State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 4241

03/09/2020 Authored by Schultz
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

A bill for an act

relating to human services; modifying the age limit for dialectical behavioral therapy; correcting terminology related to disability services; modifying provisions regarding nursing facility rates; amending Minnesota Statutes 2018, sections 256B.0625, subdivision 5l; 256R.02, subdivisions 4, 17, 18, 29, 42a, 48a, by adding a subdivision; 256R.07, subdivisions 1, 2, 3; 256R.08, subdivision 1; 256R.09, subdivisions 2, 5; 256R.13, subdivision 4; 256R.16, subdivision 1; 256R.17, subdivision 3; 256R.37; 256R.39; Minnesota Statutes 2019 Supplement, sections 245A.03, subdivision 7; 256R.02, subdivision 19; 256R.26, subdivision 1; repealing Minnesota Statutes 2018, sections 256R.08, subdivision 2; 256R.49.

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

Section 1. Minnesota Statutes 2019 Supplement, section 245A.03, subdivision 7, is amended to read:

Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter for a physical location that will not be the primary residence of the license holder for the entire period of licensure. If a license is issued during this moratorium, and the license holder changes the license holder's primary residence away from the physical location of the foster care license, the commissioner shall revoke the license according to section 245A.07. The commissioner shall not issue an initial license for a community residential setting licensed under chapter 245D. When approving an exception under this paragraph, the commissioner shall consider the resource need determination process in paragraph (h), the availability of foster care licensed beds in the geographic area in which the licensee seeks to operate, the results of a person's choices during their annual assessment and service

plan review, and the recommendation of the local county board. The determination by the commissioner is final and not subject to appeal. Exceptions to the moratorium include:

(1) foster care settings that are required to be registered under chapter 144D;

(2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or community residential setting licenses replacing adult foster care licenses in existence on December 31, 2013, and determined to be needed by the commissioner under paragraph (b);

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

(4) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital level care;

~~(5) new foster care licenses or community residential setting licenses determined to be needed by the commissioner for the transition of people from personal care assistance to the home and community-based services;~~

~~(6)~~ (5) new foster care licenses or community residential setting licenses determined to be needed by the commissioner for the transition of people from the residential care waiver services to foster care services. This exception applies only when:

(i) the person's case manager provided the person with information about the choice of service, service provider, and location of service to help the person make an informed choice; and

(ii) the person's foster care services are less than or equal to the cost of the person's services delivered in the residential care waiver service setting as determined by the lead agency; or

~~(7)~~ (6) new foster care licenses or community residential setting licenses for people receiving services under chapter 245D and residing in an unlicensed setting before May 1, 2017, and for which a license is required. This exception does not apply to people living in their own home. For purposes of this clause, there is a presumption that a foster care or community residential setting license is required for services provided to three or more people in a dwelling unit when the setting is controlled by the provider. A license holder

subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until June 30, 2018. This exception is available when:

(i) the person's case manager provided the person with information about the choice of service, service provider, and location of service, including in the person's home, to help the person make an informed choice; and

(ii) the person's services provided in the licensed foster care or community residential setting are less than or equal to the cost of the person's services delivered in the unlicensed setting as determined by the lead agency.

(b) The commissioner shall determine the need for newly licensed foster care homes or community residential settings as defined under this subdivision. As part of the determination, the commissioner shall consider the availability of foster care capacity in the area in which the licensee seeks to operate, and the recommendation of the local county board. The determination by the commissioner must be final. A determination of need is not required for a change in ownership at the same address.

(c) When an adult resident served by the program moves out of a foster home that is not the primary residence of the license holder according to section 256B.49, subdivision 15, paragraph (f), or the adult community residential setting, the county shall immediately inform the Department of Human Services Licensing Division. The department may decrease the statewide licensed capacity for adult foster care settings.

(d) Residential settings that would otherwise be subject to the decreased license capacity established in paragraph (c) shall be exempt if the license holder's beds are occupied by residents whose primary diagnosis is mental illness and the license holder is certified under the requirements in subdivision 6a or section 245D.33.

(e) A resource need determination process, managed at the state level, using the available reports required by section 144A.351, and other data and information shall be used to determine where the reduced capacity determined under section 256B.493 will be implemented. The commissioner shall consult with the stakeholders described in section 144A.351, and employ a variety of methods to improve the state's capacity to meet the informed decisions of those people who want to move out of corporate foster care or community residential settings, long-term service needs within budgetary limits, including seeking proposals from service providers or lead agencies to change service type, capacity, or location to improve services, increase the independence of residents, and better meet

needs identified by the long-term services and supports reports and statewide data and information.

(f) At the time of application and reapplication for licensure, the applicant and the license holder that are subject to the moratorium or an exclusion established in paragraph (a) are required to inform the commissioner whether the physical location where the foster care will be provided is or will be the primary residence of the license holder for the entire period of licensure. If the primary residence of the applicant or license holder changes, the applicant or license holder must notify the commissioner immediately. The commissioner shall print on the foster care license certificate whether or not the physical location is the primary residence of the license holder.

(g) License holders of foster care homes identified under paragraph (f) that are not the primary residence of the license holder and that also provide services in the foster care home that are covered by a federally approved home and community-based services waiver, as authorized under chapter 256S or section 256B.092 or 256B.49, must inform the human services licensing division that the license holder provides or intends to provide these waiver-funded services.

(h) The commissioner may adjust capacity to address needs identified in section 144A.351. Under this authority, the commissioner may approve new licensed settings or delicense existing settings. Delicensing of settings will be accomplished through a process identified in section 256B.493. Annually, by August 1, the commissioner shall provide information and data on capacity of licensed long-term services and supports, actions taken under the subdivision to manage statewide long-term services and supports resources, and any recommendations for change to the legislative committees with jurisdiction over the health and human services budget.

(i) The commissioner must notify a license holder when its corporate foster care or community residential setting licensed beds are reduced under this section. The notice of reduction of licensed beds must be in writing and delivered to the license holder by certified mail or personal service. The notice must state why the licensed beds are reduced and must inform the license holder of its right to request reconsideration by the commissioner. The license holder's request for reconsideration must be in writing. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds. If a request for reconsideration is made by personal service, it must be received by the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

(j) The commissioner shall not issue an initial license for children's residential treatment services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter for a program that Centers for Medicare and Medicaid Services would consider an institution for mental diseases. Facilities that serve only private pay clients are exempt from the moratorium described in this paragraph. The commissioner has the authority to manage existing statewide capacity for children's residential treatment services subject to the moratorium under this paragraph and may issue an initial license for such facilities if the initial license would not increase the statewide capacity for children's residential treatment services subject to the moratorium under this paragraph.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2018, section 256B.0625, subdivision 5l, is amended to read:

Subd. 5l. **Intensive mental health outpatient treatment.** Medical assistance covers intensive mental health outpatient treatment for dialectical behavioral therapy ~~for adults~~. The commissioner shall establish:

(1) certification procedures to ensure that providers of these services are qualified; and

(2) treatment protocols including required service components and criteria for admission, continued treatment, and discharge.

Sec. 3. Minnesota Statutes 2018, section 256R.02, subdivision 4, is amended to read:

Subd. 4. **Administrative costs.** "Administrative costs" means the identifiable costs for administering the overall activities of the nursing home. These costs include salaries and wages of the administrator, assistant administrator, business office employees, security guards, purchasing and inventory employees, and associated fringe benefits and payroll taxes, fees, contracts, or purchases related to business office functions, licenses, permits except as provided in the external fixed costs category, employee recognition, travel including meals and lodging, all training except as specified in subdivision 17, voice and data communication or transmission, office supplies, property and liability insurance and other forms of insurance except insurance that is a fringe benefit under subdivision 22, personnel recruitment, legal services, accounting services, management or business consultants, data processing, information technology, website, central or home office costs, business meetings and seminars, postage, fees for professional organizations, subscriptions, security services, nonpromotional advertising, board of directors fees, working capital interest expense, bad debts, bad debt collection fees, and costs incurred for travel and ~~housing~~ lodging for persons

employed by a Minnesota-registered supplemental nursing services agency as defined in section 144A.70, subdivision 6.

Sec. 4. Minnesota Statutes 2018, section 256R.02, subdivision 17, is amended to read:

Subd. 17. **Direct care costs.** "Direct care costs" means costs for the wages of nursing administration, direct care registered nurses, licensed practical nurses, certified nursing assistants, trained medication aides, employees conducting training in resident care topics and associated fringe benefits and payroll taxes; services from a Minnesota-registered supplemental nursing services agency up to the maximum allowable charges under section 144A.74, excluding associated lodging and travel costs; supplies that are stocked at nursing stations or on the floor and distributed or used individually, including, but not limited to: rubbing alcohol or alcohol swabs, applicators, cotton balls, incontinence pads, disposable ice bags, dressings, bandages, water pitchers, tongue depressors, disposable gloves, enemas, enema equipment, personal hygiene soap, medication cups, diapers, ~~plastic waste bags,~~ sanitary products, disposable thermometers, hypodermic needles and syringes, ~~clinical reagents or similar diagnostic agents,~~ drugs ~~that are not paid~~ not payable on a separate fee schedule by the medical assistance program or any other payer, and ~~technology related~~ clinical software costs specific to the provision of nursing care to residents, such as electronic charting systems; costs of materials used for resident care training, and training courses outside of the facility attended by direct care staff on resident care topics; and costs for nurse consultants, pharmacy consultants, and medical directors. Salaries and payroll taxes for nurse consultants who work out of a central office must be allocated proportionately by total resident days or by direct identification to the nursing facilities served by those consultants.

Sec. 5. Minnesota Statutes 2018, section 256R.02, subdivision 18, is amended to read:

Subd. 18. **Employer health insurance costs.** "Employer health insurance costs" means premium expenses for group coverage~~;~~ and actual expenses incurred for self-insured plans, including ~~reinsurance;~~ actual claims paid, stop-loss premiums, plan fees, and employer contributions to employee health reimbursement and health savings accounts. Actual costs of self-insurance plans must not include any allowance for future funding unless the plan meets the Medicare requirements for reporting on a premium basis when the Medicare regulations define the actual costs. Premium and expense costs and contributions are allowable for (1) all employees and (2) the spouse and dependents of those employees who are employed on average at least 30 hours per week.

Sec. 6. Minnesota Statutes 2019 Supplement, section 256R.02, subdivision 19, is amended to read:

Subd. 19. **External fixed costs.** "External fixed costs" means costs related to the nursing home surcharge under section 256.9657, subdivision 1; licensure fees under section 144.122; family advisory council fee under section 144A.33; scholarships under section 256R.37; planned closure rate adjustments under section 256R.40; consolidation rate adjustments under section 144A.071, subdivisions 4c, paragraph (a), clauses (5) and (6), and 4d; single-bed room incentives under section 256R.41; property taxes, special assessments, and payments in lieu of taxes; employer health insurance costs; quality improvement incentive payment rate adjustments under section 256R.39; performance-based incentive payments under section 256R.38; special dietary needs under section 256R.51; ~~rate adjustments for compensation-related costs for minimum wage changes under section 256R.49 provided on or after January 1, 2018;~~ Public Employees Retirement Association employer costs; and border city rate adjustments under section 256R.481.

Sec. 7. Minnesota Statutes 2018, section 256R.02, subdivision 29, is amended to read:

Subd. 29. **Maintenance and plant operations costs.** "Maintenance and plant operations costs" means the costs for the salaries and wages of the maintenance supervisor, engineers, heating-plant employees, and other maintenance employees and associated fringe benefits and payroll taxes. It also includes identifiable costs for maintenance and operation of the building and grounds, including, but not limited to, fuel, electricity, plastic waste bags, medical waste and garbage removal, water, sewer, supplies, tools, ~~and~~ repairs, and minor equipment not requiring capitalization under Medicare guidelines.

Sec. 8. Minnesota Statutes 2018, section 256R.02, is amended by adding a subdivision to read:

Subd. 32a. **Minor equipment.** "Minor equipment" means equipment that does not qualify as either fixed equipment or depreciable moveable equipment defined in section 256R.261.

Sec. 9. Minnesota Statutes 2018, section 256R.02, subdivision 42a, is amended to read:

Subd. 42a. **Real estate taxes.** "Real estate taxes" means the real estate tax liability shown on the annual property tax ~~statement~~ statements of the nursing facility for the reporting period. The term does not include personnel costs or fees for late payment.

Sec. 10. Minnesota Statutes 2018, section 256R.02, subdivision 48a, is amended to read:

Subd. 48a. **Special assessments.** "Special assessments" means the actual special assessments and related interest paid during the reporting period that are not voluntary costs. The term does not include personnel costs ~~or~~, fees for late payment, or special assessments for projects that are reimbursed in the property rate.

Sec. 11. Minnesota Statutes 2018, section 256R.07, subdivision 1, is amended to read:

Subdivision 1. **Criteria.** A nursing facility ~~shall~~ must keep adequate documentation. In order to be adequate, documentation must:

(1) be maintained in orderly, well-organized files;

(2) not include documentation of more than one nursing facility in one set of files unless transactions may be traced by the commissioner to the nursing facility's annual cost report;

(3) include a paid invoice or copy of a paid invoice with date of purchase, vendor name and address, purchaser name and delivery destination address, listing of items or services purchased, cost of items purchased, account number to which the cost is posted, and a breakdown of any allocation of costs between accounts or nursing facilities. If any of the information is not available, the nursing facility ~~shall~~ must document its good faith attempt to obtain the information;

(4) include contracts, agreements, amortization schedules, mortgages, other debt instruments, and all other documents necessary to explain the nursing facility's costs or revenues; ~~and~~

(5) include signed and dated position descriptions; and

(6) be retained by the nursing facility to support the five most recent annual cost reports. The commissioner may extend the period of retention if the field audit was postponed because of inadequate record keeping or accounting practices as in section 256R.13, subdivisions 2 and 4, the records are necessary to resolve a pending appeal, or the records are required for the enforcement of sections 256R.04; 256R.05, subdivision 2; 256R.06, subdivisions 2, 6, and 7; 256R.08, subdivisions 1 ~~to~~ and 3; and 256R.09, subdivisions 3 and 4.

Sec. 12. Minnesota Statutes 2018, section 256R.07, subdivision 2, is amended to read:

Subd. 2. **Documentation of compensation.** Compensation for personal services, regardless of whether treated as identifiable costs or costs that are not identifiable, must be

documented on payroll records. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employees which are allocated to more than one cost category must be supported by time distribution records. ~~The method used must produce a proportional distribution of actual time spent, or an accurate estimate of time spent performing assigned duties. The nursing facility that chooses to estimate time spent must use a statistically valid method. The compensation must reflect an amount proportionate to a full-time basis if the services are rendered on less than a full-time basis.~~ Salary allocations are allowable using the Medicare-approved allocation basis and methodology only if the salary costs cannot be directly determined, including when employees provide shared services to noncovered operations.

Sec. 13. Minnesota Statutes 2018, section 256R.07, subdivision 3, is amended to read:

Subd. 3. **Adequate documentation supporting nursing facility payrolls.** Payroll records supporting compensation costs claimed by nursing facilities must be supported by affirmative time and attendance records prepared by each individual at intervals of not more than one month. The requirements of this subdivision are met when documentation is provided under either clause (1) or (2) as follows:

(1) the affirmative time and attendance record must identify the individual's name; the days worked during each pay period; the number of hours worked each day; and the number of hours taken each day by the individual for vacation, sick, and other leave. The affirmative time and attendance record must include a signed verification by the individual and the individual's supervisor, if any, that the entries reported on the record are correct; or

(2) if the affirmative time and attendance records identifying the individual's name, the days worked each pay period, the number of hours worked each day, and the number of hours taken each day by the individual for vacation, sick, and other leave are ~~placed on microfilm~~ stored electronically, equipment must be made available for viewing and printing ~~them, or if the records are stored as automated data, summary data must be available for viewing and printing~~ the records.

Sec. 14. Minnesota Statutes 2018, section 256R.08, subdivision 1, is amended to read:

Subdivision 1. **Reporting of financial statements.** (a) No later than February 1 of each year, a nursing facility ~~shall~~ must:

(1) provide the state agency with a copy of its audited financial statements or its working trial balance;

(2) provide the state agency with a statement of ownership for the facility;

(3) provide the state agency with separate, audited financial statements or working trial balances for every other facility owned in whole or in part by an individual or entity that has an ownership interest in the facility;

(4) upon request, provide the state agency with separate, audited financial statements or working trial balances for every organization with which the facility conducts business and which is owned in whole or in part by an individual or entity which has an ownership interest in the facility;

(5) provide the state agency with copies of leases, purchase agreements, and other documents related to the lease or purchase of the nursing facility; and

(6) upon request, provide the state agency with copies of leases, purchase agreements, and other documents related to the acquisition of equipment, goods, and services which are claimed as allowable costs.

(b) Audited financial statements submitted under paragraph (a) must include a balance sheet, income statement, statement of the rate or rates charged to private paying residents, statement of retained earnings, statement of cash flows, notes to the financial statements, audited applicable supplemental information, and the public accountant's report. Public accountants must conduct audits in accordance with chapter 326A. The cost of an audit ~~shall~~ must not be an allowable cost unless the nursing facility submits its audited financial statements in the manner otherwise specified in this subdivision. A nursing facility must permit access by the state agency to the public accountant's audit work papers that support the audited financial statements submitted under paragraph (a).

(c) Documents or information provided to the state agency pursuant to this subdivision ~~shall~~ must be public unless prohibited by the Health Insurance Portability and Accountability Act or any other federal or state regulation. Data, notes, and preliminary drafts of reports created, collected, and maintained by the audit offices of government entities, or persons performing audits for government entities, and relating to an audit or investigation are confidential data on individuals or protected nonpublic data until the final report has been published or the audit or investigation is no longer being pursued actively, except that the data must be disclosed as required to comply with section 6.67 or 609.456.

(d) If the requirements of paragraphs (a) and (b) are not met, the reimbursement rate may be reduced to 80 percent of the rate in effect on the first day of the fourth calendar month after the close of the reporting period and the reduction ~~shall~~ must continue until the requirements are met.

Sec. 15. Minnesota Statutes 2018, section 256R.09, subdivision 2, is amended to read:

Subd. 2. **Reporting of statistical and cost information.** All nursing facilities ~~shall~~ must provide information annually to the commissioner on a form and in a manner determined by the commissioner. The commissioner may separately require facilities to submit in a manner specified by the commissioner documentation of statistical and cost information included in the report to ensure accuracy in establishing payment rates and to perform audit and appeal review functions under this chapter. The commissioner may also require nursing facilities to provide statistical and cost information for a subset of the items in the annual report on a semiannual basis. Nursing facilities ~~shall~~ must report only costs directly related to the operation of the nursing facility. The facility ~~shall~~ must not include costs which are separately reimbursed or reimbursable by residents, medical assistance, or other payors. Allocations of costs from central, affiliated, or corporate office and related organization transactions shall be reported according to sections 256R.07, subdivision 3, and 256R.12, subdivisions 1 to 7. The commissioner ~~shall~~ must not grant facilities extensions to the filing deadline.

Sec. 16. Minnesota Statutes 2018, section 256R.09, subdivision 5, is amended to read:

Subd. 5. **Method of accounting.** The accrual method of accounting in accordance with generally accepted accounting principles is the only method acceptable for purposes of satisfying the reporting requirements of this chapter. If a governmentally owned nursing facility demonstrates that the accrual method of accounting is not applicable to its accounts and that a cash or modified accrual method of accounting more accurately reports the nursing facility's financial operations, the commissioner ~~shall~~ must permit the governmentally owned nursing facility to use a cash or modified accrual method of accounting. For reimbursement purposes, the accrued expense must be paid within 90 days following the end of the reporting period. An expense disallowed under this section in any cost report period may not be claimed on a subsequent cost report. Specific exemptions to the 90-day rule may be granted by the commissioner for documented contractual arrangements such as receivership, property tax installment payments, and pension contributions.

Sec. 17. Minnesota Statutes 2018, section 256R.13, subdivision 4, is amended to read:

Subd. 4. **Extended record retention requirements.** The commissioner ~~shall~~ must extend the period for retention of records under section 256R.09, subdivision 3, for purposes of performing field audits as necessary to enforce sections 256R.04; 256R.05, subdivision 2; 256R.06, subdivisions 2, 6, and 7; 256R.08, subdivisions 1 ~~to~~ and 3; and 256R.09,

subdivisions 3 and 4, with written notice to the facility postmarked no later than 90 days prior to the expiration of the record retention requirement.

Sec. 18. Minnesota Statutes 2018, section 256R.16, subdivision 1, is amended to read:

Subdivision 1. **Calculation of a quality score.** (a) The commissioner ~~shall~~ must determine a quality score for each nursing facility using quality measures established in section 256B.439, according to methods determined by the commissioner in consultation with stakeholders and experts, and using the most recently available data as provided in the Minnesota Nursing Home Report Card. These methods ~~shall~~ must be exempt from the rulemaking requirements under chapter 14.

(b) For each quality measure, a score ~~shall~~ must be determined with the number of points assigned as determined by the commissioner using the methodology established according to this subdivision. The determination of the quality measures to be used and the methods of calculating scores may be revised annually by the commissioner.

(c) The quality score ~~shall~~ must include up to 50 points related to the Minnesota quality indicators score derived from the minimum data set, up to 40 points related to the resident quality of life score derived from the consumer survey conducted under section 256B.439, subdivision 3, and up to ten points related to the state inspection results score.

(d) The commissioner, in cooperation with the commissioner of health, may adjust the formula in paragraph (c), or the methodology for computing the total quality score, ~~effective July 1 of any year,~~ with five months advance public notice. In changing the formula, the commissioner ~~shall~~ must consider quality measure priorities registered by report card users, advice of stakeholders, and available research.

Sec. 19. Minnesota Statutes 2018, section 256R.17, subdivision 3, is amended to read:

Subd. 3. **Resident assessment schedule.** (a) Nursing facilities ~~shall~~ must conduct and submit case mix classification assessments according to the schedule established by the commissioner of health under section 144.0724, subdivisions 4 and 5.

(b) The case mix classifications established under section 144.0724, subdivision 3a, ~~shall~~ must be effective the day of admission for new admission assessments. The effective date for significant change assessments ~~shall~~ and significant correction assessments must be the assessment reference date. The effective date for annual and quarterly assessments ~~shall~~ must be the first day of the month following assessment reference date.

Sec. 20. Minnesota Statutes 2019 Supplement, section 256R.26, subdivision 1, is amended to read:

Subdivision 1. **Determination of limited undepreciated replacement cost.** A facility's limited URC is the lesser of:

(1) the facility's recognized URC from the appraisal; or

(2) the product of (i) the number of the facility's licensed beds three months prior to the beginning of the rate year, (ii) the construction cost per square foot value, and (iii) 1,000 square feet.

Sec. 21. Minnesota Statutes 2018, section 256R.37, is amended to read:

256R.37 SCHOLARSHIPS.

~~(a) For the 27-month period beginning October 1, 2015, through December 31, 2017, the commissioner shall allow a scholarship per diem of up to 25 cents for each nursing facility with no scholarship per diem that is requesting a scholarship per diem to be added to the external fixed payment rate to be used:~~

~~(1) for employee scholarships that satisfy the following requirements:~~

~~(i) scholarships are available to all employees who work an average of at least ten hours per week at the facility except the administrator, and to reimburse student loan expenses for newly hired registered nurses and licensed practical nurses, and training expenses for nursing assistants as specified in section 144A.611, subdivisions 2 and 4, who are newly hired; and~~

~~(ii) the course of study is expected to lead to career advancement with the facility or in long-term care, including medical care interpreter services and social work; and~~

~~(2) to provide job-related training in English as a second language.~~

~~(b) All facilities may annually request a rate adjustment under this section by submitting information to the commissioner on a schedule and in a form supplied by the commissioner. The commissioner shall allow a scholarship payment rate equal to the reported and allowable costs divided by resident days.~~

~~(c) In calculating the per diem under paragraph (b), the commissioner shall allow costs related to tuition, direct educational expenses, and reasonable costs as defined by the commissioner for child care costs and transportation expenses related to direct educational expenses.~~

~~(d) The rate increase under this section is an optional rate add-on that the facility must request from the commissioner in a manner prescribed by the commissioner. The rate increase must be used for scholarships as specified in this section.~~

~~(e) For instances in which a rate adjustment will be 15 cents or greater, nursing facilities that close beds during a rate year may request to have their scholarship adjustment under paragraph (b) recalculated by the commissioner for the remainder of the rate year to reflect the reduction in resident days compared to the cost report year.~~

(a) The commissioner must provide to each facility the scholarship per diem determined in paragraph (b). This per diem must be in the external fixed payment rate and must be based on the allowable costs of the following for facility employees who work an average of at least ten hours per week in the licensed nursing facility building:

(1) course of study that is expected to lead to career advancement with the facility or in long-term care;

(2) job-related training in English as a second language;

(3) reimbursement of allowable student loan expenses for newly hired registered nurses and licensed practical nurses, as determined by the commissioner; and

(4) training expenses as specified in section 144A.611, subdivisions 2 and 4. The ten hour per week work requirement does not apply to nursing assistants for scholarships granted for the training expenses specified in section 144A.611, subdivisions 2 and 4.

(b) This scholarship per diem must be equal to the allowable reported scholarship costs divided by resident days.

(c) Allowable scholarship costs include the following: tuition, other direct educational expenses, reasonable costs for child care and transportation expenses directly related to education, as defined by the commissioner, and allowable student loan expenses.

(d) For instances in which a rate adjustment will be 15 cents or greater, nursing facilities that close beds during a rate year may request to have their scholarship adjustment under paragraph (b) recalculated by the commissioner for the remainder of the rate year to reflect the reduction in resident days compared to the cost report year.

(e) Facility administrators are not eligible for this program.

Sec. 22. Minnesota Statutes 2018, section 256R.39, is amended to read:

256R.39 QUALITY IMPROVEMENT INCENTIVE PROGRAM.

The commissioner ~~shall~~ must develop a quality improvement incentive program in consultation with stakeholders. The annual funding pool available for quality improvement incentive payments ~~shall~~ must be equal to 0.8 percent of all operating payments, not including any rate components resulting from equitable cost-sharing for publicly owned nursing facility program participation under section 256R.48, critical access nursing facility program participation under section 256R.47, or performance-based incentive payment program participation under section 256R.38. ~~For the period from October 1, 2015, to December 31, 2016, rate adjustments provided under this section shall be effective for 15 months. Beginning January 1, 2017,~~ An annual rate ~~adjustments~~ adjustment provided under this section ~~shall~~ must be effective for one rate year.

Sec. 23. **REVISOR INSTRUCTION; CORRECTING TERMINOLOGY.**

In Minnesota Statutes, sections 256.01, subdivisions 2 and 24; 256.975, subdivision 7; 256B.0911, subdivisions 1a, 3b, and 4d; and 256B.439, subdivision 4, the revisor of statutes must substitute the term "Disability Linkage Line" or similar terms for "Disability Hub" or similar terms. The revisor must also make grammatical changes related to the changes in terms.

Sec. 24. **REPEALER.**

Minnesota Statutes 2018, sections 256R.08, subdivision 2; and 256R.49, are repealed.

256R.08 REPORTING OF FINANCIAL STATEMENTS.

Subd. 2. **Extensions.** The commissioner may grant up to a 15-day extension of the reporting deadline to a nursing facility for good cause. To receive such an extension, a nursing facility shall submit a written request by January 1. The commissioner shall notify the nursing facility of the decision by January 15. Between January 1 and February 1, the nursing facility may request a reporting extension for good cause by telephone and followed by a written request.

256R.49 RATE ADJUSTMENTS FOR COMPENSATION-RELATED COSTS FOR MINIMUM WAGE CHANGES.

Subdivision 1. **Rate adjustments for compensation-related costs.** (a) Rate increases provided under this section before October 1, 2016, expire effective January 1, 2018, and rate increases provided on or after October 1, 2016, expire effective January 1, 2019.

(b) Nursing facilities that receive approval of the applications in subdivision 2 must receive rate adjustments according to subdivision 4. The rate adjustments must be used to pay compensation costs for nursing facility employees paid less than $14 per hour.

Subd. 2. **Application process.** To receive a rate adjustment, nursing facilities must submit applications to the commissioner in a form and manner determined by the commissioner. The applications for the rate adjustments shall include specified data, and spending plans that describe how the funds from the rate adjustments will be allocated for compensation to employees paid less than $14 per hour. The applications must be submitted within three months of the effective date of any operating payment rate adjustment under this section. The commissioner may request any additional information needed to determine the rate adjustment within three weeks of receiving a complete application. The nursing facility must provide any additional information requested by the commissioner within six months of the effective date of any operating payment rate adjustment under this section. The commissioner may waive the deadlines in this section under extraordinary circumstances.

Subd. 3. **Additional application requirements for facilities with employees represented by an exclusive bargaining representative.** For nursing facilities in which employees are represented by an exclusive bargaining representative, the commissioner shall approve the applications submitted under subdivision 2 only upon receipt of a letter or letters of acceptance of the spending plans in regard to members of the bargaining unit, signed by the exclusive bargaining agent and dated after May 31, 2014. Upon receipt of the letter or letters of acceptance, the commissioner shall deem all requirements of this section as having been met in regard to the members of the bargaining unit.

Subd. 4. **Determination of the rate adjustments for compensation-related costs.** Based on the application in subdivision 2, the commissioner shall calculate the allowable annualized compensation costs by adding the totals of clauses (1), (2), and (3). The result must be divided by the standardized or resident days from the most recently available cost report to determine per day amounts, which must be included in the operating portion of the total payment rate and allocated to direct care or other operating as determined by the commissioner:

(1) the sum of the difference between $9.50 and any hourly wage rate less than $9.50 for October 1, 2016; and between the indexed value of the minimum wage, as defined in section 177.24, subdivision 1, paragraph (f), and any hourly wage less than that indexed value for rate years beginning on and after October 1, 2017; multiplied by the number of compensated hours at that wage rate;

(2) using wages and hours in effect during the first three months of calendar year 2014, beginning with the first pay period beginning on or after January 1, 2014; 22.2 percent of the sum of items (i) to (viii) for October 1, 2016;

(i) for all compensated hours from $8 to $8.49 per hour, the number of compensated hours is multiplied by $0.13;

(ii) for all compensated hours from $8.50 to $8.99 per hour, the number of compensated hours is multiplied by $0.25;

(iii) for all compensated hours from $9 to $9.49 per hour, the number of compensated hours is multiplied by $0.38;

(iv) for all compensated hours from $9.50 to $10.49 per hour, the number of compensated hours is multiplied by $0.50;

(v) for all compensated hours from $10.50 to $10.99 per hour, the number of compensated hours is multiplied by $0.40;

(vi) for all compensated hours from $11 to $11.49 per hour, the number of compensated hours is multiplied by $0.30;

(vii) for all compensated hours from $11.50 to $11.99 per hour, the number of compensated hours is multiplied by $0.20; and

(viii) for all compensated hours from $12 to $13 per hour, the number of compensated hours is multiplied by $0.10; and

(3) the sum of the employer's share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation, pensions, and contributions to employee retirement accounts attributable to the amounts in clauses (1) and (2).