

**HOUSE OF REPRESENTATIVES**

NINETY-FIRST SESSION

**H. F. No. 2305**

- 03/11/2019 Authored by Masin  
The bill was read for the first time and referred to the Committee on Health and Human Services Policy
- 03/18/2019 Adoption of Report: Placed on the General Register as Amended  
Read for the Second Time
- 05/20/2019 Pursuant to Rule 4.20, returned to the Committee on Health and Human Services Policy

1.1 A bill for an act

1.2 relating to human services; modifying provisions governing continuing care for

1.3 older adults; amending Minnesota Statutes 2018, sections 245A.07, subdivision

1.4 3; 245C.08, subdivision 1; 256.021, subdivision 2; 256R.02, subdivisions 4, 17,

1.5 18, 19, 29, 42a, 48a; 256R.07, subdivisions 1, 2; 256R.09, subdivision 2; 256R.10,

1.6 subdivision 1; 256R.13, subdivision 4; 256R.39; 626.557, subdivisions 3, 3a, 4,

1.7 9, 9c, 9d, 10b, 12b; 626.5572, subdivisions 2, 4, 9, 17, by adding a subdivision;

1.8 repealing Minnesota Statutes 2018, sections 256R.08, subdivision 2; 256R.49.

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

1.10 Section 1. Minnesota Statutes 2018, section 245A.07, subdivision 3, is amended to read:

1.11 Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may suspend

1.12 or revoke a license, or impose a fine if:

1.13 (1) a license holder fails to comply fully with applicable laws or rules;

1.14 (2) a license holder, a controlling individual, or an individual living in the household

1.15 where the licensed services are provided or is otherwise subject to a background study has

1.16 a disqualification which has not been set aside under section 245C.22;

1.17 (3) a license holder knowingly withholds relevant information from or gives false or

1.18 misleading information to the commissioner in connection with an application for a license,

1.19 in connection with the background study status of an individual, during an investigation,

1.20 or regarding compliance with applicable laws or rules; or

1.21 (4) after July 1, 2012, and upon request by the commissioner, a license holder fails to

1.22 submit the information required of an applicant under section 245A.04, subdivision 1,

1.23 paragraph (f) or (g).

2.1 A license holder who has had a license suspended, revoked, or has been ordered to pay  
2.2 a fine must be given notice of the action by certified mail or personal service. If mailed, the  
2.3 notice must be mailed to the address shown on the application or the last known address of  
2.4 the license holder. The notice must state in plain language the reasons the license was  
2.5 suspended or revoked, or a fine was ordered.

2.6 (b) If the license was suspended or revoked, the notice must inform the license holder  
2.7 of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts  
2.8 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking  
2.9 a license. The appeal of an order suspending or revoking a license must be made in writing  
2.10 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to  
2.11 the commissioner within ten calendar days after the license holder receives notice that the  
2.12 license has been suspended or revoked. If a request is made by personal service, it must be  
2.13 received by the commissioner within ten calendar days after the license holder received the  
2.14 order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a  
2.15 timely appeal of an order suspending or revoking a license, the license holder may continue  
2.16 to operate the program as provided in section 245A.04, subdivision 7, paragraphs (g) and  
2.17 (h), until the commissioner issues a final order on the suspension or revocation.

2.18 (c)(1) If the license holder was ordered to pay a fine, the notice must inform the license  
2.19 holder of the responsibility for payment of fines and the right to a contested case hearing  
2.20 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal of an  
2.21 order to pay a fine must be made in writing by certified mail or personal service. If mailed,  
2.22 the appeal must be postmarked and sent to the commissioner within ten calendar days after  
2.23 the license holder receives notice that the fine has been ordered. If a request is made by  
2.24 personal service, it must be received by the commissioner within ten calendar days after  
2.25 the license holder received the order.

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

2.33 (3) A license holder shall promptly notify the commissioner of human services, in writing,  
2.34 when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the  
2.35 commissioner determines that a violation has not been corrected as indicated by the order

3.1 to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify  
3.2 the license holder by certified mail or personal service that a second fine has been assessed.  
3.3 The license holder may appeal the second fine as provided under this subdivision.

3.4 (4) Fines shall be assessed as follows:

3.5 (i) the license holder shall forfeit \$1,000 for each determination of maltreatment of a  
3.6 child under section 626.556 or the maltreatment of a vulnerable adult under section 626.557  
3.7 for which the license holder is determined responsible for the maltreatment under section  
3.8 626.556, subdivision 10e, paragraph (i), or 626.557, subdivision 9c, paragraph ~~(e)~~ (f);

3.9 (ii) if the commissioner determines that a determination of maltreatment for which the  
3.10 license holder is responsible is the result of maltreatment that meets the definition of serious  
3.11 maltreatment as defined in section 245C.02, subdivision 18, the license holder shall forfeit  
3.12 \$5,000;

3.13 (iii) for a program that operates out of the license holder's home and a program licensed  
3.14 under Minnesota Rules, parts 9502.0300 to ~~9502.0495~~ 9502.0445, the fine assessed against  
3.15 the license holder shall not exceed \$1,000 for each determination of maltreatment;

3.16 (iv) the license holder shall forfeit \$200 for each occurrence of a violation of law or rule  
3.17 governing matters of health, safety, or supervision, including but not limited to the provision  
3.18 of adequate staff-to-child or adult ratios, and failure to comply with background study  
3.19 requirements under chapter 245C; and

3.20 (v) the license holder shall forfeit \$100 for each occurrence of a violation of law or rule  
3.21 other than those subject to a \$5,000, \$1,000, or \$200 fine in items (i) to (iv).

3.22 For purposes of this section, "occurrence" means each violation identified in the  
3.23 commissioner's fine order. Fines assessed against a license holder that holds a license to  
3.24 provide home and community-based services, as identified in section 245D.03, subdivision  
3.25 1, and a community residential setting or day services facility license under chapter 245D  
3.26 where the services are provided, may be assessed against both licenses for the same  
3.27 occurrence, but the combined amount of the fines shall not exceed the amount specified in  
3.28 this clause for that occurrence.

3.29 (5) When a fine has been assessed, the license holder may not avoid payment by closing,  
3.30 selling, or otherwise transferring the licensed program to a third party. In such an event, the  
3.31 license holder will be personally liable for payment. In the case of a corporation, each  
3.32 controlling individual is personally and jointly liable for payment.

4.1 (d) Except for background study violations involving the failure to comply with an order  
4.2 to immediately remove an individual or an order to provide continuous, direct supervision,  
4.3 the commissioner shall not issue a fine under paragraph (c) relating to a background study  
4.4 violation to a license holder who self-corrects a background study violation before the  
4.5 commissioner discovers the violation. A license holder who has previously exercised the  
4.6 provisions of this paragraph to avoid a fine for a background study violation may not avoid  
4.7 a fine for a subsequent background study violation unless at least 365 days have passed  
4.8 since the license holder self-corrected the earlier background study violation.

4.9 **EFFECTIVE DATE.** This section is effective August 1, 2019.

4.10 Sec. 2. Minnesota Statutes 2018, section 245C.08, subdivision 1, is amended to read:

4.11 Subdivision 1. **Background studies conducted by Department of Human Services.** (a)  
4.12 For a background study conducted by the Department of Human Services, the commissioner  
4.13 shall review:

4.14 (1) information related to names of substantiated perpetrators of maltreatment of  
4.15 vulnerable adults that has been received by the commissioner as required under section  
4.16 626.557, subdivision 9c, paragraph ~~(j)~~ (n);

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

4.20 (3) information from juvenile courts as required in subdivision 4 for individuals listed  
4.21 in section 245C.03, subdivision 1, paragraph (a), when there is reasonable cause;

4.22 (4) information from the Bureau of Criminal Apprehension, including information  
4.23 regarding a background study subject's registration in Minnesota as a predatory offender  
4.24 under section 243.166;

4.25 (5) except as provided in clause (6), information received as a result of submission of  
4.26 fingerprints for a national criminal history record check, as defined in section 245C.02,  
4.27 subdivision 13c, when the commissioner has reasonable cause for a national criminal history  
4.28 record check as defined under section 245C.02, subdivision 15a, or as required under section  
4.29 144.057, subdivision 1, clause (2);

4.30 (6) for a background study related to a child foster care application for licensure, a  
4.31 transfer of permanent legal and physical custody of a child under sections 260C.503 to  
4.32 260C.515, or adoptions, and for a background study required for family child care, certified

5.1 license-exempt child care, child care centers, and legal nonlicensed child care authorized  
5.2 under chapter 119B, the commissioner shall also review:

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

5.5 (ii) when the background study subject is 18 years of age or older, or a minor under  
5.6 section 245C.05, subdivision 5a, paragraph (c), information received following submission  
5.7 of fingerprints for a national criminal history record check; and

5.8 (7) for a background study required for family child care, certified license-exempt child  
5.9 care centers, licensed child care centers, and legal nonlicensed child care authorized under  
5.10 chapter 119B, the background study shall also include, to the extent practicable, a name  
5.11 and date-of-birth search of the National Sex Offender Public website.

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

5.16 (c) The commissioner shall also review criminal case information received according  
5.17 to section 245C.04, subdivision 4a, from the Minnesota court information system that relates  
5.18 to individuals who have already been studied under this chapter and who remain affiliated  
5.19 with the agency that initiated the background study.

5.20 (d) When the commissioner has reasonable cause to believe that the identity of a  
5.21 background study subject is uncertain, the commissioner may require the subject to provide  
5.22 a set of classifiable fingerprints for purposes of completing a fingerprint-based record check  
5.23 with the Bureau of Criminal Apprehension. Fingerprints collected under this paragraph  
5.24 shall not be saved by the commissioner after they have been used to verify the identity of  
5.25 the background study subject against the particular criminal record in question.

5.26 (e) The commissioner may inform the entity that initiated a background study under  
5.27 NETStudy 2.0 of the status of processing of the subject's fingerprints.

5.28 **EFFECTIVE DATE.** This section is effective August 1, 2019.

5.29 Sec. 3. Minnesota Statutes 2018, section 256.021, subdivision 2, is amended to read:

5.30 Subd. 2. **Review procedure.** (a) If a vulnerable adult or an interested person acting on  
5.31 behalf of the vulnerable adult requests a review under this section, the panel shall review  
5.32 the request at its next quarterly meeting. If the next quarterly meeting is within ~~ten~~ 30

6.1 calendar days of the panel's receipt of the request for review, the review may be delayed  
6.2 until the next subsequent meeting. The panel shall review the request and the investigation  
6.3 memorandum and may review any other data on the investigation maintained by the lead  
6.4 investigative agency that are pertinent and necessary to its review of the final disposition.  
6.5 If more than one person requests a review under this section with respect to the same final  
6.6 disposition, the review panel shall combine the requests into one review. The panel shall  
6.7 submit its written request for the case file and other documentation relevant to the review  
6.8 to the supervisor of the investigator conducting the investigation under review.

6.9 (b) Within 30 days of the review under this section, the panel shall notify the director  
6.10 or manager of the lead investigative agency and the vulnerable adult or interested person  
6.11 who requested the review as to whether the panel concurs with the final disposition or  
6.12 whether the lead investigative agency must reconsider the final disposition. If the panel  
6.13 determines that the lead investigative agency must reconsider the final disposition, the panel  
6.14 must make specific recommendations to the director or manager of the lead investigative  
6.15 agency. The recommendation must include an explanation of the factors that form the basis  
6.16 of the recommendation to reconsider the final disposition and must specifically identify the  
6.17 disputed facts, the disputed application of maltreatment definitions, the disputed application  
6.18 of responsibility for maltreatment, and the disputed weighing of evidence, whichever apply.  
6.19 Within 30 days the lead investigative agency shall conduct a review and report back to the  
6.20 panel with its determination and the specific rationale for its final disposition. At a minimum,  
6.21 the specific rationale must include a detailed response to each of the factors identified by  
6.22 the panel that formed the basis for the recommendations of the panel.

6.23 (c) Upon receiving the report of reconsideration from the lead investigative agency, the  
6.24 panel shall communicate the decision in writing to the vulnerable adult or interested person  
6.25 acting on behalf of the vulnerable adult who requested the review. The panel shall include  
6.26 the specific rationale provided by the lead investigative agency as part of the communication.

6.27 **EFFECTIVE DATE.** This section is effective August 1, 2019.

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

6.29 Subd. 4. **Administrative costs.** "Administrative costs" means the identifiable costs for  
6.30 administering the overall activities of the nursing home. These costs include salaries and  
6.31 wages of the administrator, assistant administrator, business office employees, security  
6.32 guards, purchasing and inventory employees, and associated fringe benefits and payroll  
6.33 taxes, fees, contracts, or purchases related to business office functions, licenses, permits  
6.34 except as provided in the external fixed costs category, employee recognition, travel including

7.1 meals and lodging, all training except as specified in subdivision 17, voice and data  
7.2 communication or transmission, office supplies, property and liability insurance and other  
7.3 forms of insurance except insurance that is a fringe benefit under subdivision 22, personnel  
7.4 recruitment, legal services, accounting services, management or business consultants, data  
7.5 processing, information technology, website, central or home office costs, business meetings  
7.6 and seminars, postage, fees for professional organizations, subscriptions, security services,  
7.7 nonpromotional advertising, board of directors fees, working capital interest expense, bad  
7.8 debts, bad debt collection fees, and costs incurred for travel and housing for persons employed  
7.9 by a supplemental nursing services agency as defined in section 144A.70, subdivision 6.

7.10 **EFFECTIVE DATE.** This section is effective August 1, 2019.

7.11 Sec. 5. Minnesota Statutes 2018, section 256R.02, subdivision 17, is amended to read:

7.12 Subd. 17. **Direct care costs.** "Direct care costs" means costs for the wages of nursing  
7.13 administration, direct care registered nurses, licensed practical nurses, certified nursing  
7.14 assistants, trained medication aides, employees conducting training in resident care topics  
7.15 and associated fringe benefits and payroll taxes; services from a Minnesota registered  
7.16 supplemental nursing services agency up to the maximum allowable charges under section  
7.17 144A.74, excluding associated lodging and travel costs; supplies that are stocked at nursing  
7.18 stations or on the floor and distributed or used individually, including, but not limited to:  
7.19 alcohol, applicators, cotton balls, incontinence pads, disposable ice bags, dressings, bandages,  
7.20 water pitchers, tongue depressors, disposable gloves, enemas, enema equipment, personal  
7.21 hygiene soap, medication cups, diapers, ~~plastic waste bags~~, sanitary products, disposable  
7.22 thermometers, hypodermic needles and syringes, clinical reagents or similar diagnostic  
7.23 agents, drugs ~~that are not paid~~ not payable on a separate fee schedule by the medical  
7.24 assistance program or any other payer, and ~~technology related~~ clinical software costs specific  
7.25 to the provision of nursing care to residents, such as electronic charting systems; costs of  
7.26 materials used for resident care training, and training courses outside of the facility attended  
7.27 by direct care staff on resident care topics; and costs for nurse consultants, pharmacy  
7.28 consultants, and medical directors. Salaries and payroll taxes for nurse consultants who  
7.29 work out of a central office must be allocated proportionately by total resident days or by  
7.30 direct identification to the nursing facilities served by those consultants.

7.31 **EFFECTIVE DATE.** This section is effective August 1, 2019.

8.1 Sec. 6. Minnesota Statutes 2018, section 256R.02, subdivision 18, is amended to read:

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

8.11 **EFFECTIVE DATE.** This section is effective August 1, 2019.

8.12 Sec. 7. Minnesota Statutes 2018, section 256R.02, subdivision 19, is amended to read:

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

8.24 **EFFECTIVE DATE.** This section is effective August 1, 2019.

8.25 Sec. 8. Minnesota Statutes 2018, section 256R.02, subdivision 29, is amended to read:

8.26 Subd. 29. **Maintenance and plant operations costs.** "Maintenance and plant operations  
8.27 costs" means the costs for the salaries and wages of the maintenance supervisor, engineers,  
8.28 heating-plant employees, and other maintenance employees and associated fringe benefits  
8.29 and payroll taxes. It also includes identifiable costs for maintenance and operation of the  
8.30 building and grounds, including, but not limited to, fuel, electricity, plastic waste bags,  
8.31 medical waste and garbage removal, water, sewer, supplies, tools, and repairs, and equipment  
8.32 that is not required to be included in the property allowance.



9.1 **EFFECTIVE DATE.** This section is effective August 1, 2019.

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

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

9.6 **EFFECTIVE DATE.** This section is effective August 1, 2019.

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

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

9.12 **EFFECTIVE DATE.** This section is effective August 1, 2019.

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

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

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

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

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

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

9.28 (5) be retained by the nursing facility to support the five most recent annual cost reports.  
9.29 The commissioner may extend the period of retention if the field audit was postponed  
9.30 because of inadequate record keeping or accounting practices as in section 256R.13,

10.1 subdivisions 2 and 4, the records are necessary to resolve a pending appeal, or the records  
10.2 are required for the enforcement of sections 256R.04; 256R.05, subdivision 2; 256R.06,  
10.3 subdivisions 2, 6, and 7; 256R.08, subdivisions 1 ~~to~~ and 3; and 256R.09, subdivisions 3 and  
10.4 4.

10.5 **EFFECTIVE DATE.** This section is effective August 1, 2019.

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

10.7 Subd. 2. **Documentation of compensation.** Compensation for personal services,  
10.8 regardless of whether treated as identifiable costs or costs that are not identifiable, must be  
10.9 documented on payroll records. Payrolls must be supported by time and attendance or  
10.10 equivalent records for individual employees. Salaries and wages of employees which are  
10.11 allocated to more than one cost category must be supported by time distribution records.  
10.12 ~~The method used must produce a proportional distribution of actual time spent, or an accurate~~  
10.13 ~~estimate of time spent performing assigned duties. The nursing facility that chooses to~~  
10.14 ~~estimate time spent must use a statistically valid method. The compensation must reflect~~  
10.15 ~~an amount proportionate to a full-time basis if the services are rendered on less than a~~  
10.16 ~~full-time basis. Salary allocations are allowable using the Medicare approved allocation~~  
10.17 ~~basis and methodology only if the salary costs cannot be directly determined including when~~  
10.18 ~~employees provide shared services to noncovered operations.~~

10.19 **EFFECTIVE DATE.** This section is effective August 1, 2019.

10.20 Sec. 13. Minnesota Statutes 2018, section 256R.09, subdivision 2, is amended to read:

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

11.1 **EFFECTIVE DATE.** This section is effective August 1, 2019.

11.2 Sec. 14. Minnesota Statutes 2018, section 256R.10, subdivision 1, is amended to read:

11.3 Subdivision 1. **General cost principles.** Only costs determined to be allowable shall be  
11.4 used to compute the total payment rate for nursing facilities participating in the medical  
11.5 assistance program. To be considered an allowable cost for rate-setting purposes, a cost  
11.6 must satisfy the following criteria:

11.7 (1) the cost is ordinary, necessary, and related to resident care;

11.8 (2) the cost is what a prudent and cost-conscious business person would pay for the  
11.9 specific good or service in the open market in an arm's-length transaction;

11.10 (3) the cost is for goods or services actually provided in the nursing facility;

11.11 (4) incurred costs that are not salary or wage costs must be paid within 180 days of the  
11.12 end of the reporting period to be allowable costs of the reporting period;

11.13 (5) the cost effects of transactions that have the effect of circumventing this chapter are  
11.14 not allowable under the principle that the substance of the transaction shall prevail over  
11.15 form; and

11.16 ~~(5)~~ (6) costs that are incurred due to management inefficiency, unnecessary care or  
11.17 facilities, agreements not to compete, or activities not commonly accepted in the nursing  
11.18 facility care field are not allowable.

11.19 **EFFECTIVE DATE.** This section is effective August 1, 2019.

11.20 Sec. 15. Minnesota Statutes 2018, section 256R.13, subdivision 4, is amended to read:

11.21 Subd. 4. **Extended record retention requirements.** The commissioner shall extend the  
11.22 period for retention of records under section 256R.09, subdivision 3, for purposes of  
11.23 performing field audits as necessary to enforce sections 256R.04; 256R.05, subdivision 2;  
11.24 256R.06, subdivisions 2, 6, and 7; 256R.08, subdivisions 1 ~~to~~ and 3; and 256R.09,  
11.25 subdivisions 3 and 4, with written notice to the facility postmarked no later than 90 days  
11.26 prior to the expiration of the record retention requirement.

11.27 **EFFECTIVE DATE.** This section is effective August 1, 2019.

12.1 Sec. 16. Minnesota Statutes 2018, section 256R.39, is amended to read:

12.2 **256R.39 QUALITY IMPROVEMENT INCENTIVE PROGRAM.**

12.3 The commissioner shall develop a quality improvement incentive program in consultation  
12.4 with stakeholders. The annual funding pool available for quality improvement incentive  
12.5 payments shall be equal to 0.8 percent of all operating payments, not including any rate  
12.6 components resulting from equitable cost-sharing for publicly owned nursing facility program  
12.7 participation under section 256R.48, critical access nursing facility program participation  
12.8 under section 256R.47, or performance-based incentive payment program participation  
12.9 under section 256R.38. ~~For the period from October 1, 2015, to December 31, 2016, rate~~  
12.10 ~~adjustments provided under this section shall be effective for 15 months. Beginning January~~  
12.11 ~~1, 2017, Annual rate adjustments provided under this section shall be effective for one rate~~  
12.12 year.

12.13 **EFFECTIVE DATE.** This section is effective August 1, 2019.

12.14 Sec. 17. Minnesota Statutes 2018, section 626.557, subdivision 3, is amended to read:

12.15 Subd. 3. **Timing of report.** (a) A mandated reporter who has reason to believe that a  
12.16 vulnerable adult is being or has been maltreated, or who has knowledge that a vulnerable  
12.17 adult has sustained a physical injury which is not reasonably explained shall immediately  
12.18 report the information to the common entry point. If an individual is a vulnerable adult  
12.19 solely because the individual is admitted to a facility, a mandated reporter is not required  
12.20 to report suspected maltreatment of the individual that occurred prior to admission, unless:

12.21 (1) the individual was admitted to the facility from another facility and the reporter has  
12.22 reason to believe the vulnerable adult was maltreated in the previous facility; or

12.23 (2) the reporter knows or has reason to believe that the individual is a vulnerable adult  
12.24 as defined in section 626.5572, subdivision 21, paragraph (a), clause (4).

12.25 (b) A person not required to report under the provisions of this section may voluntarily  
12.26 report as described above.

12.27 (c) Nothing in this section requires a report of known or suspected maltreatment, if the  
12.28 reporter knows or has reason to know that a report has been made to the common entry  
12.29 point.

12.30 (d) Nothing in this section shall preclude a reporter from also reporting to a law  
12.31 enforcement agency.

13.1 (e) A mandated reporter who knows or has reason to believe that an error under section  
13.2 626.5572, subdivision 17, paragraph ~~(e)~~ (d), clause (5), occurred must make a report under  
13.3 this subdivision. If the reporter or a facility, at any time believes that an investigation by a  
13.4 lead investigative agency will determine or should determine that the reported error was  
13.5 not neglect according to the criteria under section 626.5572, subdivision 17, paragraph ~~(e)~~  
13.6 (d), clause (5), the reporter or facility may provide to the common entry point or directly  
13.7 to the lead investigative agency information explaining how the event meets the criteria  
13.8 under section 626.5572, subdivision 17, paragraph ~~(e)~~ (d), clause (5). The lead investigative  
13.9 agency shall consider this information when making an initial disposition of the report under  
13.10 subdivision 9c.

13.11 **EFFECTIVE DATE.** This section is effective August 1, 2019.

13.12 Sec. 18. Minnesota Statutes 2018, section 626.557, subdivision 3a, is amended to read:

13.13 Subd. 3a. **Report not required.** The following events are not required to be reported  
13.14 under this section:

13.15 (1) A circumstance where federal law specifically prohibits a person from disclosing  
13.16 patient identifying information in connection with a report of suspected maltreatment, unless  
13.17 the vulnerable adult, or the vulnerable adult's guardian, conservator, or legal representative,  
13.18 has consented to disclosure in a manner which conforms to federal requirements. Facilities  
13.19 whose patients or residents are covered by such a federal law shall seek consent to the  
13.20 disclosure of suspected maltreatment from each patient or resident, or a guardian, conservator,  
13.21 or legal representative, upon the patient's or resident's admission to the facility. Persons  
13.22 who are prohibited by federal law from reporting an incident of suspected maltreatment  
13.23 shall immediately seek consent to make a report.

13.24 (2) Verbal or physical aggression occurring between patients, residents, or clients of a  
13.25 facility, or self-abusive behavior by these persons does not constitute abuse unless the  
13.26 behavior causes serious harm. The operator of the facility or a designee shall record incidents  
13.27 of aggression and self-abusive behavior to facilitate review by licensing agencies and county  
13.28 and local welfare agencies.

13.29 (3) Accidents as defined in section 626.5572, subdivision 3.

13.30 (4) Events occurring in a facility that result from an individual's error in the provision  
13.31 of therapeutic conduct to a vulnerable adult, as provided in section 626.5572, subdivision  
13.32 17, paragraph ~~(e)~~ (d), clause (4).

14.1 (5) Nothing in this section shall be construed to require a report of financial exploitation,  
14.2 as defined in section 626.5572, subdivision 9, solely on the basis of the transfer of money  
14.3 or property by gift or as compensation for services rendered.

14.4 **EFFECTIVE DATE.** This section is effective August 1, 2019.

14.5 Sec. 19. Minnesota Statutes 2018, section 626.557, subdivision 4, is amended to read:

14.6 Subd. 4. **Reporting.** (a) Except as provided in paragraph (b), a mandated reporter shall  
14.7 immediately make ~~an oral~~ a report to the common entry point. ~~The common entry point~~  
14.8 ~~may accept electronic reports submitted through a web-based reporting system established~~  
14.9 ~~by the commissioner. Use of a telecommunications device for the deaf or other similar~~  
14.10 ~~device shall be considered an oral report. The common entry point may not require written~~  
14.11 ~~reports.~~ To the extent possible, the report must be of sufficient content to identify the  
14.12 vulnerable adult, the ~~eargiver~~ alleged perpetrator, the nature and extent of the suspected  
14.13 maltreatment, any evidence of previous maltreatment, the name and address of the reporter,  
14.14 the time, date, and location of the incident, and any other information that the reporter  
14.15 believes might be helpful in investigating the suspected maltreatment. A mandated reporter  
14.16 may disclose not public data, as defined in section 13.02, and medical records under sections  
14.17 144.291 to 144.298, to the extent necessary to comply with this subdivision.

14.18 (b) A boarding care home that is licensed under sections 144.50 to 144.58 and certified  
14.19 under Title 19 of the Social Security Act, a nursing home that is licensed under section  
14.20 144A.02 and certified under Title 18 or Title 19 of the Social Security Act, or a hospital  
14.21 that is licensed under sections 144.50 to 144.58 and has swing beds certified under Code  
14.22 of Federal Regulations, title 42, section 482.66, may submit a report electronically to the  
14.23 common entry point instead of submitting an oral report. The report may be a duplicate of  
14.24 the initial report the facility submits electronically to the commissioner of health to comply  
14.25 with the reporting requirements under Code of Federal Regulations, title 42, section 483.13.  
14.26 The commissioner of health may modify these reporting requirements to include items  
14.27 required under paragraph (a) that are not currently included in the electronic reporting form.

14.28 **EFFECTIVE DATE.** This section is effective August 1, 2019.

14.29 Sec. 20. Minnesota Statutes 2018, section 626.557, subdivision 9, is amended to read:

14.30 Subd. 9. **Common entry point designation.** (a) ~~Each county board shall designate a~~  
14.31 ~~common entry point for reports of suspected maltreatment, for use until the commissioner~~  
14.32 ~~of human services establishes a common entry point. Two or more county boards may~~  
14.33 ~~jointly designate a single common entry point.~~ The commissioner of human services shall

15.1 establish a common entry point ~~effective July 1, 2015~~. The common entry point is the unit  
 15.2 responsible for receiving the report of suspected maltreatment under this section.

15.3 (b) The common entry point must be available 24 hours per day to take calls from  
 15.4 reporters of suspected maltreatment. The common entry point shall use a standard intake  
 15.5 form that includes:

15.6 (1) the time and date of the report;

15.7 (2) the name, relationship, and identifying and contact information for the alleged victim  
 15.8 and alleged perpetrator;

15.9 ~~(3) the name, address, and telephone number of the person reporting; relationship, and~~  
 15.10 contact information for the:

15.11 (i) reporter;

15.12 (ii) initial reporter, witnesses, and persons who may have knowledge about the  
 15.13 maltreatment; and

15.14 (iii) alleged victim's legal surrogate and persons who may provide support to the alleged  
 15.15 victim;

15.16 (4) the basis of vulnerability for the alleged victim;

15.17 ~~(3)~~ (5) the time, date, and location of the incident;

15.18 ~~(4) the names of the persons involved, including but not limited to, perpetrators, alleged~~  
 15.19 ~~victims, and witnesses;~~

15.20 ~~(5) whether there was a risk of imminent danger~~ (6) the immediate safety risk to the  
 15.21 alleged victim;

15.22 ~~(6)~~ (7) a description of the suspected maltreatment;

15.23 ~~(7) the disability, if any, of the alleged victim;~~

15.24 ~~(8) the relationship of the alleged perpetrator to the alleged victim;~~

15.25 (8) the impact of the suspected maltreatment on the alleged victim;

15.26 (9) whether a facility was involved and, if so, which agency licenses the facility;

15.27 (10) the actions taken to protect the alleged victim;

15.28 ~~(10) any action taken~~ (11) the required notifications and referrals made by the common  
 15.29 entry point; and

15.30 ~~(11) whether law enforcement has been notified;~~

16.1 (12) whether the reporter wishes to receive notification of the ~~initial and final reports;~~  
16.2 ~~and disposition.~~

16.3 ~~(13) if the report is from a facility with an internal reporting procedure, the name, mailing~~  
16.4 ~~address, and telephone number of the person who initiated the report internally.~~

16.5 (c) The common entry point is not required to complete each item on the form prior to  
16.6 dispatching the report to the appropriate lead investigative agency.

16.7 (d) The common entry point shall immediately report to a law enforcement agency any  
16.8 incident in which there is reason to believe a crime has been committed.

16.9 (e) If a report is initially made to a law enforcement agency or a lead investigative agency,  
16.10 those agencies shall take the report on the appropriate common entry point intake forms  
16.11 and immediately forward a copy to the common entry point.

16.12 (f) The common entry point staff must receive training on how to screen and dispatch  
16.13 reports efficiently and in accordance with this section.

16.14 (g) The commissioner of human services shall maintain a centralized database for the  
16.15 collection of common entry point data, lead investigative agency data including maltreatment  
16.16 report disposition, and appeals data. The common entry point shall have access to the  
16.17 centralized database and must log the reports into the database ~~and immediately identify~~  
16.18 ~~and locate prior reports of abuse, neglect, or exploitation.~~

16.19 (h) When appropriate, the common entry point staff must refer calls that do not allege  
16.20 the abuse, neglect, or exploitation of a vulnerable adult to other organizations that might  
16.21 resolve the reporter's concerns.

16.22 (i) A common entry point must be operated in a manner that enables the commissioner  
16.23 of human services to:

16.24 (1) track critical steps in the reporting, evaluation, referral, response, disposition, and  
16.25 investigative process to ensure compliance with all requirements for all reports;

16.26 (2) maintain data to facilitate the production of aggregate statistical reports for monitoring  
16.27 patterns of abuse, neglect, or exploitation;

16.28 (3) serve as a resource for the evaluation, management, and planning of preventative  
16.29 and remedial services for vulnerable adults who have been subject to abuse, neglect, or  
16.30 exploitation;

16.31 (4) set standards, priorities, and policies to maximize the efficiency and effectiveness  
16.32 of the common entry point; and



17.1 (5) track and manage consumer complaints related to the common entry point.

17.2 (j) The commissioners of human services and health shall collaborate on the creation of  
17.3 a system for referring reports to the lead investigative agencies. This system shall enable  
17.4 the commissioner of human services to track critical steps in the reporting, evaluation,  
17.5 referral, response, disposition, investigation, notification, determination, and appeal processes.

17.6 **EFFECTIVE DATE.** This section is effective August 1, 2019.

17.7 Sec. 21. Minnesota Statutes 2018, section 626.557, subdivision 9c, is amended to read:

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

17.13 (b) In making the initial disposition, the lead investigative agency may consider previous  
17.14 reports of suspected maltreatment and may request and consider public information, records  
17.15 maintained by a lead investigative agency or licensed providers, and information from any  
17.16 other person who may have knowledge regarding the alleged maltreatment.

17.17 (c) Unless the lead investigative agency knows the information would endanger the  
17.18 well-being of the vulnerable adult, during the investigation period the lead investigative  
17.19 agency shall inform the vulnerable adult of the maltreatment allegation, investigation  
17.20 guidelines, time frame, and evidence standards used for determinations. The lead investigative  
17.21 agency must also provide the information to the vulnerable adult's guardian or health care  
17.22 agent if the allegation is applicable to the guardian or health care agent.

17.23 (d) During the investigation and in the provision of adult protective services, the lead  
17.24 investigative agency may coordinate with entities identified under section 626.557,  
17.25 subdivision 12b, paragraph (g), and the primary support person to safeguard the welfare  
17.26 and prevent further maltreatment of the vulnerable adult. The lead investigative agency  
17.27 must request and consider the vulnerable adult's choice of a primary support person.

17.28 (e) Upon conclusion of every investigation it conducts, the lead investigative agency  
17.29 shall make a final disposition as defined in section 626.5572, subdivision 8.

17.30 ~~(e)~~ (f) When determining whether the facility or individual is the responsible party for  
17.31 substantiated maltreatment or whether both the facility and the individual are responsible  
17.32 for substantiated maltreatment, the lead investigative agency shall consider at least the  
17.33 following mitigating factors:

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

18.7 (2) the comparative responsibility between the facility, ~~other caregivers,~~ and individual  
18.8 caregiver and requirements placed upon the employee, including but not limited to; the  
18.9 facility's compliance with related regulatory standards and factors such as the adequacy of  
18.10 facility policies and procedures, the adequacy of facility training, the adequacy of an  
18.11 individual's participation in the training, the adequacy of caregiver supervision, the adequacy  
18.12 of facility staffing levels, and a consideration of the scope of the individual employee's  
18.13 authority; and

18.14 (3) whether the facility or individual followed professional standards in exercising  
18.15 professional judgment.

18.16 ~~(d)~~ (g) When substantiated maltreatment is determined to have been committed by an  
18.17 individual who is also the facility license holder, both the individual and the facility must  
18.18 be determined responsible for the maltreatment, and both the background study  
18.19 disqualification standards under section 245C.15, subdivision 4, and the licensing actions  
18.20 under section 245A.06 or 245A.07 apply.

18.21 ~~(e)~~ (h) The lead investigative agency shall complete its final disposition within 60  
18.22 calendar days from the date of the initial disposition for the report. If the lead investigative  
18.23 agency is unable to complete its final disposition within 60 calendar days, the lead  
18.24 investigative agency shall notify the following persons provided that the notification will  
18.25 not endanger the vulnerable adult or hamper the investigation: (1) the vulnerable adult or  
18.26 the vulnerable adult's guardian or health care agent, when known, if the lead investigative  
18.27 agency knows them to be aware of the investigation; and (2) the facility, where applicable.  
18.28 The notice shall contain the reason for the delay and the projected completion date. If the  
18.29 lead investigative agency is unable to complete its final disposition by a subsequent projected  
18.30 completion date, the lead investigative agency shall again notify the vulnerable adult or the  
18.31 vulnerable adult's guardian or health care agent, when known if the lead investigative agency  
18.32 knows them to be aware of the investigation, and the facility, where applicable, of the reason  
18.33 for the delay and the revised projected completion date provided that the notification will  
18.34 not endanger the vulnerable adult or hamper the investigation. The lead investigative agency  
18.35 must notify the health care agent of the vulnerable adult only if the health care agent's

19.1 authority to make health care decisions for the vulnerable adult is currently effective under  
19.2 section 145C.06 and not suspended under section 524.5-310 and the investigation relates  
19.3 to a duty assigned to the health care agent by the principal. A lead investigative agency's  
19.4 inability to complete the final disposition within 60 calendar days or by any projected  
19.5 completion date does not invalidate the final disposition.

19.6 ~~(f)~~ (i) When the lead investigative agency is the Department of Human Services or the  
19.7 Department of Health, within ten calendar days of completing the final disposition, the lead  
19.8 investigative agency shall provide a copy of the public investigation memorandum under  
19.9 subdivision 12b, paragraph (b), clause (1), ~~when required to be completed under this section,~~  
19.10 to the following persons: (1) the vulnerable adult, or the vulnerable adult's guardian or health  
19.11 care agent, if known, when the allegation is applicable to the surrogate's authority, unless  
19.12 the lead investigative agency knows that the notification would endanger the well-being of  
19.13 the vulnerable adult; (2) the reporter, if the reporter requested notification when making the  
19.14 report, provided this notification would not endanger the well-being of the vulnerable adult;  
19.15 (3) the alleged perpetrator, if known; (4) the facility; and (5) the ombudsman for long-term  
19.16 care, or the ombudsman for mental health and developmental disabilities, as appropriate.

19.17 (j) When the lead investigative agency is a county agency, within ten calendar days of  
19.18 completing the final disposition, the lead investigative agency shall provide notification of  
19.19 the final disposition to the following persons: (1) the vulnerable adult, or the vulnerable  
19.20 adult's guardian or health agent, if known, when the allegation is applicable to the surrogate's  
19.21 authority, unless the agency knows the notification would endanger the well-being of the  
19.22 vulnerable adult; (2) the alleged perpetrator, if known; and (3) the personal care provider  
19.23 organization under section 256B.0659 when the alleged incident involves a personal care  
19.24 assistant or provider agency.

19.25 ~~(g)~~ (k) If, as a result of a reconsideration, review, or hearing, the lead investigative  
19.26 agency changes the final disposition, or if a final disposition is changed on appeal, the lead  
19.27 investigative agency shall notify the parties specified in paragraph (f).

19.28 ~~(h)~~ (l) The lead investigative agency shall notify the vulnerable adult who is the subject  
19.29 of the report or the vulnerable adult's guardian or health care agent, if known, and any person  
19.30 or facility determined to have maltreated a vulnerable adult, of their appeal or review rights  
19.31 under this section or section 256.021.

19.32 ~~(i)~~ (m) The lead investigative agency shall routinely provide investigation memoranda  
19.33 for substantiated reports to the appropriate licensing boards. These reports must include the  
19.34 names of substantiated perpetrators. The lead investigative agency may not provide

20.1 investigative memoranda for inconclusive or false reports to the appropriate licensing boards  
20.2 unless the lead investigative agency's investigation gives reason to believe that there may  
20.3 have been a violation of the applicable professional practice laws. If the investigation  
20.4 memorandum is provided to a licensing board, the subject of the investigation memorandum  
20.5 shall be notified and receive a summary of the investigative findings.

20.6 ~~(j)~~ (n) In order to avoid duplication, licensing boards shall consider the findings of the  
20.7 lead investigative agency in their investigations if they choose to investigate. This does not  
20.8 preclude licensing boards from considering other information.

20.9 ~~(k)~~ (o) The lead investigative agency must provide to the commissioner of human services  
20.10 its final dispositions, including the names of all substantiated perpetrators. The commissioner  
20.11 of human services shall establish records to retain the names of substantiated perpetrators.

20.12 **EFFECTIVE DATE.** This section is effective August 1, 2019.

20.13 Sec. 22. Minnesota Statutes 2018, section 626.557, subdivision 9d, is amended to read:

20.14 Subd. 9d. **Administrative reconsideration; review panel.** (a) Except as provided under  
20.15 paragraph (e), any individual or facility which a lead investigative agency determines has  
20.16 maltreated a vulnerable adult, or the vulnerable adult or an interested person acting on behalf  
20.17 of the vulnerable adult, regardless of the lead investigative agency's determination, who  
20.18 contests the lead investigative agency's final disposition of an allegation of maltreatment,  
20.19 may request the lead investigative agency to reconsider its final disposition. The request  
20.20 for reconsideration must be submitted in writing to the lead investigative agency within 15  
20.21 calendar days after receipt of notice of final disposition or, if the request is made by an  
20.22 interested person who is not entitled to notice, within 15 days after receipt of the notice by  
20.23 the vulnerable adult or the vulnerable adult's guardian or health care agent. If mailed, the  
20.24 request for reconsideration must be postmarked and sent to the lead investigative agency  
20.25 within 15 calendar days of the individual's or facility's receipt of the final disposition. If the  
20.26 request for reconsideration is made by personal service, it must be received by the lead  
20.27 investigative agency within 15 calendar days of the individual's or facility's receipt of the  
20.28 final disposition. An individual who was determined to have maltreated a vulnerable adult  
20.29 under this section and who was disqualified on the basis of serious or recurring maltreatment  
20.30 under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment  
20.31 determination and the disqualification. The request for reconsideration of the maltreatment  
20.32 determination and the disqualification must be submitted in writing within 30 calendar days  
20.33 of the individual's receipt of the notice of disqualification under sections 245C.16 and  
20.34 245C.17. If mailed, the request for reconsideration of the maltreatment determination and

21.1 the disqualification must be postmarked and sent to the lead investigative agency within 30  
21.2 calendar days of the individual's receipt of the notice of disqualification. If the request for  
21.3 reconsideration is made by personal service, it must be received by the lead investigative  
21.4 agency within 30 calendar days after the individual's receipt of the notice of disqualification.

21.5 (b) Except as provided under paragraphs (e) and (f), if the lead investigative agency  
21.6 denies the request or fails to act upon the request within 15 working days after receiving  
21.7 the request for reconsideration, the person or facility entitled to a fair hearing under section  
21.8 256.045, may submit to the commissioner of human services a written request for a hearing  
21.9 under that statute. The vulnerable adult, or an interested person acting on behalf of the  
21.10 vulnerable adult, may request a review by the Vulnerable Adult Maltreatment Review Panel  
21.11 under section 256.021 if the lead investigative agency denies the request or fails to act upon  
21.12 the request, or if the vulnerable adult or interested person contests a reconsidered disposition.  
21.13 The Vulnerable Adult Maltreatment Review Panel shall not conduct a review if the interested  
21.14 person making the request on behalf of the vulnerable adult is also the alleged perpetrator.  
21.15 The lead investigative agency shall notify persons who request reconsideration of their  
21.16 rights under this paragraph. The request must be submitted in writing to the review panel  
21.17 and a copy sent to the lead investigative agency within 30 calendar days of receipt of notice  
21.18 of a denial of a request for reconsideration or of a reconsidered disposition. The request  
21.19 must specifically identify the aspects of the lead investigative agency determination with  
21.20 which the person is dissatisfied.

21.21 (c) If, as a result of a reconsideration or review, the lead investigative agency changes  
21.22 the final disposition, it shall notify the parties specified in subdivision 9c, paragraph ~~(f)~~ (i).

21.23 (d) For purposes of this subdivision, "interested person acting on behalf of the vulnerable  
21.24 adult" means a person designated in writing by the vulnerable adult to act on behalf of the  
21.25 vulnerable adult, or a legal guardian or conservator or other legal representative, a proxy  
21.26 or health care agent appointed under chapter 145B or 145C, or an individual who is related  
21.27 to the vulnerable adult, as defined in section 245A.02, subdivision 13.

21.28 (e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis  
21.29 of a determination of maltreatment, which was serious or recurring, and the individual has  
21.30 requested reconsideration of the maltreatment determination under paragraph (a) and  
21.31 reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration  
21.32 of the maltreatment determination and requested reconsideration of the disqualification  
21.33 shall be consolidated into a single reconsideration. If reconsideration of the maltreatment  
21.34 determination is denied and the individual remains disqualified following a reconsideration  
21.35 decision, the individual may request a fair hearing under section 256.045. If an individual

22.1 requests a fair hearing on the maltreatment determination and the disqualification, the scope  
22.2 of the fair hearing shall include both the maltreatment determination and the disqualification.

22.3 (f) If a maltreatment determination or a disqualification based on serious or recurring  
22.4 maltreatment is the basis for a denial of a license under section 245A.05 or a licensing  
22.5 sanction under section 245A.07, the license holder has the right to a contested case hearing  
22.6 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for  
22.7 under section 245A.08, the scope of the contested case hearing must include the maltreatment  
22.8 determination, disqualification, and licensing sanction or denial of a license. In such cases,  
22.9 a fair hearing must not be conducted under section 256.045. Except for family child care  
22.10 and child foster care, reconsideration of a maltreatment determination under this subdivision,  
22.11 and reconsideration of a disqualification under section 245C.22, must not be conducted  
22.12 when:

22.13 (1) a denial of a license under section 245A.05, or a licensing sanction under section  
22.14 245A.07, is based on a determination that the license holder is responsible for maltreatment  
22.15 or the disqualification of a license holder based on serious or recurring maltreatment;

22.16 (2) the denial of a license or licensing sanction is issued at the same time as the  
22.17 maltreatment determination or disqualification; and

22.18 (3) the license holder appeals the maltreatment determination or disqualification, and  
22.19 denial of a license or licensing sanction.

22.20 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment  
22.21 determination or disqualification, but does not appeal the denial of a license or a licensing  
22.22 sanction, reconsideration of the maltreatment determination shall be conducted under sections  
22.23 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the  
22.24 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall  
22.25 also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and  
22.26 626.557, subdivision 9d.

22.27 If the disqualified subject is an individual other than the license holder and upon whom  
22.28 a background study must be conducted under chapter 245C, the hearings of all parties may  
22.29 be consolidated into a single contested case hearing upon consent of all parties and the  
22.30 administrative law judge.

22.31 (g) Until August 1, 2002, an individual or facility that was determined by the  
22.32 commissioner of human services or the commissioner of health to be responsible for neglect  
22.33 under section 626.5572, subdivision 17, after October 1, 1995, and before August 1, 2001,  
22.34 that believes that the finding of neglect does not meet an amended definition of neglect may

23.1 request a reconsideration of the determination of neglect. The commissioner of human  
23.2 services or the commissioner of health shall mail a notice to the last known address of  
23.3 individuals who are eligible to seek this reconsideration. The request for reconsideration  
23.4 must state how the established findings no longer meet the elements of the definition of  
23.5 neglect. The commissioner shall review the request for reconsideration and make a  
23.6 determination within 15 calendar days. The commissioner's decision on this reconsideration  
23.7 is the final agency action.

23.8 (1) For purposes of compliance with the data destruction schedule under subdivision  
23.9 12b, paragraph (d), when a finding of substantiated maltreatment has been changed as a  
23.10 result of a reconsideration under this paragraph, the date of the original finding of a  
23.11 substantiated maltreatment must be used to calculate the destruction date.

23.12 (2) For purposes of any background studies under chapter 245C, when a determination  
23.13 of substantiated maltreatment has been changed as a result of a reconsideration under this  
23.14 paragraph, any prior disqualification of the individual under chapter 245C that was based  
23.15 on this determination of maltreatment shall be rescinded, and for future background studies  
23.16 under chapter 245C the commissioner must not use the previous determination of  
23.17 substantiated maltreatment as a basis for disqualification or as a basis for referring the  
23.18 individual's maltreatment history to a health-related licensing board under section 245C.31.

23.19 **EFFECTIVE DATE.** This section is effective August 1, 2019.

23.20 Sec. 23. Minnesota Statutes 2018, section 626.557, subdivision 10b, is amended to read:

23.21 Subd. 10b. **Investigations; guidelines.** (a) Each lead investigative agency shall develop  
23.22 guidelines for prioritizing reports for investigation and shall publicly post the guidelines.

23.23 (b) When investigating a report, the lead investigative agency shall conduct the following  
23.24 activities, ~~as appropriate~~ without exception unless:

23.25 (i) the vulnerable adult, reporter, or witness is deceased, refuses an interview, or is unable  
23.26 to be contacted despite diligent attempts;

23.27 (ii) the interview was conducted by law enforcement and an additional interview will  
23.28 not further the civil investigation;

23.29 (iii) the agency has reason to know the activity will endanger the vulnerable adult or  
23.30 impede the investigation:

23.31 (1) interview of the alleged victim;

23.32 (2) interview of the reporter and others who may have relevant information;

- 24.1 (3) interview of the alleged perpetrator; and
- 24.2 ~~(4) examination of the environment surrounding the alleged incident;~~
- 24.3 ~~(5) (4) review of records and pertinent documentation of the alleged incident; and~~
- 24.4 (c) The lead investigative agency shall conduct the following activities if appropriate to
- 24.5 further the investigation or necessary to prevent further maltreatment or to safeguard the
- 24.6 vulnerable adult:
- 24.7 (1) examine the environment surrounding the alleged incident;
- 24.8 ~~(6) consultation~~ (2) consult with professionals;
- 24.9 (3) request the vulnerable adult's choice of the primary support person; and
- 24.10 (4) communicate with tribes, service providers, and the primary support person for the
- 24.11 vulnerable adult.

24.12 **EFFECTIVE DATE.** This section is effective August 1, 2019.

24.13 Sec. 24. Minnesota Statutes 2018, section 626.557, subdivision 12b, is amended to read:

24.14 Subd. 12b. **Data management.** (a) In performing any of the duties of this section as a

24.15 lead investigative agency, the county social service agency shall maintain appropriate

24.16 records. Data collected by the county social service agency under this section are welfare

24.17 data under section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a), data

24.18 under this paragraph that are inactive investigative data on an individual who is a vendor

24.19 of services are private data on individuals, as defined in section 13.02. The identity of the

24.20 reporter may only be disclosed as provided in paragraph (c).

24.21 Data maintained by the common entry point are confidential data on individuals or

24.22 protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163, the

24.23 common entry point shall maintain data for three calendar years after date of receipt and

24.24 then destroy the data unless otherwise directed by federal requirements.

24.25 (b) The commissioners of health and human services shall prepare an investigation

24.26 memorandum for each report alleging maltreatment investigated under this section. County

24.27 social service agencies must maintain private data on individuals but are not required to

24.28 prepare an investigation memorandum. During an investigation by the commissioner of

24.29 health or the commissioner of human services, data collected under this section are

24.30 confidential data on individuals or protected nonpublic data as defined in section 13.02.

24.31 Upon completion of the investigation, the data are classified as provided in clauses (1) to

24.32 (3) and paragraph (c).



- 25.1 (1) The investigation memorandum must contain the following data, which are public:
- 25.2 (i) the name of the facility investigated;
- 25.3 (ii) a statement of the nature of the alleged maltreatment;
- 25.4 (iii) pertinent information obtained from medical or other records reviewed;
- 25.5 (iv) the identity of the investigator;
- 25.6 (v) a summary of the investigation's findings;
- 25.7 (vi) statement of whether the report was found to be substantiated, inconclusive, false,
- 25.8 or that no determination will be made;
- 25.9 (vii) a statement of any action taken by the facility;
- 25.10 (viii) a statement of any action taken by the lead investigative agency; and
- 25.11 (ix) when a lead investigative agency's determination has substantiated maltreatment, a
- 25.12 statement of whether an individual, individuals, or a facility were responsible for the
- 25.13 substantiated maltreatment, if known.

25.14 The investigation memorandum must be written in a manner which protects the identity

25.15 of the reporter and of the vulnerable adult and may not contain the names or, to the extent

25.16 possible, data on individuals or private data listed in clause (2).

25.17 (2) Data on individuals collected and maintained in the investigation memorandum are

25.18 private data, including:

- 25.19 (i) the name of the vulnerable adult;
- 25.20 (ii) the identity of the individual alleged to be the perpetrator;
- 25.21 (iii) the identity of the individual substantiated as the perpetrator; and
- 25.22 (iv) the identity of all individuals interviewed as part of the investigation.

25.23 (3) Other data on individuals maintained as part of an investigation under this section

25.24 are private data on individuals upon completion of the investigation.

25.25 (c) ~~After the assessment or investigation is completed,~~ The name of the reporter must

25.26 be confidential. The subject of the report may compel disclosure of the name of the reporter

25.27 only with the consent of the reporter or upon a written finding by a court that the report was

25.28 false and there is evidence that the report was made in bad faith. This subdivision does not

25.29 alter disclosure responsibilities or obligations under the Rules of Criminal Procedure, except

25.30 that where the identity of the reporter is relevant to a criminal prosecution, the district court

26.1 shall do an in-camera review prior to determining whether to order disclosure of the identity  
26.2 of the reporter.

26.3 (d) Notwithstanding section 138.163, data maintained under this section by the  
26.4 commissioners of health and human services must be maintained under the following  
26.5 schedule and then destroyed unless otherwise directed by federal requirements:

26.6 (1) data from reports determined to be false, maintained for three years after the finding  
26.7 was made;

26.8 (2) data from reports determined to be inconclusive, maintained for four years after the  
26.9 finding was made;

26.10 (3) data from reports determined to be substantiated, maintained for seven years after  
26.11 the finding was made; and

26.12 (4) data from reports which were not investigated by a lead investigative agency and for  
26.13 which there is no final disposition, maintained for three years from the date of the report.

26.14 (e) The commissioners of health and human services shall annually publish on their  
26.15 websites the number and type of reports of alleged maltreatment involving licensed facilities  
26.16 reported under this section, the number of those requiring investigation under this section,  
26.17 and the resolution of those investigations. On a biennial basis, the commissioners of health  
26.18 and human services shall jointly report the following information to the legislature and the  
26.19 governor:

26.20 (1) the number and type of reports of alleged maltreatment involving licensed facilities  
26.21 reported under this section, the number of those requiring investigations under this section,  
26.22 the resolution of those investigations, and which of the two lead agencies was responsible;

26.23 (2) trends about types of substantiated maltreatment found in the reporting period;

26.24 (3) if there are upward trends for types of maltreatment substantiated, recommendations  
26.25 for addressing and responding to them;

26.26 (4) efforts undertaken or recommended to improve the protection of vulnerable adults;

26.27 (5) whether and where backlogs of cases result in a failure to conform with statutory  
26.28 time frames and recommendations for reducing backlogs if applicable;

26.29 (6) recommended changes to statutes affecting the protection of vulnerable adults; and

26.30 (7) any other information that is relevant to the report trends and findings.

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

27.1 (g) Lead investigative agencies, county agencies responsible for adult protective services,  
27.2 prosecuting authorities, and law enforcement agencies may exchange not public data, as  
27.3 defined in section 13.02, with a tribe, provider, vulnerable adult, primary support person  
27.4 for the vulnerable adult, state licensing board, federal or state agency, the ombudsperson  
27.5 for long-term care, or the ombudsman for mental health and developmental disabilities, if  
27.6 the agency or authority requesting providing the data determines that the data are pertinent  
27.7 and necessary to the requesting agency in initiating, furthering, or completing to prevent  
27.8 further maltreatment, to safeguard the affected vulnerable adults, or to initiate, further, or  
27.9 complete an investigation under this section. Data collected under this section must be made  
27.10 available to prosecuting authorities and law enforcement officials, local county agencies,  
27.11 and licensing agencies investigating the alleged maltreatment under this section. The lead  
27.12 investigative agency shall exchange not public data with the vulnerable adult maltreatment  
27.13 review panel established in section 256.021 if the data are pertinent and necessary for a  
27.14 review requested under that section. Notwithstanding section 138.17, upon completion of  
27.15 the review, not public data received by the review panel must be destroyed.

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

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

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

27.26 **EFFECTIVE DATE.** This section is effective August 1, 2019.

27.27 Sec. 25. Minnesota Statutes 2018, section 626.5572, subdivision 2, is amended to read:

27.28 Subd. 2. **Abuse.** "Abuse" means:

27.29 (a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate,  
27.30 or aiding and abetting a violation of:

27.31 (1) assault in the first through fifth degrees as defined in sections 609.221 to 609.224;

27.32 (2) the use of drugs to injure or facilitate crime as defined in section 609.235;

28.1 (3) the solicitation, inducement, and promotion of prostitution as defined in section  
28.2 609.322; and

28.3 (4) criminal sexual conduct in the first through fifth degrees as defined in sections  
28.4 609.342 to 609.3451.

28.5 A violation includes any action that meets the elements of the crime, regardless of  
28.6 whether there is a criminal proceeding or conviction.

28.7 (b) Conduct which is not an accident or therapeutic conduct as defined in this section,  
28.8 which produces or could reasonably be expected to produce physical pain or injury or  
28.9 emotional distress including, but not limited to, the following:

28.10 (1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable  
28.11 adult;

28.12 (2) use of repeated or malicious oral, written, or gestured language toward a vulnerable  
28.13 adult or the treatment of a vulnerable adult which would be considered by a reasonable  
28.14 person to be disparaging, derogatory, humiliating, harassing, or threatening; or

28.15 (3) use, not authorized under chapter 245A or 245D or inconsistent with state and federal  
28.16 patient rights, of any aversive or deprivation procedure, unreasonable confinement, or  
28.17 involuntary seclusion, including the forced separation of the vulnerable adult from other  
28.18 persons against the will of the vulnerable adult or the legal representative of the vulnerable  
28.19 adult; ~~and~~

28.20 ~~(4) use of any aversive or deprivation procedures for persons with developmental~~  
28.21 ~~disabilities or related conditions not authorized under section 245.825.~~

28.22 (c) Any sexual contact or penetration as defined in section 609.341, between a facility  
28.23 staff person or a person providing services in the facility and a resident, patient, or client  
28.24 of that facility.

28.25 (d) The act of forcing, compelling, coercing, or enticing a vulnerable adult against the  
28.26 vulnerable adult's will to perform services for the advantage of another.

28.27 (e) For purposes of this section, a vulnerable adult is not abused for the sole reason that  
28.28 the vulnerable adult or a person with authority to make health care decisions for the  
28.29 vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C or 252A, or section  
28.30 253B.03 or 524.5-313, refuses consent or withdraws consent, consistent with that authority  
28.31 and within the boundary of reasonable medical practice, to any therapeutic conduct, including  
28.32 any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition  
28.33 of the vulnerable adult or, where permitted under law, to provide nutrition and hydration

29.1 parenterally or through intubation. This paragraph does not enlarge or diminish rights  
29.2 otherwise held under law by:

29.3 (1) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an  
29.4 involved family member, to consent to or refuse consent for therapeutic conduct; or

29.5 (2) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct.

29.6 (f) For purposes of this section, a vulnerable adult is not abused for the sole reason that  
29.7 the vulnerable adult, a person with authority to make health care decisions for the vulnerable  
29.8 adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for  
29.9 treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care,  
29.10 provided that this is consistent with the prior practice or belief of the vulnerable adult or  
29.11 with the expressed intentions of the vulnerable adult.

29.12 (g) For purposes of this section, a vulnerable adult is not abused for the sole reason that  
29.13 the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional  
29.14 dysfunction or undue influence, engages in consensual sexual contact with:

29.15 (1) a person, including a facility staff person, when a consensual sexual personal  
29.16 relationship existed prior to the caregiving relationship; or

29.17 (2) a personal care attendant, regardless of whether the consensual sexual personal  
29.18 relationship existed prior to the caregiving relationship.

29.19 **EFFECTIVE DATE.** This section is effective August 1, 2019.

29.20 Sec. 26. Minnesota Statutes 2018, section 626.5572, subdivision 4, is amended to read:

29.21 Subd. 4. **Caregiver.** "Caregiver" means a paid provider, an individual, or facility who  
29.22 ~~has responsibility for the care of a vulnerable adult as a result of a family relationship, or~~  
29.23 who has assumed responsibility for all or a portion of the care of a vulnerable adult  
29.24 voluntarily, by contract, or by agreement.

29.25 **EFFECTIVE DATE.** This section is effective August 1, 2019.

29.26 Sec. 27. Minnesota Statutes 2018, section 626.5572, subdivision 9, is amended to read:

29.27 Subd. 9. **Financial exploitation.** "Financial exploitation" means:

29.28 (a) In breach of a fiduciary obligation recognized elsewhere in law, including pertinent  
29.29 regulations, contractual obligations, documented consent by a competent person, or the  
29.30 obligations of a responsible party under section 144.6501, a person:

30.1 (1) ~~engages in unauthorized expenditure of funds entrusted to the actor by the vulnerable~~  
 30.2 ~~adult which results or is likely to result in detriment to the vulnerable adult~~ takes, uses, or  
 30.3 transfers the vulnerable adult's personal property or financial resources other than what a  
 30.4 reasonable person would deem the use, ownership, or obligations of the vulnerable adult;  
 30.5 or

30.6 (2) fails to use the financial resources of the vulnerable adult to provide food, clothing,  
 30.7 shelter, health care, therapeutic conduct or supervision for the vulnerable adult, and the  
 30.8 failure results or is likely to result in detriment to the vulnerable adult.

30.9 (b) In the absence of legal authority a person:

30.10 (1) willfully uses, withholds, or disposes of funds or property of a vulnerable adult;

30.11 (2) obtains for the actor or another the performance of services by a third person for the  
 30.12 wrongful profit or advantage of the actor or another to the detriment of the vulnerable adult;

30.13 (3) acquires possession or control of, or an interest in, funds or property of a vulnerable  
 30.14 adult through the use of undue influence, harassment, duress, deception, or fraud; or

30.15 (4) forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult's  
 30.16 will to perform services for the profit or advantage of another.

30.17 (c) Nothing in this definition requires a facility or caregiver to provide financial  
 30.18 management or supervise financial management for a vulnerable adult except as otherwise  
 30.19 required by law.

30.20 **EFFECTIVE DATE.** This section is effective August 1, 2019.

30.21 Sec. 28. Minnesota Statutes 2018, section 626.5572, subdivision 17, is amended to read:

30.22 Subd. 17. **Neglect.** ~~"Neglect" means:~~ (a) Neglect includes caregiver neglect and  
 30.23 self-neglect.

30.24 ~~(a)~~ (b) "Caregiver neglect" means the failure or omission by a caregiver to supply a  
 30.25 vulnerable adult with care or services, including but not limited to, food, clothing, shelter,  
 30.26 health care, or supervision which is:

30.27 (1) reasonable and necessary to obtain or maintain the vulnerable adult's physical or  
 30.28 mental health or safety, considering the physical and mental capacity or dysfunction of the  
 30.29 vulnerable adult; and

30.30 (2) which is not the result of an accident or therapeutic conduct.

31.1 ~~(b) The absence or likelihood of absence of care or services, including but not limited~~  
 31.2 ~~to, food, clothing, shelter, health care, or supervision necessary to maintain the physical~~  
 31.3 ~~and mental health of the vulnerable adult~~ (c) "Self-neglect" means neglect by a vulnerable  
 31.4 adult of food, clothing, shelter, health care, or other services not under the responsibility of  
 31.5 a caregiver which a reasonable person would deem essential to obtain or maintain the  
 31.6 vulnerable adult's health, safety, or comfort considering the physical or mental capacity or  
 31.7 dysfunction of the vulnerable adult, or physical and mental health.

31.8 ~~(e)~~ (d) For purposes of this section, a vulnerable adult is not neglected for the sole reason  
 31.9 that:

31.10 (1) the vulnerable adult or a person with authority to make health care decisions for the  
 31.11 vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or sections  
 31.12 253B.03 or 524.5-101 to 524.5-502, refuses consent or withdraws consent, consistent with  
 31.13 that authority and within the boundary of reasonable medical practice, to any therapeutic  
 31.14 conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical  
 31.15 or mental condition of the vulnerable adult, or, where permitted under law, to provide  
 31.16 nutrition and hydration parenterally or through intubation; this paragraph does not enlarge  
 31.17 or diminish rights otherwise held under law by:

31.18 (i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an  
 31.19 involved family member, to consent to or refuse consent for therapeutic conduct; or

31.20 (ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct; or

31.21 (2) the vulnerable adult, a person with authority to make health care decisions for the  
 31.22 vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or  
 31.23 prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of  
 31.24 medical care, provided that this is consistent with the prior practice or belief of the vulnerable  
 31.25 adult or with the expressed intentions of the vulnerable adult;

31.26 (3) the vulnerable adult, who is not impaired in judgment or capacity by mental or  
 31.27 emotional dysfunction or undue influence, engages in consensual sexual contact with:

31.28 (i) a person including a facility staff person when a consensual sexual personal  
 31.29 relationship existed prior to the caregiving relationship; or

31.30 (ii) a personal care attendant, regardless of whether the consensual sexual personal  
 31.31 relationship existed prior to the caregiving relationship; or

32.1 (4) an individual makes an error in the provision of therapeutic conduct to a vulnerable  
32.2 adult which does not result in injury or harm which reasonably requires medical or mental  
32.3 health care; or

32.4 (5) an individual makes an error in the provision of therapeutic conduct to a vulnerable  
32.5 adult that results in injury or harm, which reasonably requires the care of a physician, and:

32.6 (i) the necessary care is provided in a timely fashion as dictated by the condition of the  
32.7 vulnerable adult;

32.8 (ii) if after receiving care, the health status of the vulnerable adult can be reasonably  
32.9 expected, as determined by the attending physician, to be restored to the vulnerable adult's  
32.10 preexisting condition;

32.11 (iii) the error is not part of a pattern of errors by the individual;

32.12 (iv) if in a facility, the error is immediately reported as required under section 626.557,  
32.13 and recorded internally in the facility;

32.14 (v) if in a facility, the facility identifies and takes corrective action and implements  
32.15 measures designed to reduce the risk of further occurrence of this error and similar errors;  
32.16 and

32.17 (vi) if in a facility, the actions required under items (iv) and (v) are sufficiently  
32.18 documented for review and evaluation by the facility and any applicable licensing,  
32.19 certification, and ombudsman agency.

32.20 ~~(d)~~ (e) Nothing in this definition requires a caregiver, if regulated, to provide services  
32.21 in excess of those required by the caregiver's license, certification, registration, or other  
32.22 regulation.

32.23 ~~(e)~~ (f) If the findings of an investigation by a lead investigative agency result in a  
32.24 determination of substantiated maltreatment for the sole reason that the actions required of  
32.25 a facility under paragraph ~~(e)~~ (d), clause (5), item (iv), (v), or (vi), were not taken, then the  
32.26 facility is subject to a correction order. An individual will not be found to have neglected  
32.27 or maltreated the vulnerable adult based solely on the facility's not having taken the actions  
32.28 required under paragraph ~~(e)~~ (d), clause (5), item (iv), (v), or (vi). This must not alter the  
32.29 lead investigative agency's determination of mitigating factors under section 626.557,  
32.30 subdivision 9c, paragraph (c).

32.31 **EFFECTIVE DATE.** This section is effective August 1, 2019.



33.1 Sec. 29. Minnesota Statutes 2018, section 626.5572, is amended by adding a subdivision  
33.2 to read:

33.3 Subd. 17a. **Primary support person.** "Primary support person" means a person or  
33.4 persons identified by the lead investigative agency or agency responsible for adult protective  
33.5 services as best able to coordinate with the agency to support protection of the vulnerable  
33.6 adult, safeguard the vulnerable adult's welfare, and prevent further maltreatment. The primary  
33.7 support person may be the vulnerable adult's guardian, health care agent, or other legal  
33.8 representative, person authorized by the vulnerable adult under a supported decision making  
33.9 or other agreement, or another person determined by the agency. If known to the agency,  
33.10 the agency must consider the vulnerable adult's choice for primary support person.

33.11 **EFFECTIVE DATE.** This section is effective August 1, 2019.

33.12 Sec. 30. **DIRECTION TO COMMISSIONER; PROVIDER STANDARD**  
33.13 **EVALUATION.**

33.14 By January 1, 2020, the commissioner of human services shall evaluate provider standards  
33.15 for companion, homemaker, and respite services covered by the home and community-based  
33.16 waivers under Minnesota Statutes, sections 256B.0915, 256B.092, and 256B.49, and shall  
33.17 make recommendations to the legislative committees with jurisdiction over elderly waiver  
33.18 services for adjustments to these provider standards. The goal of this evaluation is to promote  
33.19 access to services by developing standards that ensure the well-being of participants while  
33.20 being minimally burdensome to providers.

33.21 **EFFECTIVE DATE.** This section is effective August 1, 2019.

33.22 Sec. 31. **REPEALER.**

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

33.24 **EFFECTIVE DATE.** This section is effective August 1, 2019.

**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;

APPENDIX  
Repealed Minnesota Statutes: H2305-1

(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).