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1 **245D.01 CITATION.**

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

4 **245D.02 DEFINITIONS.**

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

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

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

11 Subd. 4. **Certification.** "Certification" means the commissioner's written authorization for a license
12 holder to provide specialized services based on certification standards in section 245D.60. The term
13 "certification" and its derivatives have the same meaning and may be substituted for the term "licensure"
14 and its derivatives in this chapter and chapter 245A.

15 Subd. 5. **Commissioner.** "Commissioner" means the commissioner of the Department of Human
16 Services or the commissioner's designated representative.

17 Subd. 6. **Community residential setting.** "Community residential setting" means a residential
18 program as identified in section 245A.11, where the license holder is the owner, lessor, or tenant of the
19 facility licensed according to this chapter and the license holder does not reside in the facility and is not the
20 primary caregiver.

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

24 Subd. 8. **Coordinated service and support plan addendum or CSSP addendum.** "Coordinated
25 service and support plan addendum" or "CSSP addendum" means the documentation that this chapter
26 requires of the license holder for each person receiving services.

27 Subd. 9. **Corporate foster care.** "Corporate foster care" means a child foster care home licensed
28 according Minnesota Rules, parts 2960.0010 to 2960.3340, or an adult foster care home licensed according
29 to Minnesota Rules, parts 9555.5105 to 9555.6265, where the license holder does not live in the home and
30 is not the primary caregiver.

31 Subd. 10. **Cultural competence or culturally competent.** "Cultural competence" or "culturally
32 competent" means the ability and the will to respond to the unique needs of a person that arise from the
33 person's culture and the ability to use the person's culture as a resource or tool to assist with the
34 intervention and help meet the person's needs.

35 Subd. 11. **Day services facility.** "Day services facility" means a facility licensed according to this
36 chapter at which persons receive day services from the license holder's direct support staff for a cumulative

1 total of more than 30 days within any 12-month period and the license holder is the owner, lessor, or tenant
2 of the facility.

3 Subd. 12. Department. "Department" means the Department of Human Services.

4 Subd. 13. Direct contact. "Direct contact" has the meaning given in section 245C.02, subdivision 11,
5 and is used interchangeably with the term "direct support service."

6 Subd. 14. Direct support staff or staff. "Direct support staff" or "staff" means employees, of the
7 license holder who have direct contact with persons served by the program and includes temporary staff or
8 subcontractors regardless of employer, providing program services for hire under the control of the license
9 holder who have direct contact with persons served by the program.

10 Subd. 15. Drug. "Drug" has the meaning given in section 151.01, subdivision 5.

11 Subd. 16. Emergency. "Emergency" means any event that affects the ordinary daily operation of the
12 program including, but not limited to, fires, severe weather, natural disasters, power failures, or other
13 events that threaten the immediate health and safety of a person receiving services and that require calling
14 911, emergency evacuation, moving to an emergency shelter, or temporary closure or relocation of the
15 program to another facility or service site for more than 24 hours.

16 Subd. 17. Emergency use of manual restraint. "Emergency use of manual restraint" means using a
17 manual restraint when a person's conduct poses an imminent risk of physical harm to self or others and less
18 restrictive strategies would not achieve safety. Property damage, verbal aggression, or a person's refusal to
19 receive or participate in treatment or programming, on their own do not constitute an emergency.

20 Subd. 18. Family foster care. "Family foster care" means a child foster care home licensed
21 according Minnesota Rules, parts 2960.0010 to 2960.3340, or an adult foster care home licensed according
22 to Minnesota Rules, parts 9555.5105 to 9555.6265, where the license holder lives in the home and is the
23 primary caregiver.

24 Subd. 19. Health services. "Health services" means any service or treatment consistent with the
25 physical and mental health needs of the person, such as medication administration and monitoring, medical,
26 dental, nutritional, health monitoring, wellness education, and exercise.

27 Subd. 20. Home and community-based services. "Home and community-based services" means the
28 services subject to the provisions of this chapter identified in section 245D.03, subdivision 1, and as
29 defined in:

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

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

1 Subd. 21. Incident. "Incident" means an occurrence ~~which involves a person and that affects~~ requires
2 the program to make a response that is not a part of the program's the ordinary provision of services to a
3 that person, and includes:

4 (1) serious injury of a person as determined by section 245.91, subdivision 6;

5 (2) a person's death;

6 (3) any medical emergency, unexpected serious illness, or significant unexpected change in an illness
7 or medical condition, ~~or the mental health status~~ of a person, that requires calling the program to call 911 or
8 ~~a mental health crisis intervention team~~, physician treatment, or hospitalization;

9 (4) any mental health crisis that requires the program to call 911 or a mental health crisis intervention
10 team;

11 (5) an act or situation involving a person that requires the program to call 911, law enforcement, or
12 the fire department;

13 (6) a person's unauthorized or unexplained absence from a program;

14 (7) ~~physical or verbal aggression~~ conduct by a person receiving services against another person
15 receiving services ~~that causes physical pain, injury, or persistent emotional distress, including, but not~~
16 ~~limited to hitting, slapping, kicking, scratching, pinching, biting, pushing, and spitting that;~~

17 (i) is so severe, pervasive, or objectively offensive that it substantially interferes with a person's
18 opportunities to participate in or receive service or support;

19 (ii) places the person in actual and reasonable fear of harm;

20 (iii) places the person in actual and reasonable fear of damage to property of the person; or

21 (iv) substantially disrupts the orderly operation of the program.

22 (8) any sexual activity between persons receiving services involving force or coercion as defined
23 under section 609.341, subdivisions 3 and 14; ~~or~~

24 (9) any emergency use of manual restraint as identified in section 245D.061; or

25 (10) a report of alleged or suspected child or vulnerable adult maltreatment under section 626.556 or
26 626.557.

27 Subd. 22. Intermediate care facility for persons with developmental disabilities or ICF/DD.
28 "Intermediate care facility for persons with developmental disabilities" or "ICF/DD" means a residential
29 program licensed to serve four or more persons with developmental disabilities under section 252.28 and
30 chapter 245A and licensed as a supervised living facility under chapter 144, which together are certified by
31 the Department of Health as an intermediate care facility for persons with developmental disabilities.

32 Subd. 23. Least restrictive alternative. "Least restrictive alternative" means the alternative method
33 for providing supports and services that is the least intrusive and most normalized given the level of
34 supervision and protection required for the person. This level of supervision and protection allows risk
35 taking to the extent that there is no reasonable likelihood that serious harm will happen to the person or
36 others.

1 Subd. 24. Legal representative. "Legal representative" means the parent of a person who is under 18
2 years of age, a court-appointed guardian, or other representative with legal authority to make decisions
3 about services for a person. A person who is a competent adult may authorize another competent adult to
4 represent their rights as allowed in section 245D.04, subdivision 3, paragraph (a), clause (11), when the
5 person provides written informed consent for a release of information.

6 Subd. 25. License. "License" has the meaning given in section 245A.02, subdivision 8.

7 Subd. 26. Licensed health professional. "Licensed health professional" means a person licensed in
8 Minnesota to practice those professions described in section 214.01, subdivision 2.

9 Subd. 27. License holder. "License holder" has the meaning given in section 245A.02, subdivision 9.

10 Subd. 28. Medication. "Medication" means a prescription drug or over-the-counter drug. ~~For~~
11 ~~purposes of this chapter, "medication" includes dietary supplements.~~

12 ~~Subd. 17. **Medication administration.** "Medication administration" means performing the following~~
13 ~~set of tasks to ensure a person takes both prescription and over the counter medications and treatments~~
14 ~~according to orders issued by appropriately licensed professionals, and includes the following:~~

15 ~~(1) checking the person's medication record;~~

16 ~~(2) preparing the medication for administration;~~

17 ~~(3) administering the medication to the person;~~

18 ~~(4) documenting the administration of the medication or the reason for not administering the~~
19 ~~medication; and~~

20 ~~(5) reporting to the prescriber or a nurse any concerns about the medication, including side effects,~~
21 ~~adverse reactions, effectiveness, or the person's refusal to take the medication or the person's self-~~
22 ~~administration of the medication.~~

23 ~~Subd. 18. **Medication assistance.** "Medication assistance" means providing verbal or visual~~
24 ~~reminders to take regularly scheduled medication, which includes either of the following:~~

25 ~~(1) bringing to the person and opening a container of previously set up medications and emptying the~~
26 ~~container into the person's hand or opening and giving the medications in the original container to the~~
27 ~~person, or bringing to the person liquids or food to accompany the medication; or~~

28 ~~(2) providing verbal or visual reminders to perform regularly scheduled treatments and exercises.~~

29 ~~Subd. 19. **Medication management.** "Medication management" means the provision of any of the~~
30 ~~following:~~

31 ~~(1) medication related services to a person;~~

32 ~~(2) medication setup;~~

33 ~~(3) medication administration;~~

34 ~~(4) medication storage and security;~~

35 ~~(5) medication documentation and charting;~~

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1 ~~(6) verification and monitoring of effectiveness of systems to ensure safe medication handling and~~
2 ~~administration;~~

3 ~~(7) coordination of medication refills;~~

4 ~~(8) handling changes to prescriptions and implementation of those changes;~~

5 ~~(9) communicating with the pharmacy; or~~

6 ~~(10) coordination and communication with prescriber.~~

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

9 Subd. 29. Mental health crisis intervention team. "Mental health crisis intervention team" means a
10 mental health crisis response providers as identified in section 256B.0624, subdivision 2, paragraph (d), for
11 adults, and in section 256B.0944, subdivision 1, paragraph (d), for children.

12 Subd. 30. Over-the-counter drug. "Over-the-counter drug" means a drug that is not required by
13 federal law to bear the statement "Caution: Federal law prohibits dispensing without prescription."

14 Subd. 31. Outcome. "Outcome" means the behavior, action, or status attained by the person that can
15 be observed, measured, and can be determined reliable and valid.

16 Subd. 32. Person. "Person" has the meaning given in section 245A.02, subdivision 1.

17 Subd. 33. Person with a disability. "Person with a disability" means a person determined to have a
18 disability by the commissioner's state medical review team as identified in section 256B.055, subdivision 7,
19 the Social Security Administration, or 333.11 the person is determined to have a developmental disability as
20 defined in Minnesota Rules, part 9525.0016, subpart 2, item B, or a related condition as defined in section
21 252.27, subdivision 1a.

22 Subd. 34. Physician. "Physician" means a person who is licensed under chapter 147.

23 Subd. 35. Prescriber. "Prescriber" means a ~~licensed practitioner as defined in section 151.01,~~
24 ~~subdivision 23, person who is authorized under sections 148.235; 151.01, subdivision 23; and 151.37 to~~
25 ~~prescribe drugs. For the purposes of this chapter, the term "prescriber" is used interchangeably with~~
26 ~~"physician."~~

27 Subd. 36. Prescription drug. "Prescription drug" has the meaning given in section 151.01,
28 subdivision ~~47~~ 16.

29 Subd. 37. Program. "Program" means a nonresidential or residential program as defined in section
30 245A.02, subdivisions 10 and 14.

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

1 Subd. 39. Restraint. "Restraint" means physical or mechanical limiting of the free and normal
2 movement of body or limbs.

3 Subd. 40. Seclusion. "Seclusion" means ~~separating a person from others in a way that prevents social~~
4 ~~contact and prevents the person from leaving the situation if he or she chooses~~ the placement of a person
5 alone in a room from which exit is prohibited by a staff person or a mechanism such as a lock, or a device
6 or an object positioned to hold the door closed or otherwise prevent the person from leaving the room.

7 Subd. 41. Self-determination. "Self-determination" means the person ~~or the person's legal~~
8 ~~representative~~, makes his or her own decisions, plans his or her own future, determines how money is spent
9 for his or her supports and takes responsibility for the decision he or she makes. If a person has a legal
10 representative, the legal representative's decision making authority is limited to the scope of authority
11 granted by the court or allowed in the document authorizing the legal representative to act.

12 Subd. 42. Service. "Service" means care, training, supervision, counseling, consultation, or
13 medication assistance assigned to the license holder in the coordinated service and support plan.

14 ~~Subd. 36. Service plan. "Service plan" means the individual service plan or individual care plan~~
15 ~~identified in sections 256B.0913, 256B.0915, 256B.092, subdivision 1e, and 256B.49, or successor~~
16 ~~provisions, and includes any support plans or service needs identified as a result of long term care~~
17 ~~consultation, or a support team meeting that includes the participation of the person, the person's legal~~
18 ~~representative, and case manager, or assigned to a license holder through an authorized service agreement.~~

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

22 ~~Subd. 33. Staff. "Staff" means an employee who will have direct contact with a person served by the~~
23 ~~facility, agency, or program.~~

24 Subd. 44. Supervised living facility. "Supervised living facility" has the meaning given in
25 Minnesota Rules, part 4665.0100, subpart 10.

26 Subd. 45. Supervision. "Supervision" means:

27 (1) oversight by a direct support staff as specified in the person's coordinated service and support
28 plan and awareness of the person's needs and activities;

29 (2) responding to situations that present a serious risk to the health, safety, or rights of the person
30 while services are being provided; and

31 (3) the presence of a direct support staff at a service site while services are being provided, unless a
32 determination has been made and documented in the person's coordinated service and support plan that the
33 person does not require the presence of a direct support staff while services are being provided.

34 For the purposes of this definition, "while services are being provided," means any period of time
35 during which the license holder will seek reimbursement for services.

1 Subd. ~~46.~~ **Support team.** "Support team" means the service planning team identified in section
2 256B.49, subdivision 15, or the interdisciplinary team identified in Minnesota Rules, part 9525.0004,
3 subpart 14.

4 Subd. ~~47.~~ **Time out.** "Time out" means removing a person involuntarily from an ongoing activity to a
5 room, either locked or unlocked, or otherwise separating a person from others in a way that prevents social
6 contact and prevents the person from leaving the situation if he or she chooses.

7 Subd. ~~35.~~ **Unit of government.** ~~"Unit of government" means every city, county, town, school district,~~
8 ~~other political subdivisions of the state, and any agency of the state or the United States, and includes any~~
9 ~~instrumentality of a unit of government.~~

10 Subd. ~~48.~~ **Treatment.** "Treatment" means the provision of care, other than medications, ordered or
11 prescribed by a licensed health professional provided to a person to cure, rehabilitate, or ease symptoms.

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

14 **245D.03 APPLICABILITY AND EFFECT.**

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

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

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

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

28 ~~(2) respite services as defined under the current CADI, BI, CAC, DD, and EW waiver plans or~~
29 ~~successor plans when the provider is an individual who is not an employee of a residential or nonresidential~~
30 ~~program licensed by the Department of Human Services or the Department of Health that is otherwise~~
31 ~~providing the respite service;~~

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

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

35 ~~(5) companion services as defined under the current BI, CADI, and EW waiver plans or successor~~
36 ~~plans, excluding companion services provided under the Corporation for National and Community Services~~

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1 ~~Senior Companion Program established under the Domestic Volunteer Service Act of 1973, Public Law 98-~~
2 ~~288;~~

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

4 ~~(7) 24 hour emergency assistance, on-call and personal emergency response as defined under the~~
5 ~~current CADI and DD waiver plans or successor plans;~~

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

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

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

12 ~~(11) prevocational services as defined under the current BI and CADI waiver plans or successor~~
13 ~~plans;~~

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

15 ~~(13) supported employment as defined under the current BI and CADI waiver plans or successor~~
16 ~~plans.~~

17 (b) Basic support services include:

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

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

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

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

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

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

30 (c) Intensive support services include:

31 (1) Intervention services, including:

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

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

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

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

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

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

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

5 (3) Residential supports and services, including:

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

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

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

14 (4) Day services, including:

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

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

18 (iii) prevocational services as defined under the BI and CADI waiver plans.

19 (5) Supported employment as defined under the BI, DD, and CADI waiver plans.

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

22 ~~(b) A license holder concurrently providing child foster care services licensed according to Minnesota~~
23 ~~Rules, chapter 2960, to the same person receiving a service licensed under this chapter is exempt from~~
24 ~~section 245D.04, as it applies to the person. A corporate or family child foster care site controlled by a~~
25 ~~license holder and providing services governed by this chapter is exempt from compliance with section~~
26 ~~245D.04, and Minnesota Rules, part 2960.0710. These exemptions apply to foster care homes where at~~
27 ~~least one resident is receiving services licensed according to this chapter. This chapter does not apply to~~
28 ~~corporate or family child foster care homes that do not provide services licensed under this chapter.~~

29 (c) A family adult foster care site controlled by a license holder and providing services governed by
30 this chapter is exempt from compliance with Minnesota Rules, parts 9555.6185; 9555.6225, subpart 8;
31 9555.6235, item C; 9555.6245; 9555.6255, subpart 2, items A to D; 9555.6265. These exemptions apply to
32 family adult foster care homes where at least one resident is receiving residential services licensed
33 according to this chapter. This chapter does not apply to family adult foster care homes that do not provide
34 services licensed under this chapter.

1 (d) A license holder providing services licensed according to this chapter in a supervised living
2 facility is exempt from compliance with sections 245D.04; 245D.05, subdivision 3; and 245D.06,
3 subdivision 2, clauses (1), (4), and (5).

4 (e) A license holder providing residential services to persons in an ICF/DD is exempt from
5 compliance with sections 245D.04; 245D.05, subdivision 2; 245D.06, subdivision 2, clauses (4), and (5);
6 section 245D.071, subdivisions 4 and 5; 245D.08, subdivision 2; section 245D.09, subdivision 8; section
7 245D.11, subdivision 2; and section 245D.111, subdivision 3.

8 (f) A license holder ~~concurrently~~ providing home care homemaker services licensed according to this
9 chapter and registered according to sections 144A.43 to 144A.49 chapter 144A to the same person
10 receiving home management services licensed under this chapter is exempt from compliance with section
11 245D.04, as it applies to the person.

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

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

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

25 Subd. 3. **Variance.** (a) If the conditions in section 245A.04, subdivision 9, are met, the commissioner
26 may grant a variance to any of the requirements in this chapter, except sections 245D.04, ~~and 245D.10,~~
27 subdivision 4, ~~paragraph (b)~~ 245D.06, subdivision 4, and 245D.061, subdivision 3, or provisions governing
28 data practices and information rights of persons.

29 (b) A variance for the use of alternate overnight supervision granted according to section 245A.11,
30 subdivision 7, will remain subject to the terms and conditions and the effective period, for a community
31 residential setting licensed according to this chapter that had been licensed as a corporate adult foster care
32 home according to rule parts 9555.5105 to 9555.6265, at the time the variance was granted.

33 (c) All other variances granted according section 245A.04, subdivision 9, for programs previously
34 licensed according to chapter 245B or rule parts 9555. 5105 to 9555.6265, expire upon implementation of
35 this chapter unless the license holder requests the variance to be continued. A license holder may request
36 continuation between August 1, 2013 and November 30, 2013. A license holder may request a new
37 variance according to paragraph (a).

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

4 ~~(b) When a staff person begins providing direct service under one or more licenses held by the same~~
5 ~~license holder, other than the license for which staff orientation was initially provided according to section~~
6 ~~245D.09, subdivision 4, the license holder is exempt from those staff orientation requirements; except the~~
7 ~~staff person must review each person's service plan and medication administration procedures in~~
8 ~~accordance with section 245D.09, subdivision 4, paragraph (e), if not previously reviewed by the staff~~
9 ~~person.~~

10 **245D.031 LICENSURE REQUIREMENTS.**

11 Subdivision 1. **Registering the license.** Within 30 days of licensure the license holder must register
12 their license online using the MinnesotaHelp provider portal. The registration ensures that information
13 about the license holder's agency and services will be available to persons seeking services and county
14 agencies where services are provided. The license holder must ensure that current information is
15 maintained. If the information required in subdivision 2 changes the license holder must update the
16 information within 30 days of the change.

17 Subd. 2. **Information required for registration.** The license holder must, at a minimum, provide the
18 following information:

19 (1) a description of the target population to be served with consideration of at least the following
20 characteristics of the persons: cultural background, gender, age, disability or medical condition, and legal
21 status;

22 (2) the primary support and service needs of persons to be served, that the license holder will meet in
23 the licensed program or service;

24 (3) the license holder's expertise and qualifications to provide the services noted in the program
25 description;

26 (4) a description of the specific extent and limitations of the program, including the county or
27 counties where services will be provided;

28 (5) a description of how the license holder will involve the person's cultural or ethnic community to
29 ensure culturally appropriate care; and

30 (6) a description of those services provided directly by the license holder or the license holders direct
31 support staff and those services to be provided by subcontractors, including but not limited to transportation
32 services.

33 Subd. 3. **Program certification.** An applicant or a license holder may apply for program certification
34 as identified in section 245D.60.

35 **245D.04 SERVICE RECIPIENT RIGHTS.**

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

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

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

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

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

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

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

12 (2) have services and supports identified in the coordinated service and support plan and the CSSP
13 addendum provided in a manner that respects and takes into consideration the person's preferences
14 according to the requirements in sections 245D.07 245D.071;

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

17 (4) know, in advance, limits to the services available from the license holder, including the license
18 holder's knowledge, skill, and ability to meet the person's service and support needs based on the
19 information required in section 245D.031, subdivision 2 ;

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

23 (6) a coordinated transfer to ensure continuity of care when there will be a change in the provider;

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

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

28 (9) receive services from an individual who is competent and trained, who has professional
29 certification or licensure, as required, and who meets additional qualifications identified in the person's
30 coordinated service and support plan or CSSP addendum; and

31 (10) to request that specific direct support staff do or do not provide services and supports to the
32 person. If requested, the license holder must develop a plan with input from the person or the person's legal
33 representative, to provide alternative staff within 10 working days of the request, or to document reason for
34 not making the change within the required time and how the request will otherwise be addressed.

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

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

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

5 (3) be free from maltreatment;

6 (4) be free from restraint, time out, or seclusion, except for emergency use of manual restraint to
7 protect the person from imminent danger to self or others according to the requirements in section 245D.06;

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

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

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

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

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

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

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

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

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

24 (14) personal privacy; and

25 (15) engage in chosen activities.

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

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

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

33 (3) have use of and free access to common areas in the residence; and

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

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

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

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

11 (3) a schedule for reviewing the need for the restriction based on the conditions for ending the
12 restriction to occur ~~semi-annually, at a minimum, every three months for persons who do not have a legal~~
13 ~~representative and annually for persons who do have a legal representative~~ from the date of initial approval,
14 at a minimum, or more frequently if requested by the person, the person's legal representative, if any, and
15 case manager; and

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

19 **245D.05 HEALTH SERVICES.**

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

27 (b) ~~When assigned in the service plan,~~ If responsibility for meeting the person's health service needs
28 has been assigned to the license holder in the coordinated service and support plan, the license holder is
29 required to maintain documentation on how the person's health needs will be met, including a description of
30 the procedures the license holder will follow in order to:

31 (1) provide medication ~~administration~~ assistance ~~or medication assistance~~ administration, ~~or~~
32 ~~medication management~~ according to this chapter;

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

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

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

1 Subd. 2. Medication assistance. If responsibility for medication assistance is assigned to the license
2 holder in the coordinated service and support plan, or is included in the CSSP addendum, the license holder
3 must ensure that the requirements of subdivision 3, paragraph (b), have been met when staff provides
4 medication assistance to enable a person to self-administer medication when the person is capable of
5 directing the person's own care, or when the person's legal representative is present and able to direct care
6 for the person. Medication assistance means providing verbal or visual reminders to take regularly
7 scheduled medication, which includes either of the following:

8 (1) bringing to the person and opening a container of previously set up medications emptying the
9 container into the person's hand or opening and giving the medications in the original container to the
10 person;

11 (2) bringing to the person liquids or food to accompany the medication; or

12 (3) providing verbal or visual reminders to perform regularly scheduled treatments and exercises.

13 Subd. 3. Medication administration. (a) If responsibility for medication administration is assigned
14 to the license holder in the coordinated service and support plan, or is included in the CSSP addendum, the
15 license holder must implement the following medication administration procedures to ensure a person takes
16 medications and treatments as prescribed:

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

18 (2) preparing the medication as necessary;

19 (3) administering the medication or treatment to the person;

20 (4) documenting the administration of the medication or treatment or the reason for not administering
21 the medication or treatment; and

22 (5) reporting to the prescriber or a nurse any concerns about the medication or treatment, including
23 side effects, adverse reactions, effectiveness, or the person's refusal to take the medication or treatment.

24 (b) The license holder must ensure that the following criteria have been met before ~~staff that is not a~~
25 ~~licensed health professional administers~~ administering medication or treatment:

26 (1) the license holder obtained written authorization ~~has been obtained~~ from the person or the person's
27 legal representative to administer medication or treatment ~~orders~~ and obtains reauthorization annually as
28 needed. If the person or the person's legal representative refuses to authorize the license holder to
29 administer medication the medication must not be administered. The refusal to authorize medication
30 administration must be reported to the prescriber as expeditiously as possible; and

31 (2) the staff person responsible for administering the medication or treatment has completed
32 medication administration training according to section 245D.09, subdivision 4, paragraph ~~(e)~~ (b), clauses
33 (2), and as applicable to the person, (3); and

34 (3) For a license holder providing intensive support services, the medication or treatment will be
35 administered ~~under~~ according to the license holder's medication administration policy and procedures
36 established for the person under section 245D111, subdivision 2, clause (3). For a license holder providing
37 basic support services, ~~W~~written or electronically recorded instruction from the person's physician

1 prescriber, may constitute the medication administration procedures. A prescription label or the
2 prescriber's written or electronically recorded order for the prescription is sufficient to constitute written
3 instructions from the prescriber.

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

6 (1) the information on the current prescription label or the prescriber's current written or
7 electronically recorded order or prescription that includes the person's name, description of the medication
8 or treatment to be provided, and the frequency and other information needed to ~~directions for~~ safely and
9 correctly administering the medication or treatment to ensure effectiveness;

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

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

14 (4) ~~instruction from the prescriber on when and to whom to report the following:~~ notation on

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

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

18 ~~(5) notation of any occurrence of medication or treatment not being administered as prescribed,~~
19 whether by error by the staff or the person or by refusal by the person, or of adverse reactions, and when
20 and to whom the report was made; and

21 ~~(6)~~ (5) notation of when a medication or treatment is started, administered, changed, or discontinued

22 (d) The license holder must ensure that the information maintained in the medication administration
23 record is current and is ~~regularly reviewed with~~ when the person ~~or the person's legal representative and the~~
24 ~~staff administering the medication to identify~~ presents with symptoms or other issues that may be related to
25 the medication or treatment or to medication administration issues or errors, or at a minimum, annually. ~~At~~
26 ~~a minimum, the review must be conducted every three months or more often if requested by the person or~~
27 ~~the person's legal representative. Based on the review, the license holder must develop and implement a~~
28 ~~plan to correct medication administration issues or errors. If issues or concerns are identified related to the~~
29 ~~medication itself, the license holder must report those as required under subdivision 4~~

30 ~~Subd. 3. Medication assistance.~~ The license holder must ensure that the requirements of subdivision
31 3, paragraph (b), have been met when staff provides assistance to enable a person to self-administer
32 medication when the person is capable of directing the person's own care, or when the person's legal
33 representative is present and able to direct care for the person.

34 ~~Subd. 4. Reporting medication and treatment issues.~~ The following medication administration
35 issues must be reported to the person or the person's legal representative and case manager as they occur, ~~or~~
36 ~~following timelines established in the person's service plan or as requested in writing by the person or the~~
37 ~~person's legal representative, or the case manager.~~

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

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

4 ~~(3) concerns about a person's self administration of medication.~~

5 Subd. 4. **Injectable medications.** Injectable medications may be administered according to a
6 prescriber's order and written instructions when one of the following conditions has been met:

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

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

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

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

17 **245D.051 PSYCHOTROPIC MEDICATION USE AND MONITORING.**

18 Subdivision 1. Conditions for psychotropic medication administration. (a) When a person is
19 prescribed a psychotropic medication and the license holder has been assigned responsibility for
20 administration of the medication in the person's coordinated service and support plan or the CSSP
21 addendum, the license holder must ensure that the following requirements are met.

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

24 (2) The license holder must develop, implement and maintain the following documentation in the
25 person's service recipient record:

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

27 (ii) documentation methods the license holder will use to monitor and measure changes in the target
28 symptoms that are to be alleviated by the psychotropic medication if required by the prescriber. The license
29 holder must collect and report on medication and symptom related data as instructed by the prescriber.

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

33 (b) If a person is prescribed a psychotropic medication and monitoring the use of the psychotropic
34 medication has not been assigned in the coordinated service and support plan, and the person lives in a
35 licensed residential site, the residential license holder is designated to monitor the psychotropic medication.

1 Subd. 2. Refusal to authorize routine administration of psychotropic medication. If the person or
2 the person's legal representative, refuses to authorize the administration of a psychotropic medication as
3 ordered by the prescriber, the license holder must follow the requirement in subdivision 245D.05,
4 subdivision 3, paragraph b), clause (1), and the following conditions apply:

5 (1) After reporting the refusal to the prescriber, the license holder must follow any directives or
6 orders given by the prescriber.

7 (2) A court order must be obtained to override the refusal.

8 (3) Refusal to authorize administration of a specific psychotropic medication is not grounds for
9 service termination and does not constitute an emergency. A decision to terminate services must be reached
10 in compliance with section 245D.11, subdivision 3.

11 **245D.06 PROTECTION STANDARDS.**

12 Subdivision 1. **Incident response and reporting.** (a) The license holder must respond to ~~all~~ incidents
13 under section 245D.02, subdivision ~~8~~ 21, that occur while providing services to protect the health and
14 safety of and minimize risk of harm to the person. Responses to incidents involving the emergency use of
15 manual restraints must comply with the requirements in section 245D.061.

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

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

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

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

35 (1) The license holder must conduct a an internal review of incident reports of deaths and serious
36 injuries, that were not reported by the program as alleged or suspected maltreatment, for identification of
37 incident patterns, and implementation of corrective action as necessary to reduce occurrences.

1 (2) The review must include an evaluation of whether related policies and procedures were followed,
2 whether the policies and procedures were adequate, whether there is a need for additional staff training,
3 whether the reported event is similar to past events with the persons or the services involved, and whether
4 there is a need for corrective action by the license holder to protect the health and safety of persons
5 receiving services. Based on the results of this review, the license holder must develop, document, and
6 implement a corrective action plan designed to correct current lapses and prevent future lapses in
7 performance by staff or the license holder, if any.

8 (g) The license holder must report the emergency use of manual restraint of a person as required in
9 paragraph (b), and to the Department of Human Services Licensing Division within 24 hours of the
10 occurrence. The license holder must conduct a an internal review of all incident reports of emergency uses
11 of manual restraints according to the requirements in section 245D.061.

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

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

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

16 (ii) ~~doors are locked or~~ toxic substances or dangerous items are normally inaccessible to persons
17 served by the program are stored in locked cabinets, drawers, or containers only to protect the safety of a
18 person receiving services and not as a substitute for staff supervision or interactions with a person who is
19 receiving services. If ~~doors are locked or~~ toxic substances or dangerous items ~~normally accessible to~~
20 persons served by the program are stored in locked cabinets, drawers, or containers are made inaccessible,
21 the license holder must justify and document how this determination was made in consultation with the
22 person or person's legal representative, and how access will otherwise be provided to the person and all
23 other affected persons receiving services; and document an assessment of the physical plant, its
24 environment, and its population identifying the risk factors which require toxic substances or dangerous
25 items to be inaccessible and a statement of specific measures to be taken to minimize the safety risk to
26 persons receiving services;

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

33 (iv) a staff person is available on site who is trained in basic first aid and, when required in a person's
34 service plan coordinated service and support plan, cardiopulmonary resuscitation, whenever persons are
35 present and staff are required to be at the site to provide direct service. The training must include in-person
36 instruction, hands-on practice, and an observed skills assessment under the direct supervision of a certified
37 instructor;

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

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

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

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

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

12 Subd. 4. **Funds and property.** (a) Whenever the license holder assists a person with the safekeeping
13 of funds or other property according to section 245A.04, subdivision 3, the license holder must ~~have~~ obtain
14 written authorization to do so from the person or the person's legal representative and the case manager.
15 Authorization must be obtained within five working days of service initiation and renewed annually
16 thereafter. At the time initial authorization is obtained the license holder must survey, document, and
17 implement the preferences of the person or the person's legal representative, and the case manager for
18 frequency of receiving a statement that itemizes receipts and disbursements of funds or other property. The
19 license holder must document changes to these preferences when they are requested.

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

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

30 Subd. 5. **Prohibitions.** (a) The license holder is prohibited from using ~~psychotropic~~ any medication
31 as a substitute for adequate staffing or for a behavioral or therapeutic program to reduce or eliminate
32 behavior, as punishment, for staff convenience, or for any reason other than as prescribed. Any such use
33 constitutes chemical restraint and is prohibited. For the purpose of this subdivision "chemical restraint"
34 means the administration of a drug or medication to control the person's behavior or restrict the person's
35 freedom of movement and is not a standard treatment of dosage for the person's medical or psychological
36 condition.

37 (b) The license holder is prohibited from using any adaptive equipment or safety devices as a
38 substitute for adequate staffing or for a behavioral or therapeutic program to reduce or eliminate behavior,
39 as punishment, for staff convenience, or for any reason other than as ordered by a licensed health

1 professional. Any such use constitutes a “mechanical restraint practice” and is prohibited. For the purpose
2 of this subdivision “mechanical restraint practice” means the use of any adaptive equipment or safety
3 device to control the person’s behavior or restrict the person’s freedom of movement and not as ordered by
4 a licensed health professional. Mechanical restraint practices include, but are not limited to, the use of bed
5 rails or similar devices on a bed to prevent the person from getting out of bed, chairs that prevent a person
6 from rising, or placing a person in a wheelchair so close to a wall that the wall prevents the person from
7 rising. Wrist bands or devices on clothing that trigger electronic alarms to warn staff that a person is
8 leaving a room or area do not, in and of themselves, restrict freedom of movement and should not be
9 considered restraints.

10 (b) The license holder is prohibited from using restraints, time out, or seclusion under any
11 circumstance, ~~unless the commissioner has approved a variance request from the license holder that allows~~
12 ~~for the emergency use of restraints and seclusion according to terms and conditions approved in the~~
13 ~~variance. Applicants and license holders who have reason to believe they may be serving an individual who~~
14 ~~will need emergency use of restraints or seclusion, may request a variance on the application or~~
15 ~~reapplication, and the commissioner must automatically review the request for a variance as part of the~~
16 ~~application or reapplication process. License holders may also request the variance any time after issuance~~
17 ~~of a license. In the event a license holder uses restraint or seclusion for any reason without first obtaining a~~
18 ~~variance as required, the license holder must report the unauthorized use of restraint or seclusion to the~~
19 ~~commissioner within 24 hours of the occurrence and request the required variance except for emergency~~
20 ~~use of manual restraints according to the requirements in section 245D.061.~~

21 **245D.061 PROTECTION STANDARDS; EMERGENCY USE OF MANUAL RESTRAINTS.**

22 Subdivision 1 Standards for emergency use of manual restraints. (a) The license holder must
23 ensure that emergency use of manual restraints complies with the requirements of this chapter and the
24 license holder’s policy and procedures as required under section 245D.11, subdivision 4.

25 (b) Between the date of implementation of this chapter and time lines established by the
26 commissioner, any existing plans for persons allowing the use restraints, time out, or seclusion, or other
27 controlled procedures identified in Minnesota Rules, part 9525. 2740, must be phased out of use and the
28 license holder must come into compliance with the requirements of this chapter and any successor rule to
29 rule parts 9525.2700 to 9525.2810. The license holder must develop and implement positive support
30 strategies necessary to replace any current programmatic use of controlled procedures not allowed under
31 this chapter. [THIS PARAGRAPH IS PLACEHOLDER LANGUAGE ONLY – NEEDS FURTHER DEVELOPMENT]

32 Subd. 2. Definitions. (a) The terms used in this section have the meaning given them in this
33 subdivision.

34 (b) “Manual restraint” means physical intervention intended to hold a person immobile or limit a
35 person's voluntary movement by using body contact as the only source of physical restraint.

36 (c) “Mechanical restraint” means the use of devices, materials, or equipment attached or adjacent to
37 the person's body, or the use of practices, which restrict freedom of movement, normal access to one's body
38 or body parts, or limits a person's voluntary movement or holds a person immobile as an intervention
39 precipitated by a person's behavior. The term does apply to mechanical restraint used to prevent injury with

1 persons who engage in self-injurious behaviors, such as head-banging, gouging, or other actions resulting
2 in tissue damage that have caused or could cause medical problems resulting from the self-injury.

3 **Subd. 3. Conditions for emergency use of manual restraint.** Emergency use of manual restraint
4 must meet the following conditions:

5 (1) immediate intervention is needed to protect the person or others from imminent risk of physical
6 harm; and

7 (2) manual restraint is the least restrictive intervention possible to eliminate the immediate risk of
8 harm and effectively achieve safety in the situation after positive behavioral supports and less restrictive
9 interventions have been tried and failed.

10 **Subd. 4. Permitted techniques.** (a) Use of physical contact as therapeutic conduct as defined in
11 section 626.5772, subdivision 20, or as an instructional technique is permitted and is not subject to the
12 requirements of this section when such use is addressed in each person's CSSP addendum and the
13 conditions in paragraph (b) have been met, physical contact is permitted:

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

15 (2) to protect a person known to be at risk of injury due to frequent falls as a result of a medical
16 condition;

17 (3) to position a person with physical disabilities in a manner specified in the person's coordinated
18 service and support plan;

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

22 (5) to facilitate the person's completion of a task or response when the person does not resist or the
23 person's resistance is minimal in intensity and duration;

24 (6) briefly blocking or redirecting a person's limbs or body without holding the person or limiting the
25 person's movement to interrupt the person's behavior that may result in injury to self or others; or

26 (7) to assist in the safe evacuation of a person in the event of an emergency or to redirect a person
27 who is at imminent risk of harm in a dangerous situation.

28 (b) Any use of restraints identified in paragraph (a) must use the least restrictive alternative possible
29 to meet the need of the person. Any use of restraint allowed under paragraph (a), clauses (4) or (7), requires
30 the development of a plan for the person in compliance with sections 245D.07 and 245D.071, to reduce or
31 eliminate the use of and need for restraint.

32 **Subd. 5. Restrictions when implementing emergency use of manual restraint.** (a) Emergency use
33 of manual restraint procedures must not:

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

1 (2) be implemented with an adult in a manner that constitutes abuse or neglect as defined in section
2 Minnesota Statutes 626.5572, subdivisions 2 and 17;

3 (3) be implemented in a manner that violates a person’s rights and protections identified in section
4 245D.04; or

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

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

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

12 (7) use prone restraint. For the purposes of the section, “prone restraints” means, use of manual
13 restraint that places a person in a face-down position. This does not include brief physical holding of a
14 person who, during an emergency use of manual restraint, rolls into a prone, or supine or face-up position,
15 and the person is restored to a standing, sitting, or side-lying position as quickly as possible. Applying back
16 or chest pressure while a person is in the prone or supine position is prohibited.

17 Subd. 6. **Monitoring emergency use of manual restraint.** The license holder shall monitor a
18 person’s health and safety during an emergency use of a manual restraint. Staff monitoring the procedure
19 must not be the staff implementing the procedure when possible. The license holder shall complete a
20 monitoring form, approved by the commissioner, for each incident involving the emergency use of a
21 manual restraint.

22 Subd. 7. **Reporting emergency use of manual restraint incident.** (a) The license holder must report
23 each incident involving the emergency use of manual restraint in compliance with section 245D.06,
24 subdivision 1, paragraph (g). At a minimum, the incident report must include the following information:

25 (1) all staff and persons receiving services who were involved in the incident leading up to the
26 emergency use of manual restraint;

27 (2) a description of the physical and social environment, including who was present, before and
28 during the incident leading up to the emergency use of manual restraint;

29 (3) a description of what less restrictive alternative measures were attempted to deescalate to the
30 incident and maintain safety before the manual restraint was implemented that identifies when, how, and
31 how long the alternative measures were attempted before manual restraint was implemented;

32 (4) a description of the mental, physical, and emotional condition of the person, staff, and others
33 involved in the restraint during and following the manual restraint;

34 (5) whether there was any injury to the person or others before or as a result of the use of manual
35 restraint;

36 (6) whether there was an attempt to debrief the with staff, and if not contraindicated, with the person
37 who was restrained, following the incident and the outcome of the debriefing. If the debriefing was not

1 conducted at the time the incident report was made the report should identify whether a debriefing is
2 planned.

3 (b) For the purposes of this subdivision an incident of emergency use of manual restraint is a single
4 incident when the following conditions have been met:

5 (1) after implementing the manual restraint staff attempt to release the person at the moment staff
6 believe the person’s conduct no longer poses an imminent risk of physical harm to self or others and less
7 restrictive strategies can be implemented to maintain safety;

8 (2) upon the attempt to release the restraint, the person’s behavior immediately reescalates; and

9 (3) staff must immediately reimplement the restraint in order to maintain safety.

10 **Subd. 8. Internal review of emergency use of manual restraint.** Within five working days of the
11 emergency use of manual restraints the license holder must complete an internal review of each report of
12 emergency use of manual restraint. The review must include an evaluation of whether:

13 (1) positive support strategies need to be developed or revised for the person;

14 (2) related policies and procedures were followed;

15 (3) the policies and procedures were adequate;

16 (4) there is a need for additional staff training;

17 (4) the reported event is similar to past events with the persons, staff, or the services involved;

18 (5) there is a need for corrective action by the license holder to protect the health and safety of
19 persons.

20 (b) Based on the results of the internal review, the license holder must:

21 (1) develop, document, and implement a corrective action plan for the program designed to correct
22 current lapses and prevent future lapses in performance by individuals or the license holder, if any; and

23 (2) discuss with the person and the person’s support team whether changes are necessary to the
24 person’s individual CSSP addendum or to how services and supports are provided to the person to reduce
25 or eliminate future occurrences of emergency use of manual restraint. If the changes are determined to be
26 necessary the license holder must develop, document, and implement the changes as part of the person’s
27 CSSP addendum.

28 **Subd. 9. Positive support strategies.** The license holder must consult with the support team
29 following the emergency use of manual restraints to:

30 (1) discuss the incident reported in subdivision 7 to define the antecedent or event that gave rise to the
31 behavior resulting in the manual restraint and identify the perceived function the behavior served; and

32 (2) determine whether positive support strategies for the person need to developed or revised in the
33 CSSP addendum to positively and effectively help the person maintain stability and so as to reduce or
34 eliminate future occurrences requiring manual restraint.

1 **245D.07 SERVICE NEEDS-PLANNING AND DELIVERY.**

2 Subdivision 1. **Person-centered planning and service delivery.** (a) The license holder must provide
3 outcome-based services in response to the person's identified needs and desired outcomes as specified in
4 the coordinated service and support plan, the CSSP addendum, and in compliance with the requirements of
5 this chapter.

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

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

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

10 (ii) using that information to identify outcomes the person desires; and

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

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

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

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

16 (3) most integrated setting and inclusive service delivery that supports, promotes, and allows:

17 (i) inclusion and participation in the person's community as desired by the person in a manner that
18 enables the person to interact with non-disabled persons to the fullest extent possible and supports the
19 person in developing and maintaining a role as a valued community member,

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

22 (iii) a balance between risk and opportunity, meaning the least restrictive supports or interventions
23 necessary are provided in the most integrated settings in the most inclusive manner possible to support the
24 person to engage in activities of their own choosing that may otherwise present a risk to the person's health,
25 safety, or rights.

26 Subd. 2. **Provision of services.** At a minimum, The the license holder must provide services as
27 specified in the coordinated service and support plan and assigned to the license holder. The provision of
28 services must comply with the requirements of this chapter and the federal waiver plans.

29 Subd. 3. **Service planning.** (a) The license holder must participate in support team meetings related
30 to the person following stated timelines established in the person's coordinated service and support plan or
31 as requested by the support team, the person, or the person's legal representative.

32 Subd. 4. **Reports.** The license holder must provide written reports regarding the person's progress or
33 status as requested by the person, the person's legal representative, the case manager, or the team.

1 **245D.071 SERVICE PLANNING AND DELIVERY; INTENSIVE SUPPORT SERVICES.**

2 Subdivision 1. Service planning and delivery requirements for intensive support services. A
3 license holder providing intensive support services identified in section 245D.03, subdivision 2, paragraph
4 (c), must comply with the requirements in section 245D.07 and this section.

5 Subd. 2. Abuse prevention. (a) The license holder must develop, document, and implement an abuse
6 prevention plan according to section 245A.65, subdivision 2.

7 Subd. 3. Service planning and assessment. (a) The license holder must meet with the person and the
8 person's legal representative, if any, and the case manager to assess and determine the following based on
9 the person's coordinated service and support plan and the requirements in section 245D.07, subdivision 1:

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

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

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

14 (4) whether the current service setting is the most integrated setting available and appropriate for the
15 person.

16 (b) The information obtained from the service planning meeting must be used by the license holder to
17 develop service outcomes and supports according to the requirements in subdivision 4, and to fulfill the
18 duties assigned to the license holder in the coordinated service and support plan and to coordinate services
19 with other providers licensed under this chapter when applicable to ensure continuity of care across
20 providers. The assessments must result in information about the person that is descriptive of the person's
21 overall strengths, functional skills and abilities, and behaviors or symptoms.

22 (c) Within the scope of services, the license holder must assess the following areas:

23 (1) the person's ability to self-manage health and medical needs to maintain or improve physical,
24 mental, and emotional well-being, including, when applicable, allergies, seizures, choking, special diet
25 needs, chronic medical conditions, self-administration of medication or treatment orders, preventative
26 screening, and medical and dental appointments;

27 (2) the person's ability to self-manage personal safety to avoid injury or accident in the service
28 setting, including, when applicable, risk of falling, mobility, regulating water temperature, community
29 survival skills, water safety skills, and sensory disabilities; and

30 (3) the person's ability to self-manage behavior that may otherwise result in an incident as defined in
31 section 245D.02, subdivision 20, clauses (4) to (7), suspension or termination of services by the license
32 holder, or other behaviors that may jeopardize the health and safety of the person or others.

33 (d) When the person has been assessed as needing support in any of the assessed areas, the license
34 holder must develop methods to support the person and accomplish outcomes as required in subdivision 4.

35 (e) The service planning meeting and assessment must be completed within 45 days of service
36 initiation.

1 (f) The assessment must be signed and dated by the person or the person’s legal preventative, if any,
2 and case manager, within 30 days when it is completed.

3 Subd. 4. Service outcomes and supports in the CSSP addendum. (a) Service outcomes and
4 supports identified in subdivision 3, must be developed according to the requirements in section 245D.07,
5 subdivision 1. The outcomes and supports are part of the CSSP addendum.

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

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

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

13 (ii) any equipment and materials required; and

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

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

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

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

20 Subd. 5. Progress reviews. (a) The license holder must give the person or the person's legal
21 representative and case manager an opportunity to participate in the ongoing review and development of
22 the methods used to support the person and accomplish outcomes identified in subdivision 3. The license
23 holder, in coordination with other providers licensed under this chapter, must meet with the person, the
24 person's legal representative, and case manager, and participate in progress review meetings following
25 stated time lines established in the person's coordinated service and support plan or within 30 days of when
26 requested in writing by the person, the person's legal representative, or the case manager, at a minimum of
27 once a year.

28 (b) The license holder must summarize the person’s progress toward achieving the identified
29 outcomes and make recommendations and identify the rationale for changing, continuing, or discontinuing
30 implementation of supports and methods identified in subdivision 4, in a written report sent to the person or
31 the person's legal representative and case manager five working days prior to the review meeting, unless the
32 person, the person's legal representative, or the case manager request to receive the report at the time of the
33 meeting.

34 (c) Within 10 working days of the progress review meeting the license holder must obtain dated
35 signatures from the person or the person's legal representative and the case manager to document approval
36 of any changes to the CSSP addendum.

37 **245D.08 RECORD REQUIREMENTS.**

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

4 ~~**Subd. 2. Service recipient record.** (a) The license holder must:~~

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

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

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

10 ~~(1) identifying information, including the person's name, date of birth, address, and telephone~~
11 ~~number;~~

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

15 ~~(3) service information, including service initiation information, verification of the person's eligibility~~
16 ~~for services, and documentation verifying that services have been provided as identified in the service plan~~
17 ~~according to paragraph (a);~~

18 ~~(4) health information, including medical history and allergies, and when the license holder is~~
19 ~~assigned responsibility for meeting the person's health needs according to section 245D.05:~~

20 ~~(i) current orders for medication, treatments, or medical equipment;~~

21 ~~(ii) medication administration procedures;~~

22 ~~(iii) a medication administration record documenting the implementation of the medication~~
23 ~~administration procedures, including any agreements for administration of injectable medications by the~~
24 ~~license holder; and~~

25 ~~(iv) a medical appointment schedule;~~

26 ~~(5) the person's current service plan or that portion of the plan assigned to the license holder. When a~~
27 ~~person's case manager does not provide a current service plan, the license holder must make a written~~
28 ~~request to the case manager to provide a copy of the service plan and inform the person of the right to a~~
29 ~~current service plan and the right to appeal under section 256.045;~~

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

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

1 ~~(8) copies of authorizations to handle a person's funds according to section 245D.06, subdivision 4,~~
2 ~~paragraph (a);~~

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

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

5 ~~(11) copies of written reports regarding the person's status when requested according to section~~
6 ~~245D.07, subdivision 3; and~~

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

9 ~~**Subd. 3. Access to service recipient records.** The license holder must ensure that the following~~
10 ~~people have access to the information in subdivision 1 in accordance with applicable state and federal law,~~
11 ~~regulation, or rule:~~

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

13 ~~(2) the person's case manager;~~

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

16 ~~(4) the county adult foster care licenser, when services are also licensed as adult foster care.~~

17 ~~**Subd. 4. Personnel records.** The license holder must maintain a personnel record of each employee,~~
18 ~~direct service volunteer, and subcontractor to document and verify staff qualifications, orientation, and~~
19 ~~training. For the purposes of this subdivision, the terms "staff" and "staff person" mean paid employee,~~
20 ~~direct service volunteer, or subcontractor. The personnel record must include:~~

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

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

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

29 **245D.08 PROGRAM COORDINATION, EVALUATION, AND OVERSIGHT.**

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

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

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

1 The same person may perform both functions if the work and education qualifications are met in
2 subdivisions 2 and 3.

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

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

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

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

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

16 (b) The license holder must ensure that the designated coordinator is competent to perform the
17 required duties identified in paragraph (a) through education and training in human services and disability
18 related fields, and work experience in providing direct care services and supports to persons with
19 disabilities. The designated coordinator must have the skills and ability necessary to develop effective plans
20 and to design and use data systems to measure effectiveness of services and supports. The license holder
21 must verify and document competence according to the requirements in section 245D.09, subdivision 3.

22 The designated coordinator must minimally have:

23 (1) a baccalaureate degree in a field related to human services, and one year of full-time work
24 experience providing direct care services to persons with disabilities or persons age 65 and older;

25 (2) an associate degree in a field related to human services, and two years of full-time work
26 experience providing direct care services to persons with disabilities or persons age 65 and older; or

27 (3) a diploma in a field related to human services from an accredited postsecondary institution and
28 three years of full-time work experience providing direct care services to persons with disabilities or
29 persons age 65 and older.

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

33 (1) maintaining a current understanding of the licensing requirements sufficient to ensure compliance
34 throughout the program as identified in section 245A.04, subdivision 1, paragraph (e), and when applicable
35 as identified in section 256B.04, subdivision 21, paragraph (b);

36 (2) ensuring the duties of the designated coordinator are fulfilled according to the requirements in
37 subdivision 2;

1 (3) ensuring the program implements corrective action identified as necessary by the program
2 following review of incident and emergency reports according to the requirements in section 245D.111,
3 subdivision 2, clause (8). An internal review of incident reports of alleged or suspected maltreatment must
4 be conducted according to the requirements in section 245A.65, subdivision 1, paragraph (b);

5 (4) evaluation of satisfaction of persons served by the program, the person’s legal representative, if
6 any, and the case manager, with the service delivery and progress towards accomplishing outcomes
7 identified in sections 245D.07 and 245D.071, and ensuring and protecting each person’s rights as identified
8 in section 245D.04;

9 (5) ensuring staff competency requirements are met according to the requirements in section
10 245D.09, subdivision 3, and ensuring staff orientation and training is provided according to the
11 requirements in section 245D.09, subdivisions 4 and 5; and

12 (6) ensuring corrective action is taken when ordered by the commissioner and that the terms and
13 condition of the license and any variances are met; and

14 (7) evaluating the information identified in clauses (1) to (6) to develop, document, and implement
15 ongoing program improvements.

16 (b) The designated manager must be competent to perform the duties as required and must minimally
17 meet the education and training requirements identified in subdivision 2, paragraph (b), and have a
18 minimum of three years of supervisory level experience in a program providing direct support services to
19 persons with disabilities or persons age 65 and older.

20 **245D.09 STAFFING STANDARDS.**

21 Subdivision 1. **Staffing requirements.** The license holder must provide the level of direct service
22 support staff sufficient supervision, assistance, and training necessary:

23 (1) to ensure the health, safety, and protection of rights of each person; and

24 (2) to be able to implement the responsibilities assigned to the license holder in each person's
25 coordinated service and support plan; or identified in the CSSP addendum, according to the requirements of
26 this chapter.

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

32 Subd. 3. **Staff qualifications.** (a) The license holder must ensure that staff providing direct support,
33 or staff who have responsibilities related to supervising or managing the provision of direct support service,
34 is competent as demonstrated through skills and knowledge training, experience, and education to meet the
35 person's needs and additional requirements as written in the coordinated service and support plan, or when
36 otherwise required by the case manager or the federal waiver plan. The license holder must verify and
37 maintain evidence of staff competency, including documentation of:

1 (1) education and experience qualifications relevant to the job responsibilities assigned to the staff
2 and the needs of the general population of persons served by the program, including a valid degree and
3 transcript, or a current license, registration, or certification, when a degree or licensure, registration, or
4 certification is required by this chapter or in the coordinated service and support plan;

5 (2) ~~completion of required~~ demonstrated competency in the orientation and training areas required
6 under this chapter, including and when applicable, completion of continuing education required to maintain
7 professional licensure, registration, or certification requirements. Competency in these areas is determined
8 by the license holder through knowledge testing and observed skill assessment conducted by the trainer or
9 instructor;

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

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

14 Subd. 4. **Orientation training.** (a) Except for a license holder who does not supervise any direct
15 ~~service support~~ staff, within 90 days of hiring direct service staff, the license holder must provide and
16 ensure completion of orientation to direct support staff that combines supervised on-the-job training with
17 review of and instruction ~~on~~ in the following areas within 60 days of hire, unless stated otherwise:

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

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

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

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

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

27 (4) the service recipient rights ~~under section 245D.04~~, and staff responsibilities related to ensuring the
28 exercise and protection of those rights according to the requirements in section 245D.04;

29 (5) sections 245A.65; 245A.66, 626.556, and 626.557, governing maltreatment reporting and service
30 planning for children and vulnerable adults, and staff responsibilities related to protecting persons from
31 maltreatment and reporting maltreatment. This orientation must be provided within 72 hours of first
32 providing direct contact services and annually thereafter according to section 245A.65, subdivision 3;

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

35 (6) the principles of person centered service planning and delivery as identified in section 245D.07,
36 subdivision 1, and how they apply to direct support service provided by the staff person; and

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

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

5 (b) Before ~~providing~~ having unsupervised direct ~~service to~~ contact with a person served by the
6 program, or for whom the staff person has not previously provided direct ~~service~~ support, or any time the
7 plans or procedures identified in clauses (1) ~~and (2) to (4)~~ are revised, the staff person must review and
8 receive instruction on the following as it relates to the staff person's job functions for that person:

9 (1) the person's coordinated service and support plan as it relates to the responsibilities assigned to
10 the license holder, and when applicable, the person's abuse prevention plan ~~according to section 245A.65,~~
11 to achieve and demonstrate an understanding of the person as a unique individual, and how to implement
12 those plans; ~~and~~

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

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

24 (i) specialized or intensive medical or nursing supervision; and

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

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

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

34 (4) what constitutes use of restraints, time out and seclusion, including chemical restraint, and staff
35 responsibilities related to the prohibitions of their use according to the requirements in section 245D.06,
36 subdivision 5, why such procedures are not effective for reducing or eliminating undesired behavior and
37 why they are not safe, and the safe and correct use of manual restraint on an emergency basis according to
38 the requirements in section 245D.061.

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

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

7 Subd. 5. **Annual Training.** ~~(a)~~ A license holder must provide annual training to direct service
8 support staff on the topics identified in subdivision 4, paragraph (a), clauses (3) to (6) (8). Training on
9 relevant topics received from sources other than the license holder may count toward training requirements.

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

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

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

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

19 ~~(e) When the license holder is the owner, lessor, or tenant of the service site and whenever a person~~
20 ~~receiving services is present at the site, the license holder must have a staff person available on site who is~~
21 ~~trained in basic first aid and, when required in a person's service plan, cardiopulmonary resuscitation.~~

22 Subd. 6. **Alternative sources of training.** Orientation or training received by the staff person from
23 sources other than the license holder in the same subjects as identified in subdivision 4, paragraph (a), may
24 count towards the orientation and annual training requirements if received in the 12 month period before
25 the staff person's date of hire. The license holder must maintain documentation of the training received
26 from other sources and of each staff person's competency in the required area according to the
27 requirements in subdivision 3.

28 Subd. 7. **Subcontractors and temporary staff.** If the license holder uses a subcontractor or
29 temporary staff to perform services licensed under this chapter on their behalf, the license holder must
30 ensure that the subcontractor or temporary staff meets and maintains compliance with all requirements
31 under this chapter that apply to the services to be provided, including training, orientation, and supervision
32 necessary to fulfill their responsibilities. The license holder must ensure that a background study has been
33 completed according to the requirements in section 245C.03, subdivision 1, and section 245C.04.
34 Subcontractors and temporary staff hired by the license holder must meet the Minnesota licensing
35 requirements applicable to the disciplines in which they are providing services. The license holder must
36 maintain documentation that the applicable requirements have been met.

37 Subd. 8. **Volunteers.** The license holder must ensure that volunteers who provide direct support
38 services to persons served by the program receive the training, orientation, and supervision necessary to

1 fulfill their responsibilities. The license holder must ensure that a background study has been completed
2 according to the requirements in section 245C.03, subdivision 1, and section 245C.04. The license holder
3 must maintain documentation that the applicable requirements have been met.

4 Subd. 9. **Staff orientation and training plan.** The license holder must develop a staff orientation and
5 training plan documenting when and how compliance with subdivisions 4 and 5 will be met.

6 **245D.091 STAFFING STANDARDS; INTERVENTION SERVICES**

7 Subdivision 1. **Intervention services; licensure requirements.** An individual meeting the staff
8 qualification requirements of this section who is an employee of a program licensed according to this
9 chapter and providing behavioral support services, specialist services, or crisis respite services is not
10 required to hold a separate license under this chapter. An individual meeting the staff qualifications of this
11 section who is not providing these services as an employee of program licensed according to this chapter
12 must obtain a license according to this chapter.

13 Subd. 2. **Behavior professional qualifications.** Behavior professionals must have competencies in
14 areas related to:

15 (1) ethical considerations;

16 (2) functional assessment;

17 (3) functional analysis;

18 (4) measurement of behavior and interpretation of data;

19 (5) selecting intervention outcomes and strategies;

20 (6) behavior reduction/elimination strategies that promote least restrictive approved alternatives;

21 (7) data collection;

22 (8) staff and caregiver training;

23 (9) support plan monitoring;

24 (10) co-occurring mental disorders or neuro-cognitive disorder;

25 (11) demonstrated expertise with populations being served; and

26 (12) must meet at least one of the following requirements and be a:

27 (i) psychologist licensed under sections 148.88 to 148.98, who has stated to the Board of Psychology
28 competencies in the above identified areas;

29 (ii) clinical social worker licensed as an independent clinical social worker under chapter 148D, or a
30 person with a master's degree in social work from an accredited college or university, with at least 4,000
31 hours of post-master's supervised experience in the delivery of clinical services in the areas identified in
32 clauses (1) to (11);

33 (iii) physician licensed under chapter 147 and certified by the American Board of Psychiatry and
34 Neurology or eligible for board certification in psychiatry with competencies in the areas identified in
35 clauses (1) to (11);

1 (iv) licensed professional clinical counselor licensed under MN Statute, sections 148B.29 to 148B.39
2 with at least 4000 hours of post-master's supervised experience in the delivery of clinical services who has
3 demonstrated competencies in the areas identified in clauses (1) to (11);

4 (v) person with a master's degree from an accredited college or university in one of the behavioral
5 sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of
6 clinical services with demonstrated competencies in the areas identified in clauses (1) to (11); or

7 (vi) registered nurse who is licensed under sections 148.171 to 148.285; and who is certified as a
8 clinical specialist or as a nurse practitioner in adult or family psychiatric and mental health nursing by a
9 national nurse certification organization; or who has a master's degree in nursing or one of the behavioral
10 sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours
11 of post-master's supervised experience in the delivery of clinical services

12 **Subd. 3. Behavior analyst qualifications.** A behavior analyst must meet the following qualifications:

13 (1) have obtained a baccalaureate degree, master's degree or a PhD in a social services discipline; or

14 (2) meet the qualifications of a Mental Health Practitioner as defined in section 245.462, subdivision
15 17.

16 (3) in addition, the behavior analyst must have:

17 (i) four years of supervised experience working with individuals who exhibit challenging behaviors
18 as well as co-occurring mental disorders or neuro-cognitive disorder;

19 (ii) 10 hours of instruction in functional assessment and functional analysis;

20 (iii) 20 hours of instruction in the understanding of the function of behavior;

21 (iv) 10 hours of instruction on design of positive practices behavior support strategies;

22 (v) 20 hours of instruction on the use of behavior reduction approved strategies used only in
23 combination with behavior positive practices strategies; and

24 (vi) a determination by a behavior professional to have the training and prerequisite skills required to
25 provided positive practice strategies as well as behavior reduction approved/permitted intervention to the
26 person who receives behavioral support; and

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

28 **Subd. 4. Behavior specialist qualifications.** A behavior analyst must meet the following
29 qualifications:

30 (1) have an associate's degree in a social services discipline; or

31 (2) two years of supervised experience working with individuals who exhibit challenging behaviors
32 as well as co-occurring mental disorders or neuro-cognitive disorder; and

33 (3) must have received:

34 (i) a minimum of four hours of training in functional assessment;

35 (ii) 20 hours of instruction in the understanding of the function of behavior;

1 (iii) 10 hours of instruction on design of positive practices behavioral support strategies; and

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

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

6 **Subd. 5. Specialist services qualifications.** An individual providing specialist services must meet the
7 following requirements:

8 (1) the specific experience and skills required of the specialist to meet the needs of the person
9 identified by the person's service planning team; and

10 (2) the qualifications of the specialist identified in the person's coordinated service and support plan.

11 **245D.10 RECORD REQUIREMENTS.**

12 Subdivision 1. Record-keeping systems. The license holder must ensure that the content and format
13 of service recipient, personnel, and program records are uniform, legible, and according to the requirements
14 of this chapter.

15 Subd. 2. Admission and discharge register. The license holder must keep a written or electronic
16 register, listing in chronological order the dates and names of all persons served by the program who have
17 been admitted, discharged, or transferred, including service terminations initiated by the license holder and
18 deaths.

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

20 (1) maintain a record of current services provided to each person on the premises where the services
21 are provided or coordinated. When the services are provided in a licensed facility the records must be
22 maintained at the facility, otherwise the records must be maintained at the license holder's program office.

23 (2) protect service recipient records against loss, tampering, or unauthorized disclosure according to
24 the requirements in sections 13.01 to 13.10 and 13.46.

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

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

27 (i) identifying information, including the person's name, date of birth, address, and telephone number;

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

31 (2) service information, including service initiation information, verification of the person's eligibility
32 for services, and documentation verifying that services have been provided as identified in the coordinated
33 service and support plan according to paragraph (a), and date of admission or readmission;

34 (3) health information, including medical history, special dietary needs, and allergies; and when the
35 license holder is assigned responsibility for meeting the person's health service needs according to section
36 245D.05:

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

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

6 (iii) medication administration procedures;

7 (iv) a medication administration record documenting the implementation of the medication
8 administration procedures, the medication administration record reviews, and including any agreements for
9 administration of injectable medications by the license holder according to the requirements in section
10 245D.05; and

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

13 (4) the person's current coordinated service and support plan or that portion of the plan assigned to
14 the license holder;

15 (5) copies of the individual abuse prevention plan and assessments as required under section
16 245D.071, subdivisions 2 and 3;

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

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

23 (8) copies of authorizations to handle a person's funds, according to section 245D.06, subdivision 4,
24 paragraph (a);

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

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

27 (11) copies of written reports regarding the person's status when requested according to section
28 245D.07, subdivision 4, progress review reports as required under 245D.071, subdivision 5, progress or
29 daily log notes that are recorded by the program, and reports received from other agencies involved in
30 providing services or care to the person; and

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

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

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

1 (2) the person's case manager;

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

4 (4) the county child or adult foster care licensor, when services are also licensed as child or adult
5 foster care.

6 Subd. 5. **Personnel records.** The license holder must maintain a personnel record of each employee
7 to document and verify staff qualifications, orientation, and training. The personnel record must include:

8 (1) the employee's date of hire, completed application, an acknowledgement signed by the employee
9 that job duties were reviewed with the employee and the employee understands those duties, and
10 documentation that the employee meets the position requirements as determined by the license holder. For
11 employees hired after implementation of this chapter, the license holder must maintain documentation in
12 the personnel record or elsewhere, sufficient to determine the date of the employee's first supervised direct
13 contact with a person served by the program, and the date of first unsupervised direct contact with a person
14 served by the program.

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

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

19 **245D.11 POLICIES AND PROCEDURES.**

20 Subdivision 1. **Policy and procedure requirements.** ~~The A~~ license holder providing either basic or
21 intensive supports and services must establish, enforce, and maintain policies and procedures as required in
22 this section, chapter 245A, and other applicable state and federal laws and regulation governing the
23 provision of home and community based services licensed according to this chapter.

24 Subd. 2. **Grievances.** The license holder must establish policies and procedures that promote service
25 recipient rights by ~~provide~~ providing a simple complaint process for persons served by the program and
26 their authorized representatives to bring a grievance that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 ~~(b)~~ The policy must include the following requirements:

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

23 (2) notice of the proposed termination of services, including those situations that began with a
24 temporary service suspension, must be given to the person at least 60 days before the proposed termination
25 is to become effective when a license holder is providing ~~independent living skills training, structured day,
26 prevocational or supported employment services~~ intensive supports and services identified in section
27 245D.03, subdivision 2, paragraph (c), ~~to the person,~~ and 30 days prior to termination for all other services
28 licensed under this chapter;

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

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

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

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

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

5 Subd. 4. Emergency use of manual restraints. The license holder must establish policies and
6 procedures that promote service recipient rights and protects health and safety during the emergency use of
7 manual restraints. The policy and procedures must comply with the requirements in section 245D.061, and
8 must specify the following:

9 (1) a description of the positive support strategies and techniques staff must use to attempt to de-
10 escalate a person's behavior before it poses an imminent risk of physical harm to self or others;

11 (2) a description of the types of manual restraints the license holder allows staff to use on an
12 emergency basis, if any. If the license holder will not allow the use manual restraint under section
13 245D.061, the policy and procedure must identify the alternative measures the license holder will require
14 staff to use when a person's conduct poses an imminent risk of physical harm to self or others and less
15 restrictive strategies would not achieve safety;

16 (2) instructions for safe and correct implementation of the allowed manual restraint procedures;

17 (3) the training staff must complete and the timelines for completion, before they may implement an
18 emergency use of manual restraint. In addition to the training on this policy and procedure and the
19 orientation and annual training required in section 245D.09, subdivision 4, the training for emergency use
20 of manual restraint must incorporate the following subjects:

21 (i) alternatives to manual restraint procedures , including techniques to identify events and
22 environmental factors that may escalate behavior;

23 (ii) de-escalation methods, positive strategies, and how to avoid power struggles;

24 (iii) simulated experiences of administering and receiving manual restraint procedures allowed by the
25 license holder on an emergency basis;

26 (v) how to properly identify thresholds for implementing and ceasing restrictive procedures;

27 (vi) how to recognize, monitor, and respond to the person's physical signs of distress, including
28 positional asphyxia; and

29 (vii) the physiological and psychological impact on the person and the staff when restrictive
30 procedures are used;

31 (4) the procedures and forms to be used to monitor the emergency use of manual restraints, including
32 what must be monitored and the frequency of monitoring per each incident of emergency use of manual
33 restraint, and the person or position who is responsible for monitoring the use;

34 (5) the instructions, forms, and timelines required for completing and submitting an incident report by
35 the person or persons who implemented the manual restraint; and

1 (6) the procedures and time lines for conducting the internal review, and the person or position
2 responsible for completing the internal review and who is responsible to ensure that corrective action is
3 taken or the person's CSSP addendum is revised, when determined necessary.

4 Subd. 5. **Availability of current written policies and procedures.** (a) The license holder must
5 review and update, as needed, the written policies and procedures required under this chapter.

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

9 (1) For license holders providing basic services and supports only this includes the:

10 (i) grievance policy and procedure required under subdivision 2; and

11 (ii) service suspension and termination policy and procedure required under subdivision 3;

12 (2) For all other license holders this includes the policies and procedures in clause (1) and the
13 following:

14 (i) the emergency use of manual restraints policy and procedure required under subdivision 4; and

15 (ii) data privacy under section 245D.111, subdivision 3.

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

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

23 **245D.111 POLICIES AND PROCEDURES; INTENSIVE SUPPORT SERVICES.**

24 Subdivision 1. **Policy and procedure requirements; intensive support.** A license holder providing
25 intensive supports and services as identified in section 245D.03, subdivision 2, paragraph (c), must
26 establish, enforce, and maintain policies and procedures as required in this section.

27 Subd. 2. **Health and safety.** The license holder must establish policies and procedures that promote
28 health and safety by ensuring:

29 (1) use of universal precautions and sanitary practices in compliance with section 245D.06,
30 subdivision 2, clause (5);

31 (2) if the license holder operates a residential program, health service coordination and care according
32 to the requirements in section 245D.05, subdivision 1;

33 (3) safe medication assistance and administration according to the requirements in sections 245D.05,
34 subdivisions (2) to (4), and 245D.051, that are established in consultation with a registered nurse, nurse
35 practitioner, physician's assistant, or medical doctor and require completion of medication administration

1 training according to the requirements in section 245D.09, subdivision 4, paragraph (b), clause (2), in
2 addition to the following:

3 (i) medication-related services to a person;

4 (ii) medication setup;

5 (iii) medication administration;

6 (iv) medication storage and security;

7 (v) medication documentation and charting;

8 (vi) verification and monitoring of effectiveness of systems to ensure safe medication handling and
9 administration;

10 (vii) coordination of medication refills;

11 (viii) handling changes to prescriptions and implementation of those changes;

12 (ix) communicating with the pharmacy; or

13 (x) coordination and communication with prescriber.

14 (4) safe transportation, when the license holder is responsible for transportation of persons, with
15 provisions for handling emergency situations according to the requirements in section 245D.06, subdivision
16 2, clauses (2) to (4);

17 (5) a plan for ensuring the safety of persons served by the program in emergencies as defined in
18 section 245D.02, subdivision 16, and procedures for staff to report emergencies to the license holder. A
19 license holder with a community residential setting or a day service facility license must ensure the policy
20 and procedures comply with the requirements in section 245D.21, subdivision 4;

21 (6) a plan for responding to all incidents as defined in section 245D.02, subdivision 21; and reporting
22 all incidents required to be reported according to section 245D.06, subdivision 1, the plan must:

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

24 (ii) require staff to first call 911 when the staff believes a medical emergency may be life-threatening,
25 or to call the mental health crisis intervention team when the person is experiencing a mental health crisis;

26 (7) a procedure for the review of incidents and emergencies to identify trends or patterns , and
27 corrective action if needed; and a record keeping system of record keeping for the incident and emergency
28 reports and a summary of the reviews that includes maintaining a written summary of each incident in an
29 incident report file that indicates: The license holder must conduct a review of incident reports, for
30 identification of incident patterns, and implementation of corrective action as necessary to reduce
31 occurrences.

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

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

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

1 (iv) a description of the response to the incident or emergency and whether a person’s individual
2 service and support plan or risk management plan, or program policies and procedures, were implemented
3 as applicable; and

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

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

6 **Subd. 3. Data privacy.** The license holder must establish policies and procedures that promote
7 service recipient rights by ensuring data privacy according to the requirements in:

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

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

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

20 (1) is consistent with the license holder's registration information identified according to the
21 requirements in section 245D.031, subdivision 2 and with the service-related rights identified in section
22 245D.04, subdivisions 2, clauses (4) to (7), and subdivision 3, clause (8);

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

25 (3) requires a license holder providing services in a health care facility to comply with the
26 requirements in section 243.166, subdivision 4b, to provide notification to residents when a registered
27 predatory offender is admitted into the program or to a potential admission when the facility was already
28 servicing a registered predatory offender. For the purposes of this clause, “health care facility” means a
29 facility licensed by the commissioner as a residential facility under chapter 245A to provide adult foster
30 care or residential services to persons with disabilities;

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

35 (5) requires that when a person or the person’s legal representative requests services from the license
36 holder, a refusal to admit the person must be based on an evaluation of the person’s assessed needs and the
37 license holder’s lack of capacity to meet the needs of the person. Documentation of the basis for refusal
38 must be provided to the person or the person’s legal representative and case manager upon request

1 **FACILITY STANDARDS**

2 **245D.20 FACILITY LICENSURE REQUIREMENTS AND APPLICATION PROCESS.**

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

6 Subd. 2. Inspections and code compliance. (a) Physical plants must comply with applicable state
7 and local fire, health, building, and zoning codes.

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

12 (1) The fire marshal inspection of a community residential setting must verify the residence is a
13 dwelling unit within a residential occupancy as defined in section 9.117 of the Minnesota Uniform Fire
14 Code. A home safety checklist, approved by the commissioner, must be completed for a community
15 residential setting by the license holder and the commissioner before the satellite license is reissued.

16 (2) The facility shall be inspected according to the facility capacity specified on the initial application
17 form.

18 (3) If the commissioner has reasonable cause to believe that a potentially hazardous condition may be
19 present or the licensed capacity is increased, the commissioner shall request a subsequent inspection and
20 written report by a fire marshal to verify the absence of hazard.

21 (4) Any condition cited by a fire marshal, building official, or health authority as hazardous or
22 creating an immediate danger of fire or threat to health and safety must be corrected before a license is
23 issued by the department, and for community residential settings, before a license is reissued.

24 (c) The facility must maintain in a permanent file the reports of health, fire, and other safety
25 inspections.

26 (d) The facility's plumbing, ventilation, heating, cooling, lighting, and other fixtures and equipment,
27 including elevators or food service, if provided, must conform to applicable health, sanitation, and safety
28 codes and regulations.

29 **245D.21 FACILITY SANITATION AND HEALTH.**

30 Subdivision 1. General Maintenance. The license holder must maintain the interior and exterior of
31 buildings, structures, or enclosures used by the facility, including walls, floors, ceilings, registers, fixtures,
32 equipment, and furnishings, in good repair and in a sanitary and safe condition. The facility must be clean
33 and free from accumulations of dirt, grease, garbage, peeling paint, mold, vermin, and insects. The license
34 holder must correct building and equipment deterioration, safety hazards, and unsanitary conditions.

35 Subd. 2. Hazards and toxic substances. The license holder must ensure that service sites owned or
36 leased by the license holder are free from hazards that would threaten the health or safety of a person
37 receiving services by ensuring the requirements in clauses (1) to (7) are met.

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

3 (2) The license holder must install handrails and nonslip surfaces on interior and exterior runways,
4 stairways, and ramps according to the applicable building code.

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

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

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

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

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

15 Subd. 3. **Storage and disposal of medication.** Schedule II controlled substances in the facility that
16 are named in Minnesota Statutes, section 152.02, subdivision 3, must be stored in a locked storage area
17 permitting access only by persons and staff authorized to administer the medication. This must be
18 incorporated into the license holder's medication administration policy and procedures required under
19 section 245D.111, subdivision 2, clause (3). Medications will be disposed of according to the
20 Environmental Protection Agency recommendations.

21 Subd. 4. **First aid.** (a) A staff person trained in first aid and, when required in a person's service plan
22 coordinated service and support plan, cardiopulmonary resuscitation, incompliance with section 245D.06,
23 subdivision 2, clause (1), item (iv).

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

28 Subd. 4. **Emergencies.** The license holder must have a written plan for responding to emergencies as
29 defined in section 245D.02, subdivision 16, to ensure the safety of persons served in the facility.

30 (1) The license holder must maintain a log of quarterly fire drills is on file in the facility.

31 (2) The emergency response plan must be readily available to staff and persons receiving services.

32 (3) Each person must be informed of a designated area within the facility where the person should go
33 to for emergency shelter during severe weather and the designated assembly points outside the facility.

34 (4) The license holder must maintain emergency contact information for persons served at the facility
35 that can be readily accessed in an emergency.

36 (b) The plan must include:

- 1 (1) procedures for emergency evacuation and emergency sheltering, including:
2 (i) how to report a fire or other emergency;
3 (ii) procedures to notify, relocate, and evacuate occupants, including use of adaptive procedures or
4 equipment to assist with the safe evacuation of persons with physical or sensory disabilities;
5 (iii) instructions on closing off the fire area, using fire extinguishers, and activating and responding to
6 alarm systems;
7 (2) a floor plan that identifies:
8 (i) the location of fire extinguishers;
9 (ii) the location of audible or visual alarm systems, including but not limited to, manual fire alarm
10 boxes, smoke detectors, fire alarm enunciators and controls, sprinkler systems;
11 (iii) identification of exits, primary and secondary evacuation routes, and accessible egress routes, if
12 any;
13 (iv) the location of emergency shelter within the facility;
14 (3) a site plan that identifies:
15 (i) designated assembly points outside the facility;
16 (ii) the locations of fire hydrants; and
17 (iii) the routes of fire department access;
18 (4) the responsibilities each staff person will assume in case of emergency; and
19 (5) procedures for conducting quarterly drills each year and recording the dates of in the file of
20 emergency plans;
21 (6) procedures for relocation or service suspension when services are interrupted for more than 24
22 hours; and
23 (7) A community residential setting license holder’s plan must include provisions for the following:
24 (i) substitute caregiver who meets the qualifications under this chapter, to provide care during
25 emergencies; and
26 (ii) in buildings with three or more dwelling units, enclosed exit stairs must be indicated. There must
27 be an emergency escape plan for each resident.

28 Subd. 5. **Emergency equipment.** The facility must have a flashlight and a portable radio or television
29 set that do not require electricity and can be used if a power failure occurs.

30 Subd. 6. **Telephone and posted numbers.** A facility must have a noncoin operated telephone that is
31 readily accessible. A list of emergency numbers must be posted in a prominent location. When an area has
32 a 911 number or a mental health crisis intervention team number, both numbers must be posted and the
33 emergency number listed must be 911. In areas of the state without a 911 number, the numbers listed must
34 be those of the local fire department, police department, emergency transportation, and poison control

1 center. The names and phone numbers of each person's representative, physician, and dentist must be
2 readily available.

3 **COMMUNITY RESIDENTIAL SETTINGS**

4 **245D.30 COMMUNITY RESIDENTIAL SETTINGS; SATELLITE LICENSURE** 5 **REQUIREMENTS AND APPLICATION PROCESS.**

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

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

13 Subd. 2. **Notification to local agency.** The license holder must notify the local agency within 24
14 hours of the onset of changes in a residence resulting from construction, remodeling, or damages requiring
15 repairs that require a building permit and/or may affect a licensing requirement in this chapter.

16 Subd. 3. **Alternate overnight supervision.** A license holder granted an alternate overnight
17 supervision technology adult foster care license according to section 245A.11, subdivision 7a, that converts
18 to a community residential setting satellite license according to this chapter will retain that designation.

19 **245D.31 COMMUNITY RESIDENTIAL SETTINGS; PHYSICAL PLANT AND** 20 **ENVIRONMENT.**

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

23 Subd. 2. **Common area requirements.** The living area must be provided with an adequate number of
24 furnishings for the usual functions of daily living and social activities. The dining area is furnished to
25 accommodate meals shared by all persons living in the residence. These furnishing must be in good repair
26 and functional to meet the daily needs of the persons living in the residence.

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

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

30 (1) a single occupancy bedroom must have at least 80 square feet of floor space with a seven foot-six
31 inch ceiling. A double occupancy room must have at least 120 square feet of floor space with a seven foot-
32 six inch ceiling;

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

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

1 (c) Unless otherwise documented through assessment as a safety concern for the person, each person
2 must be provided with the following furnishings:

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

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

6 (3) an individual cabinet, or dresser, shelves, and a closet, for storage of personal possessions and
7 clothing; and

8 (4) a mirror for grooming.

9 When possible, a person must be allowed to have items of furniture that he or she personally owns in
10 the bedroom, unless doing so would interfere with safety precautions, violate a building or fire code, or
11 another person's use of the bedroom. A person may choose to not have a cabinet, dresser, shelves, or a
12 mirror in the bedroom, as otherwise required under clauses (3) or (4). In which case the license holder must
13 document this choice and is not required to provide the item.

14 (d) A person must be allowed to bring personal possessions into the bedroom and other designated
15 storage space, if such space is available, in the residence. The license holder must provide a lock to allow
16 for locked storage of personal items. The person must be allowed to accumulate possessions to the extent
17 the residence is able to accommodate them, unless doing so is contraindicated for person's physical or
18 mental health, would interfere with safety precautions, another person's use of the bedroom, or violate a
19 building or fire code. Any restriction on the possession or locked storage of personal must comply with
20 section 245D.04, subdivision 3, paragraph (c). Any restriction of locked storage of personal items must
21 require the person to be present if and when the license holder opens the lock.

22 **245D.32 COMMUNITY RESIDENTIAL SETTINGS; FOOD AND WATER.**

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

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

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

34 **245D.33 COMMUNITY RESIDENTIAL SETTINGS; SANITATION AND HEALTH.**

35 Subdivision 1. **Goods provided by the license holder.** Individual clean bed linens appropriate for
36 the season and the person's comfort, towels, and wash cloths must be available for each person. Usual or
37 customary goods for the operation of a residence which are communally used by all persons receiving
38 services living in the residence will be provided by the license holder including: household items for meal

1 preparation, cleaning supplies to maintain the cleanliness of the residence, window coverings on windows
2 for privacy, toilet paper, and hand soap.

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

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

9 Subd. 4. **Smoking in the residence.** License holders must comply with the requirements of the
10 Minnesota Clean Indoor Air Act, sections 144.411 to 144.417, when smoking is permitted in the residence.

11 Subd. 5. **Weapons.** Weapons and ammunition must be stored separately in locked areas that are
12 inaccessible to a person receiving services. For the purposes of this subdivision “weapons” means firearms
13 and other instruments or devices designed for and capable of producing bodily harm.

14 **DAY SERVICES FACILITIES**

15 **245D.40 DAY SERVICES FACILITIES; SATELLITE LICENSURE REQUIREMENTS AND** 16 **APPLICATION PROCESS**

17 Subdivision 1. **Separate satellite license required for separate satellite sites.** The license holder
18 providing day services must apply for a separate license for each facility-based service site when the
19 license holder is the owner, lessor, or tenant of the service site at which persons receive day services and
20 the license holder's employees who provide day services are present for a cumulative total of more than 30
21 days within any 12-month period. For purposes of this chapter, a day services facility license is a satellite
22 license of the day services program. A day services program may operate multiple licensed day service
23 facilities in one or more counties in the state.

24 **245D.41 DAY SERVICES FACILITIES; PHYSICAL PLANT AND SPACE REQUIREMENTS.**

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

30 (b) When a facility is located in a multifunctional organization, the facility may share common space
31 with the multifunctional organization if the required available primary space for use by persons receiving
32 day services is maintained while the facility is operating. The license holder must comply at all times with
33 all applicable fire and safety codes under section 245A.04, subdivision 2a and adequate supervision
34 requirements under section 245D.43 for all persons receiving day services.

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

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

2 (2) floor areas beneath stationary equipment; or

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

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

9 **245D.42 DAY SERVICE FACILITIES; HEALTH AND SAFETY REQUIREMENTS.**

10 Subdivision 1. **Refrigeration.** If the license holder provides refrigeration at service sites owned or
11 leased by the license holder for storing perishable foods and perishable portions of bag lunches, whether the
12 foods are supplied by the license holder or the persons receiving services, the refrigeration must have a
13 temperature of 40 degrees Fahrenheit or less.

14 Subd. 2. **Drinking water.** Drinking water must be available to all persons receiving services. If a
15 person is unable to request or obtain drinking water, it must be provided according to that person's
16 individual needs. Drinking water must be provided in single service containers or from drinking fountains
17 accessible to all persons.

18 Subd. 3. **Individuals who become ill during the day.** There must be an area in which a person
19 receiving services can rest if the person becomes ill during the day and the person does not live in a
20 licensed residential site and the person requires supervision and there is not a caretaker immediately
21 available. Supervision must be provided until the caretaker arrives to bring the person home.

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

26 **245D.43 DAY SERVICE FACILITIES; STAFF RATIO AND FACILITY COVERAGE.**

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

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

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

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

33 and

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

36 (b) The commissioner must consider the factors in paragraph (a) in determining a license holder's
37 compliance with the staffing requirements and must further consider whether the staff ratio requirement

1 established under subdivision 3 for each person receiving services accurately reflects the person's need for
2 staff time.

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

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

12 (1) on a daily basis the person requires total care and monitoring or constant hand-over-hand physical
13 guidance to successfully complete at least three of the following activities: toileting, communicating basic
14 needs, eating, or ambulating, or is not capable of taking appropriate action for self-preservation under
15 emergency conditions; or

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

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

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

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

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

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

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

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

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

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

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

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

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

9 **Subd. 9. Conditions requiring additional direct support staff.** The license holder must increase the
10 number of direct support staff members present at any one time beyond the number arrived at in
11 subdivision 4 if necessary when any one or combination of the following circumstances can be documented
12 by the commissioner as existing:

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

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

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

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

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

26 **ALTERNATIVE LICENSING INSPECTIONS**

27 **245D.50 ALTERNATIVE LICENSING INSPECTIONS.**

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

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

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

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

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

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

8 (iv) the license holder maintained substantial compliance with the other requirements of chapters
9 245A and 245C and other applicable laws and rules.

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

12 (1) A three-year accreditation from the Commission on Rehabilitation Facilities (CARF).

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

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

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

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

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

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

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

35 (c) The license holder must submit a written request for approval to be renewed one month before the
36 end of the current approval period. The license holder must complete submission of all required materials
37 in paragraph (a), clause (2), following the end of the current qualifying accreditation period. If the license

1 holder does not submit a request to renew approval as required the commissioner will conduct a licensing
2 inspection.

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

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

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

13 **Subd. 5. Investigations of alleged or suspected maltreatment.** Nothing in this section changes the
14 commissioner's responsibilities to investigate alleged or suspected maltreatment of a minor under section
15 626.556 or a vulnerable adult under section 626.557.

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

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

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

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

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

29 **CERTIFICATION STANDARDS**

30 **245D.60 ADULT MENTAL HEALTH CERTIFICATION STANDARDS**

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

35 (b) The requirements for certification are:

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

1 (i) mental health diagnoses;

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

3 (iii) recovery from mental illness;

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

5 (v) medications and their side effects;

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

7 (vii) community resources;

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

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

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

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

16 (d) If the commissioner finds that the license holder has failed to comply with the certification
17 requirements under paragraph (b) the commissioner may issue a correction order and an order of
18 conditional license in accordance with section 245A.06 or may issue a sanction in accordance with section
19 245A.07, including and up to removal of the certification.

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