at least one observation during the first 12 hours~~  
44.4 ~~in which the mental health practitioner provides the individual, family, or group skills~~  
44.5 ~~training to the child or the child's family;~~

44.6 (ii) ~~thereafter~~, the mental health professional is required to be present on site for  
44.7 observation as clinically appropriate when the mental health practitioner is providing  
44.8 individual, family, or group skills training to the child or the child's family; and

44.9 (iii) when conducted, the observation must be a minimum of one clinical unit. The  
44.10 on-site presence of the mental health professional must be documented in the child's record  
44.11 and signed by the mental health professional who accepts full professional responsibility;

44.12 (5) providing direction to a mental health behavioral aide. For entities that employ  
44.13 mental health behavioral aides, the clinical supervisor must be employed by the provider  
44.14 entity or other certified children's therapeutic supports and services provider entity to  
44.15 ensure necessary and appropriate oversight for the client's treatment and continuity  
44.16 of care. The mental health professional or mental health practitioner giving direction  
44.17 must begin with the goals on the individualized treatment plan, and instruct the mental  
44.18 health behavioral aide on how to construct therapeutic activities and interventions that  
44.19 will lead to goal attainment. The professional or practitioner giving direction must also  
44.20 instruct the mental health behavioral aide about the client's diagnosis, functional status,  
44.21 and other characteristics that are likely to affect service delivery. Direction must also  
44.22 include determining that the mental health behavioral aide has the skills to interact with  
44.23 the client and the client's family in ways that convey personal and cultural respect and  
44.24 that the aide actively solicits information relevant to treatment from the family. The aide  
44.25 must be able to clearly explain the activities the aide is doing with the client and the  
44.26 activities' relationship to treatment goals. Direction is more didactic than is supervision  
44.27 and requires the professional or practitioner providing it to continuously evaluate the  
44.28 mental health behavioral aide's ability to carry out the activities of the individualized  
44.29 treatment plan and the individualized behavior plan. When providing direction, the  
44.30 professional or practitioner must:

44.31 (i) review progress notes prepared by the mental health behavioral aide for accuracy  
44.32 and consistency with diagnostic assessment, treatment plan, and behavior goals and the  
44.33 professional or practitioner must approve and sign the progress notes;

44.34 (ii) identify changes in treatment strategies, revise the individual behavior plan,  
44.35 and communicate treatment instructions and methodologies as appropriate to ensure  
44.36 that treatment is implemented correctly;

45.1 (iii) demonstrate family-friendly behaviors that support healthy collaboration among  
45.2 the child, the child's family, and providers as treatment is planned and implemented;

45.3 (iv) ensure that the mental health behavioral aide is able to effectively communicate  
45.4 with the child, the child's family, and the provider; and

45.5 (v) record the results of any evaluation and corrective actions taken to modify the  
45.6 work of the mental health behavioral aide;

45.7 (6) providing service delivery that implements the individual treatment plan and  
45.8 meets the requirements under subdivision 9; and

45.9 (7) individual treatment plan review. The review must determine the extent to which  
45.10 the services have met the goals and objectives in the previous treatment plan. The review  
45.11 must assess the client's progress and ensure that services and treatment goals continue to  
45.12 be necessary and appropriate to the client and the client's family or foster family. Revision  
45.13 of the individual treatment plan does not require a new diagnostic assessment unless the  
45.14 client's mental health status has changed markedly. The updated treatment plan must be  
45.15 signed by the client, if appropriate, and by the client's parent or other person authorized by  
45.16 statute to give consent to the mental health services for the child.

45.17 Sec. 35. Minnesota Statutes 2008, section 256B.0943, subdivision 9, is amended to  
45.18 read:

45.19 Subd. 9. **Service delivery criteria.** (a) In delivering services under this section, a  
45.20 certified provider entity must ensure that:

45.21 (1) each individual provider's caseload size permits the provider to deliver services  
45.22 to both clients with severe, complex needs and clients with less intensive needs. The  
45.23 provider's caseload size should reasonably enable the provider to play an active role in  
45.24 service planning, monitoring, and delivering services to meet the client's and client's  
45.25 family's needs, as specified in each client's individual treatment plan;

45.26 (2) site-based programs, including day treatment and preschool programs, provide  
45.27 staffing and facilities to ensure the client's health, safety, and protection of rights, and that  
45.28 the programs are able to implement each client's individual treatment plan;

45.29 (3) a day treatment program is provided to a group of clients by a multidisciplinary  
45.30 team under the clinical supervision of a mental health professional. The day treatment  
45.31 program must be provided in and by: (i) an outpatient hospital accredited by the Joint  
45.32 Commission on Accreditation of Health Organizations and licensed under sections  
45.33 144.50 to 144.55; (ii) a community mental health center under section 245.62; and (iii)  
45.34 an entity that is under contract with the county board to operate a program that meets  
45.35 the requirements of sections 245.4712, subdivision 2, and 245.4884, subdivision 2,

46.1 and Minnesota Rules, parts 9505.0170 to 9505.0475. The day treatment program must  
46.2 stabilize the client's mental health status while developing and improving the client's  
46.3 independent living and socialization skills. The goal of the day treatment program must  
46.4 be to reduce or relieve the effects of mental illness and provide training to enable the  
46.5 client to live in the community. The program must be available at least one day a week  
46.6 for a ~~three-hour~~ two-hour time block. The ~~three-hour~~ two-hour time block must include  
46.7 at least one hour, ~~but no more than two hours~~, of individual or group psychotherapy.  
46.8 ~~The remainder of the three-hour time block may include recreation therapy, socialization~~  
46.9 ~~therapy, or independent living skills therapy, but only if the therapies are included in the~~  
46.10 ~~client's individual treatment plan~~ The structured treatment program may include individual  
46.11 or group psychotherapy and recreation therapy, socialization therapy, or independent  
46.12 living skills therapy, if included in the client's individual treatment plan. Day treatment  
46.13 programs are not part of inpatient or residential treatment services; and

46.14 (4) a preschool program is a structured treatment program offered to a child who  
46.15 is at least 33 months old, but who has not yet reached the first day of kindergarten, by a  
46.16 preschool multidisciplinary team in a day program licensed under Minnesota Rules, parts  
46.17 9503.0005 to 9503.0175. The program must be available at least one day a week for a  
46.18 minimum two-hour time block. The structured treatment program may include individual  
46.19 or group psychotherapy and recreation therapy, socialization therapy, or independent  
46.20 living skills therapy, if included in the client's individual treatment plan.

46.21 (b) A provider entity must deliver the service components of children's therapeutic  
46.22 services and supports in compliance with the following requirements:

46.23 (1) individual, family, and group psychotherapy must be delivered as specified in  
46.24 Minnesota Rules, part 9505.0323;

46.25 (2) individual, family, or group skills training must be provided by a mental health  
46.26 professional or a mental health practitioner who has a consulting relationship with a  
46.27 mental health professional who accepts full professional responsibility for the training;

46.28 (3) crisis assistance must be time-limited and designed to resolve or stabilize crisis  
46.29 through arrangements for direct intervention and support services to the child and the  
46.30 child's family. Crisis assistance must utilize resources designed to address abrupt or  
46.31 substantial changes in the functioning of the child or the child's family as evidenced by  
46.32 a sudden change in behavior with negative consequences for well being, a loss of usual  
46.33 coping mechanisms, or the presentation of danger to self or others;

46.34 (4) medically necessary services that are provided by a mental health behavioral  
46.35 aide must be designed to improve the functioning of the child and support the family in  
46.36 activities of daily and community living. A mental health behavioral aide must document

47.1 the delivery of services in written progress notes. The mental health behavioral aide  
47.2 must implement goals in the treatment plan for the child's emotional disturbance that  
47.3 allow the child to acquire developmentally and therapeutically appropriate daily living  
47.4 skills, social skills, and leisure and recreational skills through targeted activities. These  
47.5 activities may include:

47.6 (i) assisting a child as needed with skills development in dressing, eating, and  
47.7 toileting;

47.8 (ii) assisting, monitoring, and guiding the child to complete tasks, including  
47.9 facilitating the child's participation in medical appointments;

47.10 (iii) observing the child and intervening to redirect the child's inappropriate behavior;

47.11 (iv) assisting the child in using age-appropriate self-management skills as related  
47.12 to the child's emotional disorder or mental illness, including problem solving, decision  
47.13 making, communication, conflict resolution, anger management, social skills, and  
47.14 recreational skills;

47.15 (v) implementing deescalation techniques as recommended by the mental health  
47.16 professional;

47.17 (vi) implementing any other mental health service that the mental health professional  
47.18 has approved as being within the scope of the behavioral aide's duties; or

47.19 (vii) assisting the parents to develop and use parenting skills that help the child  
47.20 achieve the goals outlined in the child's individual treatment plan or individual behavioral  
47.21 plan. Parenting skills must be directed exclusively to the child's treatment; and

47.22 (5) direction of a mental health behavioral aide must include the following:

47.23 (i) a total of one hour of on-site observation by a mental health professional during  
47.24 the first 12 hours of service provided to a child;

47.25 (ii) ongoing on-site observation by a mental health professional or mental health  
47.26 practitioner for at least a total of one hour during every 40 hours of service provided  
47.27 to a child; and

47.28 (iii) immediate accessibility of the mental health professional or mental health  
47.29 practitioner to the mental health behavioral aide during service provision.

47.30 Sec. 36. Minnesota Statutes 2008, section 626.556, subdivision 2, is amended to read:

47.31 Subd. 2. **Definitions.** As used in this section, the following terms have the meanings  
47.32 given them unless the specific content indicates otherwise:

47.33 (a) "Family assessment" means a comprehensive assessment of child safety, risk  
47.34 of subsequent child maltreatment, and family strengths and needs that is applied to a  
47.35 child maltreatment report that does not allege substantial child endangerment. Family

48.1 assessment does not include a determination as to whether child maltreatment occurred  
48.2 but does determine the need for services to address the safety of family members and the  
48.3 risk of subsequent maltreatment.

48.4 (b) "Investigation" means fact gathering related to the current safety of a child  
48.5 and the risk of subsequent maltreatment that determines whether child maltreatment  
48.6 occurred and whether child protective services are needed. An investigation must be used  
48.7 when reports involve substantial child endangerment, and for reports of maltreatment in  
48.8 facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to  
48.9 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and  
48.10 13, and 124D.10; or in a nonlicensed personal care provider association as defined in  
48.11 sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

48.12 (c) "Substantial child endangerment" means a person responsible for a child's care,  
48.13 and in the case of sexual abuse includes a person who has a significant relationship to the  
48.14 child as defined in section 609.341, or a person in a position of authority as defined in  
48.15 section 609.341, who by act or omission commits or attempts to commit an act against a  
48.16 child under their care that constitutes any of the following:

48.17 (1) egregious harm as defined in section 260C.007, subdivision 14;

48.18 (2) sexual abuse as defined in paragraph (d);

48.19 (3) abandonment under section 260C.301, subdivision 2;

48.20 (4) neglect as defined in paragraph (f), clause (2), that substantially endangers the  
48.21 child's physical or mental health, including a growth delay, which may be referred to as  
48.22 failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

48.23 (5) murder in the first, second, or third degree under section 609.185, 609.19, or  
48.24 609.195;

48.25 (6) manslaughter in the first or second degree under section 609.20 or 609.205;

48.26 (7) assault in the first, second, or third degree under section 609.221, 609.222, or  
48.27 609.223;

48.28 (8) solicitation, inducement, and promotion of prostitution under section 609.322;

48.29 (9) criminal sexual conduct under sections 609.342 to 609.3451;

48.30 (10) solicitation of children to engage in sexual conduct under section 609.352;

48.31 (11) malicious punishment or neglect or endangerment of a child under section  
48.32 609.377 or 609.378;

48.33 (12) use of a minor in sexual performance under section 617.246; or

48.34 (13) parental behavior, status, or condition which mandates that the county attorney  
48.35 file a termination of parental rights petition under section 260C.301, subdivision 3,  
48.36 paragraph (a).



49.1 (d) "Sexual abuse" means the subjection of a child by a person responsible for the  
49.2 child's care, by a person who has a significant relationship to the child, as defined in  
49.3 section 609.341, or by a person in a position of authority, as defined in section 609.341,  
49.4 subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual  
49.5 conduct in the first degree), 609.343 (criminal sexual conduct in the second degree),  
49.6 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct  
49.7 in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual  
49.8 abuse also includes any act which involves a minor which constitutes a violation of  
49.9 prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes  
49.10 threatened sexual abuse.

49.11 (e) "Person responsible for the child's care" means (1) an individual functioning  
49.12 within the family unit and having responsibilities for the care of the child such as a  
49.13 parent, guardian, or other person having similar care responsibilities, or (2) an individual  
49.14 functioning outside the family unit and having responsibilities for the care of the child  
49.15 such as a teacher, school administrator, other school employees or agents, or other lawful  
49.16 custodian of a child having either full-time or short-term care responsibilities including,  
49.17 but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching,  
49.18 and coaching.

49.19 (f) "Neglect" means the commission or omission of any of the acts specified under  
49.20 clauses (1) to (9), other than by accidental means:

49.21 (1) failure by a person responsible for a child's care to supply a child with necessary  
49.22 food, clothing, shelter, health, medical, or other care required for the child's physical or  
49.23 mental health when reasonably able to do so;

49.24 (2) failure to protect a child from conditions or actions that seriously endanger the  
49.25 child's physical or mental health when reasonably able to do so, including a growth delay,  
49.26 which may be referred to as a failure to thrive, that has been diagnosed by a physician and  
49.27 is due to parental neglect;

49.28 (3) failure to provide for necessary supervision or child care arrangements  
49.29 appropriate for a child after considering factors as the child's age, mental ability, physical  
49.30 condition, length of absence, or environment, when the child is unable to care for the  
49.31 child's own basic needs or safety, or the basic needs or safety of another child in their care;

49.32 (4) failure to ensure that the child is educated as defined in sections 120A.22 and  
49.33 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's  
49.34 child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

49.35 (5) nothing in this section shall be construed to mean that a child is neglected solely  
49.36 because the child's parent, guardian, or other person responsible for the child's care in

50.1 good faith selects and depends upon spiritual means or prayer for treatment or care of  
50.2 disease or remedial care of the child in lieu of medical care; except that a parent, guardian,  
50.3 or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report  
50.4 if a lack of medical care may cause serious danger to the child's health. This section does  
50.5 not impose upon persons, not otherwise legally responsible for providing a child with  
50.6 necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

50.7 (6) prenatal exposure to a controlled substance, as defined in section 253B.02,  
50.8 subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal  
50.9 symptoms in the child at birth, results of a toxicology test performed on the mother at  
50.10 delivery or the child at birth, or medical effects or developmental delays during the child's  
50.11 first year of life that medically indicate prenatal exposure to a controlled substance;

50.12 (7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

50.13 (8) chronic and severe use of alcohol or a controlled substance by a parent or  
50.14 person responsible for the care of the child that adversely affects the child's basic needs  
50.15 and safety; or

50.16 (9) emotional harm from a pattern of behavior which contributes to impaired  
50.17 emotional functioning of the child which may be demonstrated by a substantial and  
50.18 observable effect in the child's behavior, emotional response, or cognition that is not  
50.19 within the normal range for the child's age and stage of development, with due regard to  
50.20 the child's culture.

50.21 (g) "Physical abuse" means any physical injury, mental injury, or threatened injury,  
50.22 inflicted by a person responsible for the child's care on a child other than by accidental  
50.23 means, or any physical or mental injury that cannot reasonably be explained by the child's  
50.24 history of injuries, or any aversive or deprivation procedures, or regulated interventions,  
50.25 that have not been authorized under section 121A.67 or 245.825.

50.26 Abuse does not include reasonable and moderate physical discipline of a child  
50.27 administered by a parent or legal guardian which does not result in an injury. Abuse does  
50.28 not include the use of reasonable force by a teacher, principal, or school employee as  
50.29 allowed by section 121A.582. Actions which are not reasonable and moderate include,  
50.30 but are not limited to, any of the following that are done in anger or without regard to the  
50.31 safety of the child:

50.32 (1) throwing, kicking, burning, biting, or cutting a child;

50.33 (2) striking a child with a closed fist;

50.34 (3) shaking a child under age three;

50.35 (4) striking or other actions which result in any nonaccidental injury to a child  
50.36 under 18 months of age;

- 51.1 (5) unreasonable interference with a child's breathing;
- 51.2 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
- 51.3 (7) striking a child under age one on the face or head;
- 51.4 (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
- 51.5 substances which were not prescribed for the child by a practitioner, in order to control or
- 51.6 punish the child; or other substances that substantially affect the child's behavior, motor
- 51.7 coordination, or judgment or that results in sickness or internal injury, or subjects the
- 51.8 child to medical procedures that would be unnecessary if the child were not exposed
- 51.9 to the substances;
- 51.10 (9) unreasonable physical confinement or restraint not permitted under section
- 51.11 609.379, including but not limited to tying, caging, or chaining; or
- 51.12 (10) in a school facility or school zone, an act by a person responsible for the child's
- 51.13 care that is a violation under section 121A.58.
- 51.14 (h) "Report" means any report received by the local welfare agency, police
- 51.15 department, county sheriff, or agency responsible for assessing or investigating
- 51.16 maltreatment pursuant to this section.
- 51.17 (i) "Facility" means:
- 51.18 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,
- 51.19 sanitarium, or other facility or institution required to be licensed under sections 144.50 to
- 51.20 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;
- 51.21 (2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and
- 51.22 124D.10; or
- 51.23 (3) a nonlicensed personal care provider organization as defined in sections 256B.04,
- 51.24 subdivision 16, and 256B.0625, subdivision 19a.
- 51.25 (j) "Operator" means an operator or agency as defined in section 245A.02.
- 51.26 (k) "Commissioner" means the commissioner of human services.
- 51.27 (l) "Practice of social services," for the purposes of subdivision 3, includes but is
- 51.28 not limited to employee assistance counseling and the provision of guardian ad litem and
- 51.29 parenting time expeditor services.
- 51.30 (m) "Mental injury" means an injury to the psychological capacity or emotional
- 51.31 stability of a child as evidenced by an observable or substantial impairment in the child's
- 51.32 ability to function within a normal range of performance and behavior with due regard to
- 51.33 the child's culture.
- 51.34 (n) "Threatened injury" means a statement, overt act, condition, or status that
- 51.35 represents a substantial risk of physical or sexual abuse or mental injury. Threatened

52.1 injury includes, but is not limited to, exposing a child to a person responsible for the  
52.2 child's care, as defined in paragraph (e), clause (1), who has:

52.3 (1) subjected a child to, or failed to protect a child from, an overt act or condition  
52.4 that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a  
52.5 similar law of another jurisdiction;

52.6 (2) been found to be palpably unfit under section 260C.301, paragraph (b), clause  
52.7 (4), or a similar law of another jurisdiction;

52.8 (3) committed an act that has resulted in an involuntary termination of parental rights  
52.9 under section 260C.301, or a similar law of another jurisdiction; or

52.10 (4) committed an act that has resulted in the involuntary transfer of permanent legal  
52.11 and physical custody of a child to a relative under section 260C.201, subdivision 11,  
52.12 paragraph (d), clause (1), or a similar law of another jurisdiction.

52.13 (o) Persons who conduct assessments or investigations under this section shall take  
52.14 into account accepted child-rearing practices of the culture in which a child participates  
52.15 and accepted teacher discipline practices, which are not injurious to the child's health,  
52.16 welfare, and safety.

52.17 (p) "Accidental" means a sudden, not reasonably foreseeable, and unexpected  
52.18 occurrence or event which:

52.19 (1) is not likely to occur and could not have been prevented by exercise of due  
52.20 care; and

52.21 (2) if occurring while a child is receiving services from a facility, happens when the  
52.22 facility and the employee or person providing services in the facility are in compliance  
52.23 with the laws and rules relevant to the occurrence of event.

52.24 Sec. 37. Minnesota Statutes 2008, section 626.556, subdivision 10e, is amended to  
52.25 read:

52.26 Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family  
52.27 assessment or the investigation within 45 days of the receipt of a report. The conclusion of  
52.28 the assessment or investigation may be extended to permit the completion of a criminal  
52.29 investigation or the receipt of expert information requested within 45 days of the receipt  
52.30 of the report.

52.31 (b) After conducting a family assessment, the local welfare agency shall determine  
52.32 whether services are needed to address the safety of the child and other family members  
52.33 and the risk of subsequent maltreatment.

53.1 (c) After conducting an investigation, the local welfare agency shall make two  
53.2 determinations: first, whether maltreatment has occurred; and second, whether child  
53.3 protective services are needed.

53.4 (d) If the commissioner of education conducts an assessment or investigation,  
53.5 the commissioner shall determine whether maltreatment occurred and what corrective  
53.6 or protective action was taken by the school facility. If a determination is made that  
53.7 maltreatment has occurred, the commissioner shall report to the employer, the school  
53.8 board, and any appropriate licensing entity the determination that maltreatment occurred  
53.9 and what corrective or protective action was taken by the school facility. In all other cases,  
53.10 the commissioner shall inform the school board or employer that a report was received,  
53.11 the subject of the report, the date of the initial report, the category of maltreatment alleged  
53.12 as defined in paragraph (f), the fact that maltreatment was not determined, and a summary  
53.13 of the specific reasons for the determination.

53.14 (e) When maltreatment is determined in an investigation involving a facility,  
53.15 the investigating agency shall also determine whether the facility or individual was  
53.16 responsible, or whether both the facility and the individual were responsible for the  
53.17 maltreatment using the mitigating factors in paragraph (i). Determinations under this  
53.18 subdivision must be made based on a preponderance of the evidence and are private data  
53.19 on individuals or nonpublic data as maintained by the commissioner of education.

53.20 (f) For the purposes of this subdivision, "maltreatment" means any of the following  
53.21 acts or omissions:

- 53.22 (1) physical abuse as defined in subdivision 2, paragraph (g);  
53.23 (2) neglect as defined in subdivision 2, paragraph (f);  
53.24 (3) sexual abuse as defined in subdivision 2, paragraph (d);  
53.25 (4) mental injury as defined in subdivision 2, paragraph (m); or  
53.26 (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (i).

53.27 (g) For the purposes of this subdivision, a determination that child protective  
53.28 services are needed means that the local welfare agency has documented conditions  
53.29 during the assessment or investigation sufficient to cause a child protection worker, as  
53.30 defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of  
53.31 maltreatment if protective intervention is not provided and that the individuals responsible  
53.32 for the child's care have not taken or are not likely to take actions to protect the child  
53.33 from maltreatment or risk of maltreatment.

53.34 (h) This subdivision does not mean that maltreatment has occurred solely because  
53.35 the child's parent, guardian, or other person responsible for the child's care in good faith  
53.36 selects and depends upon spiritual means or prayer for treatment or care of disease

54.1 or remedial care of the child, in lieu of medical care. However, if lack of medical care  
54.2 may result in serious danger to the child's health, the local welfare agency may ensure  
54.3 that necessary medical services are provided to the child.

54.4 (i) When determining whether the facility or individual is the responsible party, or  
54.5 whether both the facility and the individual are responsible for determined maltreatment in  
54.6 a facility, the investigating agency shall consider at least the following mitigating factors:

54.7 (1) whether the actions of the facility or the individual caregivers were according to,  
54.8 and followed the terms of, an erroneous physician order, prescription, individual care plan,  
54.9 or directive; however, this is not a mitigating factor when the facility or caregiver was  
54.10 responsible for the issuance of the erroneous order, prescription, individual care plan, or  
54.11 directive or knew or should have known of the errors and took no reasonable measures to  
54.12 correct the defect before administering care;

54.13 (2) comparative responsibility between the facility, other caregivers, and  
54.14 requirements placed upon an employee, including the facility's compliance with related  
54.15 regulatory standards and the adequacy of facility policies and procedures, facility training,  
54.16 an individual's participation in the training, the caregiver's supervision, and facility staffing  
54.17 levels and the scope of the individual employee's authority and discretion; and

54.18 (3) whether the facility or individual followed professional standards in exercising  
54.19 professional judgment.

54.20 (j) Notwithstanding paragraph (i), when maltreatment is determined to have been  
54.21 committed by an individual who is also the facility license holder, both the individual and  
54.22 the facility must be determined responsible for the maltreatment, and both the background  
54.23 study disqualification standards under section 245C.15, subdivision 4, and the licensing  
54.24 actions under sections 245A.06 or 245A.07 apply.

54.25 (k) Individual counties may implement more detailed definitions or criteria that  
54.26 indicate which allegations to investigate, as long as a county's policies are consistent  
54.27 with the definitions in the statutes and rules and are approved by the county board. Each  
54.28 local welfare agency shall periodically inform mandated reporters under subdivision 3  
54.29 who work in the county of the definitions of maltreatment in the statutes and rules and any  
54.30 additional definitions or criteria that have been approved by the county board.

54.31 Sec. 38. Minnesota Statutes 2008, section 626.556, subdivision 10f, is amended to read:

54.32 Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion  
54.33 of a family assessment, the local welfare agency shall notify the parent or guardian  
54.34 of the child of the need for services to address child safety concerns or significant risk  
54.35 of subsequent child maltreatment. The local welfare agency and the family may also

55.1 jointly agree that family support and family preservation services are needed. Within ten  
55.2 working days of the conclusion of an investigation, the local welfare agency or agency  
55.3 responsible for assessing or investigating the report shall notify the parent or guardian  
55.4 of the child, the person determined to be maltreating the child, and if applicable, the  
55.5 director of the facility, of the determination and a summary of the specific reasons for  
55.6 the determination. When the investigation involves a child foster care setting that is  
55.7 monitored by a private licensing agency under section 245A.16, the local welfare agency  
55.8 responsible for assessing or investigating the report shall notify the private licensing  
55.9 agency of the determination and shall provide a summary of the specific reasons for  
55.10 the determination. The notice to the private licensing agency must include identifying  
55.11 private data, but not the identity of the reporter of maltreatment. The notice must also  
55.12 include a certification that the information collection procedures under subdivision 10,  
55.13 paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to  
55.14 obtain access to other private data on the subject collected, created, or maintained under  
55.15 this section. In addition, the notice shall include the length of time that the records will be  
55.16 kept under subdivision 11c. The investigating agency shall notify the parent or guardian  
55.17 of the child who is the subject of the report, and any person or facility determined to  
55.18 have maltreated a child, of their appeal or review rights under this section or section  
55.19 256.022. The notice must also state that a finding of maltreatment may result in denial of a  
55.20 license application or background study disqualification under chapter 245C related to  
55.21 employment or services that are licensed by the Department of Human Services under  
55.22 chapter 245A, the Department of Health under chapter 144 or 144A, the Department of  
55.23 Corrections under section 241.021, and from providing services related to an unlicensed  
55.24 personal care provider organization under chapter 256B.

55.25 Sec. 39. Minnesota Statutes 2008, section 626.557, subdivision 9c, is amended to read:

55.26 Subd. 9c. **Lead agency; notifications, dispositions, determinations.** (a) Upon  
55.27 request of the reporter, the lead agency shall notify the reporter that it has received the  
55.28 report, and provide information on the initial disposition of the report within five business  
55.29 days of receipt of the report, provided that the notification will not endanger the vulnerable  
55.30 adult or hamper the investigation.

55.31 (b) Upon conclusion of every investigation it conducts, the lead agency shall make a  
55.32 final disposition as defined in section 626.5572, subdivision 8.

55.33 (c) When determining whether the facility or individual is the responsible party for  
55.34 substantiated maltreatment or whether both the facility and the individual are responsible

56.1 for substantiated maltreatment, the lead agency shall consider at least the following  
56.2 mitigating factors:

56.3 (1) whether the actions of the facility or the individual caregivers were in accordance  
56.4 with, and followed the terms of, an erroneous physician order, prescription, resident  
56.5 care plan, or directive. This is not a mitigating factor when the facility or caregiver is  
56.6 responsible for the issuance of the erroneous order, prescription, plan, or directive or  
56.7 knows or should have known of the errors and took no reasonable measures to correct the  
56.8 defect before administering care;

56.9 (2) the comparative responsibility between the facility, other caregivers, and  
56.10 requirements placed upon the employee, including but not limited to, the facility's  
56.11 compliance with related regulatory standards and factors such as the adequacy of facility  
56.12 policies and procedures, the adequacy of facility training, the adequacy of an individual's  
56.13 participation in the training, the adequacy of caregiver supervision, the adequacy of facility  
56.14 staffing levels, and a consideration of the scope of the individual employee's authority; and

56.15 (3) whether the facility or individual followed professional standards in exercising  
56.16 professional judgment.

56.17 (d) When substantiated maltreatment is determined to have been committed by  
56.18 an individual who is also the facility license holder, both the individual and the facility  
56.19 must be determined responsible for the maltreatment, and both the background study  
56.20 disqualification standards under section 245C.15, subdivision 4, and the licensing actions  
56.21 under section 245A.06 or 245A.06 apply.

56.22 (e) The lead agency shall complete its final disposition within 60 calendar days. If  
56.23 the lead agency is unable to complete its final disposition within 60 calendar days, the lead  
56.24 agency shall notify the following persons provided that the notification will not endanger  
56.25 the vulnerable adult or hamper the investigation: (1) the vulnerable adult or the vulnerable  
56.26 adult's legal guardian, when known, if the lead agency knows them to be aware of the  
56.27 investigation; and (2) the facility, where applicable. The notice shall contain the reason for  
56.28 the delay and the projected completion date. If the lead agency is unable to complete its  
56.29 final disposition by a subsequent projected completion date, the lead agency shall again  
56.30 notify the vulnerable adult or the vulnerable adult's legal guardian, when known if the lead  
56.31 agency knows them to be aware of the investigation, and the facility, where applicable,  
56.32 of the reason for the delay and the revised projected completion date provided that the  
56.33 notification will not endanger the vulnerable adult or hamper the investigation. A lead  
56.34 agency's inability to complete the final disposition within 60 calendar days or by any  
56.35 projected completion date does not invalidate the final disposition.



57.1 ~~(e)~~ (f) Within ten calendar days of completing the final disposition, the lead agency  
57.2 shall provide a copy of the public investigation memorandum under subdivision 12b,  
57.3 paragraph (b), clause (1), when required to be completed under this section, to the  
57.4 following persons: (1) the vulnerable adult, or the vulnerable adult's legal guardian, if  
57.5 known unless the lead agency knows that the notification would endanger the well-being  
57.6 of the vulnerable adult; (2) the reporter, if the reporter requested notification when making  
57.7 the report, provided this notification would not endanger the well-being of the vulnerable  
57.8 adult; (3) the alleged perpetrator, if known; (4) the facility; and (5) the ombudsman for  
57.9 long-term care, or the ombudsman for mental health and developmental disabilities, as  
57.10 appropriate.

57.11 ~~(f)~~ (g) The lead agency shall notify the vulnerable adult who is the subject of  
57.12 the report or the vulnerable adult's legal guardian, if known, and any person or facility  
57.13 determined to have maltreated a vulnerable adult, of their appeal or review rights under  
57.14 this section or section 256.021.

57.15 ~~(g)~~ (h) The lead agency shall routinely provide investigation memoranda for  
57.16 substantiated reports to the appropriate licensing boards. These reports must include  
57.17 the names of substantiated perpetrators. The lead agency may not provide investigative  
57.18 memoranda for inconclusive or false reports to the appropriate licensing boards unless the  
57.19 lead agency's investigation gives reason to believe that there may have been a violation of  
57.20 the applicable professional practice laws. If the investigation memorandum is provided  
57.21 to a licensing board, the subject of the investigation memorandum shall be notified and  
57.22 receive a summary of the investigative findings.

57.23 ~~(h)~~ (i) In order to avoid duplication, licensing boards shall consider the findings of  
57.24 the lead agency in their investigations if they choose to investigate. This does not preclude  
57.25 licensing boards from considering other information.

57.26 ~~(i)~~ (j) The lead agency must provide to the commissioner of human services its final  
57.27 dispositions, including the names of all substantiated perpetrators. The commissioner of  
57.28 human services shall establish records to retain the names of substantiated perpetrators.

57.29 Sec. 40. Minnesota Statutes 2008, section 626.557, subdivision 12b, is amended to  
57.30 read:

57.31 Subd. 12b. **Data management.** (a) In performing any of the duties of this section as  
57.32 a lead agency, the county social service agency shall maintain appropriate records. Data  
57.33 collected by the county social service agency under this section are welfare data under  
57.34 section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a), data under this  
57.35 paragraph that are inactive investigative data on an individual who is a vendor of services

58.1 are private data on individuals, as defined in section 13.02. The identity of the reporter  
58.2 may only be disclosed as provided in paragraph (c).

58.3 Data maintained by the common entry point are confidential data on individuals or  
58.4 protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163,  
58.5 the common entry point shall destroy data three calendar years after date of receipt.

58.6 (b) The commissioners of health and human services shall prepare an investigation  
58.7 memorandum for each report alleging maltreatment investigated under this section.  
58.8 County social service agencies must maintain private data on individuals but are not  
58.9 required to prepare an investigation memorandum. During an investigation by the  
58.10 commissioner of health or the commissioner of human services, data collected under this  
58.11 section are confidential data on individuals or protected nonpublic data as defined in  
58.12 section 13.02. Upon completion of the investigation, the data are classified as provided in  
58.13 clauses (1) to (3) and paragraph (c).

58.14 (1) The investigation memorandum must contain the following data, which are  
58.15 public:

- 58.16 (i) the name of the facility investigated;
- 58.17 (ii) a statement of the nature of the alleged maltreatment;
- 58.18 (iii) pertinent information obtained from medical or other records reviewed;
- 58.19 (iv) the identity of the investigator;
- 58.20 (v) a summary of the investigation's findings;
- 58.21 (vi) statement of whether the report was found to be substantiated, inconclusive,  
58.22 false, or that no determination will be made;
- 58.23 (vii) a statement of any action taken by the facility;
- 58.24 (viii) a statement of any action taken by the lead agency; and
- 58.25 (ix) when a lead agency's determination has substantiated maltreatment, a statement  
58.26 of whether an individual, individuals, or a facility were responsible for the substantiated  
58.27 maltreatment, if known.

58.28 The investigation memorandum must be written in a manner which protects the  
58.29 identity of the reporter and of the vulnerable adult and may not contain the names or, to  
58.30 the extent possible, data on individuals or private data listed in clause (2).

58.31 (2) Data on individuals collected and maintained in the investigation memorandum  
58.32 are private data, including:

- 58.33 (i) the name of the vulnerable adult;
- 58.34 (ii) the identity of the individual alleged to be the perpetrator;
- 58.35 (iii) the identity of the individual substantiated as the perpetrator; and
- 58.36 (iv) the identity of all individuals interviewed as part of the investigation.

59.1 (3) Other data on individuals maintained as part of an investigation under this section  
59.2 are private data on individuals upon completion of the investigation.

59.3 (c) After the assessment or investigation is completed, the name of the reporter  
59.4 must be confidential. The subject of the report may compel disclosure of the name of the  
59.5 reporter only with the consent of the reporter or upon a written finding by a court that  
59.6 the report was false and there is evidence that the report was made in bad faith. This  
59.7 subdivision does not alter disclosure responsibilities or obligations under the Rules of  
59.8 Criminal Procedure, except that where the identity of the reporter is relevant to a criminal  
59.9 prosecution, the district court shall do an in-camera review prior to determining whether  
59.10 to order disclosure of the identity of the reporter.

59.11 (d) Notwithstanding section 138.163, data maintained under this section by the  
59.12 commissioners of health and human services must be destroyed under the following  
59.13 schedule:

59.14 (1) data from reports determined to be false, two years after the finding was made;

59.15 (2) data from reports determined to be inconclusive, four years after the finding  
59.16 was made;

59.17 (3) data from reports determined to be substantiated, seven years after the finding  
59.18 was made; and

59.19 (4) data from reports which were not investigated by a lead agency and for which  
59.20 there is no final disposition, two years from the date of the report.

59.21 (e) The commissioners of health and human services shall each annually report to  
59.22 the legislature and the governor on the number and type of reports of alleged maltreatment  
59.23 involving licensed facilities reported under this section, the number of those requiring  
59.24 investigation under this section, and the resolution of those investigations. The report  
59.25 shall identify:

59.26 (1) whether and where backlogs of cases result in a failure to conform with statutory  
59.27 time frames;

59.28 (2) where adequate coverage requires additional appropriations and staffing; and

59.29 (3) any other trends that affect the safety of vulnerable adults.

59.30 (f) Each lead agency must have a record retention policy.

59.31 (g) Lead agencies, prosecuting authorities, and law enforcement agencies may  
59.32 exchange not public data, as defined in section 13.02, if the agency or authority requesting  
59.33 the data determines that the data are pertinent and necessary to the requesting agency in  
59.34 initiating, furthering, or completing an investigation under this section. Data collected  
59.35 under this section must be made available to prosecuting authorities and law enforcement  
59.36 officials, local county agencies, and licensing agencies investigating the alleged

60.1 maltreatment under this section. The lead agency shall exchange not public data with the  
60.2 vulnerable adult maltreatment review panel established in section 256.021 if the data are  
60.3 pertinent and necessary for a review requested under that section. Upon completion of the  
60.4 review, not public data received by the review panel must be returned to the lead agency.

60.5 (h) Each lead agency shall keep records of the length of time it takes to complete its  
60.6 investigations.

60.7 (i) A lead agency may notify other affected parties and their authorized representative  
60.8 if the agency has reason to believe maltreatment has occurred and determines the  
60.9 information will safeguard the well-being of the affected parties or dispel widespread  
60.10 rumor or unrest in the affected facility.

60.11 (j) Under any notification provision of this section, where federal law specifically  
60.12 prohibits the disclosure of patient identifying information, a lead agency may not provide  
60.13 any notice unless the vulnerable adult has consented to disclosure in a manner which  
60.14 conforms to federal requirements.

60.15 Sec. 41. Minnesota Statutes 2008, section 626.5572, subdivision 13, is amended to  
60.16 read:

60.17 Subd. 13. **Lead agency.** "Lead agency" is the primary administrative agency  
60.18 responsible for investigating reports made under section 626.557.

60.19 (a) The Department of Health is the lead agency for the facilities which are licensed  
60.20 or are required to be licensed as hospitals, home care providers, nursing homes, residential  
60.21 care homes, ~~or~~ boarding care homes, or residential facilities that are also federally certified  
60.22 as intermediate care facilities that serve people with developmental disabilities.

60.23 (b) The Department of Human Services is the lead agency for the programs licensed  
60.24 or required to be licensed as adult day care, adult foster care, programs for people with  
60.25 developmental disabilities, mental health programs, or chemical health programs, ~~or~~  
60.26 ~~personal care provider organizations.~~

60.27 (c) The county social service agency or its designee is the lead agency for all  
60.28 other reports.

60.29 Sec. 42. **REVISOR'S INSTRUCTION.**

60.30 In Minnesota Statutes, the revisor of statutes shall correct the internal cross-reference  
60.31 to "section 245C.03, subdivision 1, clauses (3) and (4)" in section 245C.03, subdivision 4,  
60.32 by inserting "paragraph (a)," after "subdivision 1,". The revisor of statutes shall correct  
60.33 the internal cross-reference to "section 245C.03, subdivision 1, clauses (2), (5), and (6)" in  
60.34 section 245C.14, subdivision 2, by inserting "paragraph (a)," after "subdivision 1,".

61.1 Sec. 43. **REPEALER.**

61.2 Minnesota Statutes 2008, section 245C.10, subdivision 1, is repealed.

APPENDIX  
Repealed Minnesota Statutes: H1750-1

**245C.10 BACKGROUND STUDY; FEES.**

Subdivision 1. **Subject of background study.** No applicant, license holder, or individual who is the subject of a background study shall pay any fees required to conduct the study.

APPENDIX  
Article locations in H1750-1

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