

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 3174

(SENATE AUTHORS: UTKE)

DATE	D-PG	OFFICIAL STATUS
03/12/2018	6414	Introduction and first reading Referred to Human Services Reform Finance and Policy See SF3286 See SF3656, Art. 41, Sec. 2-4

1.1 A bill for an act

1.2 relating to human services; strengthening fraud prevention and program integrity;

1.3 amending Minnesota Statutes 2016, sections 13.461, subdivision 28; 119B.02,

1.4 subdivision 6; 245.095; 245A.02, subdivisions 8, 9, 12, by adding subdivisions;

1.5 245A.03, subdivision 1; 245A.04, subdivisions 1, 2, 6, 7, 10, by adding a

1.6 subdivision; 245A.05; 256.01, subdivisions 18d, 18e; 256B.02, subdivision 7;

1.7 256B.04, subdivision 21; 256B.0625, subdivision 43; 256B.064, subdivisions 1b,

1.8 2, by adding a subdivision; 256B.0651, subdivision 17; 256B.0659, subdivisions

1.9 3, 12, 14, 21; 256B.4912, by adding a subdivision; 393.07, subdivision 10;

1.10 Minnesota Statutes 2017 Supplement, sections 245A.04, subdivision 4; 256.9685,

1.11 subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 245A;

1.12 256B.

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

1.14 Section 1. Minnesota Statutes 2016, section 13.461, subdivision 28, is amended to read:

1.15 Subd. 28. **Child care assistance program.** Data collected, maintained, used, or

1.16 disseminated by the welfare system pertaining to persons selected as legal nonlicensed child

1.17 care providers by families receiving child care assistance are classified under section 119B.02,

1.18 subdivision 6, paragraph (a). Child care assistance program payment data is classified under

1.19 section 119B.02, subdivision 6, paragraph (b).

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

1.21 Sec. 2. Minnesota Statutes 2016, section 119B.02, subdivision 6, is amended to read:

1.22 Subd. 6. **Data.** (a) Data collected, maintained, used, or disseminated by the welfare

1.23 system pertaining to persons selected as legal nonlicensed child care providers by families

1.24 receiving child care assistance shall be treated as licensing data as provided in section 13.46,

1.25 subdivision 4.

2.1 (b) For purposes of this paragraph, "payment data" means data on the amount of child
 2.2 care assistance payments made under this chapter to a child care center for a specified time
 2.3 period and data on the number of families and children on whose behalf payments were
 2.4 made for a specified time period. Payment data does not include data that may identify a
 2.5 specific child care assistance recipient or benefit paid on behalf of a specific child care
 2.6 assistance recipient. Payment data are public:

2.7 (1) if the data relate to a child care assistance payment made to a licensed child care
 2.8 center or a child care center exempt from licensure; and

2.9 (2) if the commissioner or county agency:

2.10 (i) disqualified the center from receipt of a payment from the child care assistance
 2.11 program under this chapter for wrongfully obtaining child care assistance under section
 2.12 256.98, subdivision 8, paragraph (c);

2.13 (ii) refused a child care authorization, revoked a child care authorization, stopped
 2.14 payment, or denied payment for a bill for the center under section 119B.13, subdivision 6,
 2.15 paragraph (d); or

2.16 (iii) made a finding of financial misconduct under section 245E.02.

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

2.18 Sec. 3. Minnesota Statutes 2016, section 245.095, is amended to read:

2.19 **245.095 LIMITS ON RECEIVING PUBLIC FUNDS.**

2.20 Subdivision 1. **Prohibition.** (a) If a provider, vendor, or individual enrolled, licensed,
 2.21 or receiving funds under a grant contract, or registered in any program administered by the
 2.22 commissioner, including under the commissioner's powers and authorities in section 256.01,
 2.23 is excluded from any that program administered by the commissioner, including under the
 2.24 commissioner's powers and authorities in section 256.01, the commissioner shall:

2.25 (1) prohibit the excluded provider, vendor, or individual from enrolling or becoming
 2.26 licensed, receiving grant funds, or registering in any other program administered by the
 2.27 commissioner; and

2.28 (2) disenroll, revoke or suspend a license, disqualify, or debar the excluded provider,
 2.29 vendor, or individual in any other program administered by the commissioner.

2.30 (b) The duration of this prohibition, disenrollment, revocation, suspension,
 2.31 disqualification, or debarment must last for the longest applicable sanction or disqualifying
 2.32 period in effect for the provider, vendor, or individual permitted by state or federal law.

3.1 Subd. 2. **Definitions.** (a) For purposes of this section, the following definitions have the
3.2 meanings given them.

3.3 (b) "Excluded" means disenrolled, ~~subject to license revocation or suspension,~~
3.4 ~~disqualified, or subject to vendor debarment~~ disqualified, a license revocation or suspension
3.5 under chapter 245A, debarment or suspension under Minnesota Rules, part 1230.1150, or
3.6 excluded pursuant to section 256B.064, subdivision 3.

3.7 (c) "Individual" means a natural person providing products or services as a provider or
3.8 vendor.

3.9 (d) "Provider" means an owner, controlling individual, license holder, director, or
3.10 managerial official.

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

3.12 Sec. 4. Minnesota Statutes 2016, section 245A.02, is amended by adding a subdivision to
3.13 read:

3.14 Subd. 3b. **Authorized agent.** "Authorized agent" means the controlling individual
3.15 designated by the license holder to be responsible for communicating with the commissioner
3.16 of human services on all matters provided for in this chapter and on whom service of all
3.17 notices and orders must be made, pursuant to section 245A.04, subdivision 1.

3.18 **EFFECTIVE DATE.** This section is effective August 1, 2018.

3.19 Sec. 5. Minnesota Statutes 2016, section 245A.02, subdivision 8, is amended to read:

3.20 Subd. 8. **License.** "License" means a certificate issued by the commissioner under section
3.21 245A.04 authorizing the license holder to provide a specified program for a specified period
3.22 of time and in accordance with the terms of the license and the rules of the commissioner.

3.23 **EFFECTIVE DATE.** This section is effective August 1, 2018.

3.24 Sec. 6. Minnesota Statutes 2016, section 245A.02, subdivision 9, is amended to read:

3.25 Subd. 9. **License holder.** "License holder" means ~~an individual, corporation, partnership,~~
3.26 ~~voluntary association, or other~~ an individual, organization, or government entity that is
3.27 legally responsible for the operation of the program or service, and has been granted a
3.28 license by the commissioner under this chapter ~~or chapter 245D~~ and the rules of the
3.29 commissioner, ~~and is a controlling individual.~~

3.30 **EFFECTIVE DATE.** This section is effective August 1, 2018.

4.1 Sec. 7. Minnesota Statutes 2016, section 245A.02, is amended by adding a subdivision to
4.2 read:

4.3 Subd. 10c. **Organization.** "Organization" means a domestic or foreign corporation,
4.4 nonprofit corporation, limited liability company, partnership, limited partnership, limited
4.5 liability partnership, association, voluntary association, and any other legal or commercial
4.6 entity. For purposes of this chapter, organization does not include a government entity.

4.7 **EFFECTIVE DATE.** This section is effective August 1, 2018.

4.8 Sec. 8. Minnesota Statutes 2016, section 245A.02, subdivision 12, is amended to read:

4.9 Subd. 12. **Private agency.** "Private agency" means ~~an individual, corporation, partnership,~~
4.10 ~~voluntary association~~ an individual or ~~other~~ organization, ~~other than a county agency, or a~~
4.11 ~~court with jurisdiction,~~ that places persons who cannot remain in their own homes in
4.12 residential programs, foster care, or adoptive homes.

4.13 **EFFECTIVE DATE.** This section is effective August 1, 2018.

4.14 Sec. 9. Minnesota Statutes 2016, section 245A.02, is amended by adding a subdivision to
4.15 read:

4.16 Subd. 12a. **Provisional license.** "Provisional license" means a license of limited duration
4.17 not to exceed 15 months issued under section 245A.04, subdivision 7, paragraph (f).

4.18 **EFFECTIVE DATE.** This section is effective August 1, 2018.

4.19 Sec. 10. Minnesota Statutes 2016, section 245A.03, subdivision 1, is amended to read:

4.20 Subdivision 1. **License required.** Unless licensed by the commissioner under this chapter,
4.21 ~~an individual, corporation, partnership, voluntary association, other~~ organization, or
4.22 ~~controlling individual~~ government entity must not:

4.23 (1) operate a residential or a nonresidential program;

4.24 (2) receive a child or adult for care, supervision, or placement in foster care or adoption;

4.25 (3) help plan the placement of a child or adult in foster care or adoption or engage in
4.26 placement activities as defined in section 259.21, subdivision 9, in this state, whether or not
4.27 the adoption occurs in this state; or

4.28 (4) advertise a residential or nonresidential program.

4.29 **EFFECTIVE DATE.** This section is effective August 1, 2018.

5.1 Sec. 11. Minnesota Statutes 2016, section 245A.04, subdivision 1, is amended to read:

5.2 Subdivision 1. **Application for licensure.** (a) An individual, ~~corporation, partnership,~~
5.3 ~~voluntary association, other~~ or organization ~~or controlling individual~~ that is subject to
5.4 licensure under section 245A.03 must apply for a license. The application must be made
5.5 on the forms and in the manner prescribed by the commissioner. The commissioner shall
5.6 provide the applicant with instruction in completing the application and provide information
5.7 about the rules and requirements of other state agencies that affect the applicant. An applicant
5.8 seeking licensure in Minnesota with headquarters outside of Minnesota must have a program
5.9 office located within the state.

5.10 The commissioner shall act on the application within 90 working days after a complete
5.11 application and any required reports have been received from other state agencies or
5.12 departments, counties, municipalities, or other political subdivisions. The commissioner
5.13 shall not consider an application to be complete until the commissioner receives all of the
5.14 information required under section 245C.05.

5.15 When the commissioner receives an application for initial licensure that is incomplete
5.16 because the applicant failed to submit required documents or that is substantially deficient
5.17 because the documents submitted do not meet licensing requirements, the commissioner
5.18 shall provide the applicant written notice that the application is incomplete or substantially
5.19 deficient. In the written notice to the applicant the commissioner shall identify documents
5.20 that are missing or deficient and give the applicant 45 days to resubmit a second application
5.21 that is substantially complete. An applicant's failure to submit a substantially complete
5.22 application after receiving notice from the commissioner is a basis for license denial under
5.23 section 245A.05.

5.24 (b) An application for licensure must identify all controlling individuals and must specify
5.25 an agent who is responsible for dealing with the commissioner of human services on all
5.26 matters provided for in this chapter and on whom service of all notices and orders must be
5.27 made. The agent must be authorized to accept service on behalf of all of the controlling
5.28 individuals of the program. Service on the authorized agent is service on all of the controlling
5.29 individuals of the program. It is not a defense to any action arising under this chapter that
5.30 service was not made on each controlling individual of the program. The designation of one
5.31 or more controlling individuals as authorized agents under this paragraph does not affect
5.32 the legal responsibility of any other controlling individual under this chapter.

5.33 (c) An applicant or license holder must have a policy that prohibits license holders,
5.34 employees, subcontractors, and volunteers, when directly responsible for persons served

6.1 by the program, from abusing prescription medication or being in any manner under the
6.2 influence of a chemical that impairs the individual's ability to provide services or care. The
6.3 license holder must train employees, subcontractors, and volunteers about the program's
6.4 drug and alcohol policy.

6.5 (d) An applicant and license holder must have a program grievance procedure that permits
6.6 persons served by the program and their authorized representatives to bring a grievance to
6.7 the highest level of authority in the program.

6.8 (e) The applicant must be able to demonstrate competent knowledge of the applicable
6.9 requirements of this chapter and chapter 245C, and the requirements of other licensing
6.10 statutes and rules applicable to the program or services for which the applicant is seeking
6.11 to be licensed. Effective January 1, 2013, the commissioner may require the applicant,
6.12 except for child foster care, to demonstrate competence in the applicable licensing
6.13 requirements by successfully completing a written examination. The commissioner may
6.14 develop a prescribed written examination format.

6.15 (f) When an applicant is an individual, the individual must provide:

6.16 (1) the applicant's taxpayer identification numbers including the Social Security number,
6.17 and federal employer identification number if the applicant has employees;

6.18 (2) the complete business name, if any, and if doing business under a different name,
6.19 the doing business as (DBA) name, as registered with the secretary of state; and

6.20 (3) a notarized signature of the applicant.

6.21 (g) When an applicant is a nonindividual, the applicant must provide the:

6.22 (1) applicant's taxpayer identification numbers including the Minnesota tax identification
6.23 number and federal employer identification number;

6.24 (2) complete business name, and if doing business under a different name, the doing
6.25 business as (DBA) name, as registered with the secretary of state;

6.26 (3) first, middle, and last name, and address for all individuals who will be controlling
6.27 individuals, including all officers, owners, and managerial officials as defined in section
6.28 245A.02, subdivision 5a, and the date that the background study was initiated by the applicant
6.29 for each controlling individual; and

6.30 (4) first, middle, and last name, mailing address, and notarized signature of the agent
6.31 authorized by the applicant to accept service on behalf of the controlling individuals.

7.1 (h) At the time of application for licensure or renewal of a license, the applicant or license
 7.2 holder must acknowledge on the form provided by the commissioner if the applicant or
 7.3 license holder elects to receive any public funding reimbursement from the commissioner
 7.4 for services provided under the license that:

7.5 (1) the applicant's or license holder's compliance with the provider enrollment agreement
 7.6 or registration requirements for receipt of public funding may be monitored by the
 7.7 commissioner as part of a licensing investigation or licensing inspection; and

7.8 (2) noncompliance with the provider enrollment agreement or registration requirements
 7.9 for receipt of public funding that is identified through a licensing investigation or licensing
 7.10 inspection, or noncompliance with a licensing requirement that is a basis of enrollment for
 7.11 reimbursement for a service, may result in:

7.12 (i) a correction order or a conditional license under section 245A.06, or sanctions under
 7.13 section 245A.07;

7.14 (ii) nonpayment of claims submitted by the license holder for public program
 7.15 reimbursement;

7.16 (iii) recovery of payments made for the service;

7.17 (iv) disenrollment in the public payment program; or

7.18 (v) other administrative, civil, or criminal penalties as provided by law.

7.19 Sec. 12. Minnesota Statutes 2016, section 245A.04, subdivision 2, is amended to read:

7.20 Subd. 2. **Notification of affected municipality.** The commissioner must not issue a
 7.21 license under this chapter without giving 30 calendar days' written notice to the affected
 7.22 municipality or other political subdivision unless the program is considered a permitted
 7.23 single-family residential use under sections 245A.11 and 245A.14. The commissioner may
 7.24 provide the notice through electronic communication. The notification must be given before
 7.25 the first issuance of a license under this chapter and annually after that time if annual
 7.26 notification is requested in writing by the affected municipality or other political subdivision.
 7.27 State funds must not be made available to or be spent by an agency or department of state,
 7.28 county, or municipal government for payment to a residential or nonresidential program
 7.29 licensed under this chapter until the provisions of this subdivision have been complied with
 7.30 in full. The provisions of this subdivision shall not apply to programs located in hospitals.

7.31 **EFFECTIVE DATE.** This section is effective August 1, 2018.

8.1 Sec. 13. Minnesota Statutes 2017 Supplement, section 245A.04, subdivision 4, is amended
8.2 to read:

8.3 Subd. 4. **Inspections; waiver.** (a) Before issuing ~~an initial~~ a license under this chapter,
8.4 the commissioner shall conduct an inspection of the program. The inspection must include
8.5 but is not limited to:

8.6 (1) an inspection of the physical plant;

8.7 (2) an inspection of records and documents;

8.8 (3) an evaluation of the program by consumers of the program;

8.9 (4) observation of the program in operation; and

8.10 (5) an inspection for the health, safety, and fire standards in licensing requirements for
8.11 a child care license holder.

8.12 For the purposes of this subdivision, "consumer" means a person who receives the
8.13 services of a ~~licensed~~ program licensed under this chapter, the person's legal guardian, or
8.14 the parent or individual having legal custody of a child who receives the services of a ~~licensed~~
8.15 program licensed under this chapter.

8.16 (b) The evaluation required in paragraph (a), clause (3), or the observation in paragraph
8.17 (a), clause (4), is not required prior to issuing ~~an initial~~ a license under subdivision 7. If the
8.18 commissioner issues ~~an initial~~ a license under subdivision 7 this chapter, these requirements
8.19 must be completed within one year after the issuance of ~~an initial~~ the license.

8.20 (c) Before completing a licensing inspection in a family child care program or child care
8.21 center, the licensing agency must offer the license holder an exit interview to discuss
8.22 violations of law or rule observed during the inspection and offer technical assistance on
8.23 how to comply with applicable laws and rules. Nothing in this paragraph limits the ability
8.24 of the commissioner to issue a correction order or negative action for violations of law or
8.25 rule not discussed in an exit interview or in the event that a license holder chooses not to
8.26 participate in an exit interview.

8.27 (d) The commissioner or the county shall inspect at least annually a child care provider
8.28 licensed under this chapter and Minnesota Rules, chapter 9502 or 9503, for compliance
8.29 with applicable licensing standards.

8.30 (e) No later than November 19, 2017, the commissioner shall make publicly available
8.31 on the department's Web site the results of inspection reports of all child care providers
8.32 licensed under this chapter and under Minnesota Rules, chapter 9502 or 9503, and the

9.1 number of deaths, serious injuries, and instances of substantiated child maltreatment that
 9.2 occurred in licensed child care settings each year.

9.3 **EFFECTIVE DATE.** This section is effective August 1, 2018.

9.4 Sec. 14. Minnesota Statutes 2016, section 245A.04, subdivision 6, is amended to read:

9.5 Subd. 6. **Commissioner's evaluation.** (a) Before issuing, denying, suspending, revoking,
 9.6 or making conditional a license, the commissioner shall evaluate information gathered under
 9.7 this section. The commissioner's evaluation shall consider the requirements of statutes and
 9.8 rules applicable to the program or services for which the applicant is seeking to be licensed,
 9.9 including the disqualification standards set forth in chapter 245C, and shall evaluate facts,
 9.10 conditions, or circumstances concerning:

9.11 (1) the program's operation;

9.12 (2) the well-being of persons served by the program;

9.13 (3) available consumer evaluations of the program; ~~and;~~

9.14 (4) information about the qualifications of the personnel employed by the applicant or
 9.15 license holder; and

9.16 (5) the applicant's ability to demonstrate competent knowledge of the applicable laws
 9.17 and rules including but not limited to this chapter and chapters 119B and 245C.

9.18 (b) The commissioner shall also evaluate the results of the study required in subdivision
 9.19 3 and determine whether a risk of harm to the persons served by the program exists. In
 9.20 conducting this evaluation, the commissioner shall apply the disqualification standards set
 9.21 forth in chapter 245C.

9.22 **EFFECTIVE DATE.** This section is effective August 1, 2018.

9.23 Sec. 15. Minnesota Statutes 2016, section 245A.04, subdivision 7, is amended to read:

9.24 Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines that
 9.25 the program complies with all applicable rules and laws, the commissioner shall issue a
 9.26 license consistent with this section or, if applicable, a temporary change of ownership license
 9.27 under section 245A.043. At minimum, the license shall state:

9.28 (1) the name of the license holder;

9.29 (2) the address of the program;

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

10.1 (4) the type of license;

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

10.4 (6) any special conditions of licensure.

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

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

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

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

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

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

10.19 ~~(e)~~ (d) Except as provided in paragraphs ~~(g)~~ (e) and ~~(h)~~ (f), the commissioner shall not
10.20 issue or reissue a license if the applicant, license holder, or controlling individual has:

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

10.23 (2) been denied a license within the past two years;

10.24 (3) had a license issued under this chapter revoked within the past five years;

10.25 (4) an outstanding debt related to a license fee, licensing fine, or settlement agreement
10.26 for which payment is delinquent; or

10.27 (5) failed to submit the information required of an applicant under subdivision 1,
10.28 paragraph (f) or (g), after being requested by the commissioner.

10.29 When a license issued under this chapter is revoked under clause (1) or (3), the license
10.30 holder and controlling individual may not hold any license under chapter 245A or 245D for

11.1 five years following the revocation, and other licenses held by the applicant, license holder,
11.2 or controlling individual shall also be revoked.

11.3 ~~(f)~~ (e) The commissioner shall not issue or reissue a license under this chapter if an
11.4 individual living in the household where the licensed services will be provided as specified
11.5 under section 245C.03, subdivision 1, has been disqualified and the disqualification has not
11.6 been set aside and no variance has been granted.

11.7 ~~(g)~~ (f) Pursuant to section 245A.07, subdivision 1, paragraph (b), when a license issued
11.8 under this chapter has been suspended or revoked and the suspension or revocation is under
11.9 appeal, the program may continue to operate pending a final order from the commissioner.
11.10 If the license under suspension or revocation will expire before a final order is issued, a
11.11 temporary provisional license may be issued provided any applicable license fee is paid
11.12 before the temporary provisional license is issued.

11.13 ~~(h)~~ (g) Notwithstanding paragraph ~~(g)~~ (f), when a revocation is based on the
11.14 disqualification of a controlling individual or license holder, and the controlling individual
11.15 or license holder is ordered under section 245C.17 to be immediately removed from direct
11.16 contact with persons receiving services or is ordered to be under continuous, direct
11.17 supervision when providing direct contact services, the program may continue to operate
11.18 only if the program complies with the order and submits documentation demonstrating
11.19 compliance with the order. If the disqualified individual fails to submit a timely request for
11.20 reconsideration, or if the disqualification is not set aside and no variance is granted, the
11.21 order to immediately remove the individual from direct contact or to be under continuous,
11.22 direct supervision remains in effect pending the outcome of a hearing and final order from
11.23 the commissioner.

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

11.30 ~~(j)~~ (i) Unless otherwise specified by statute, all licenses issued under this chapter expire
11.31 at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must
11.32 apply for and be granted a new license to operate the program or the program must not be
11.33 operated after the expiration date.

12.1 ~~(k)~~ (j) The commissioner shall not issue or reissue a license under this chapter if it has
 12.2 been determined that a tribal licensing authority has established jurisdiction to license the
 12.3 program or service.

12.4 **EFFECTIVE DATE.** This section is effective August 1, 2018.

12.5 Sec. 16. Minnesota Statutes 2016, section 245A.04, is amended by adding a subdivision
 12.6 to read:

12.7 Subd. 7a. **Notification required.** (a) A license holder must notify the commissioner and
 12.8 obtain the commissioner's approval before making any change that would alter the license
 12.9 information listed under subdivision 7, paragraph (a).

12.10 (b) At least 30 days before the effective date of a change, the license holder must notify
 12.11 the commissioner in writing of any:

12.12 (1) change to the license holder's authorized agent as defined in section 245A.02,
 12.13 subdivision 3b;

12.14 (2) change to the license holder's controlling individual as defined in section 245A.02,
 12.15 subdivision 5a;

12.16 (3) change to license holder information on file with the secretary of state;

12.17 (4) change to a program's business structure;

12.18 (5) change in the location of the program or service licensed under this chapter; and

12.19 (6) change in the federal or state tax identification number associated with the license
 12.20 holder.

12.21 (c) When a license holder notifies the commissioner of a change to the business structure
 12.22 governing the licensed program or services but is not selling the business, the license holder
 12.23 must provide amended articles of incorporation and other documentation of the change and
 12.24 any other information requested by the commissioner.

12.25 **EFFECTIVE DATE.** This section is effective August 1, 2018.

12.26 Sec. 17. Minnesota Statutes 2016, section 245A.04, subdivision 10, is amended to read:

12.27 Subd. 10. **Adoption agency; additional requirements.** In addition to the other
 12.28 requirements of this section, an individual, ~~corporation, partnership, voluntary association,~~
 12.29 ~~other~~ or organization, or controlling individual applying for a license to place children for
 12.30 adoption must:

13.1 (1) incorporate as a nonprofit corporation under chapter 317A;

13.2 (2) file with the application for licensure a copy of the disclosure form required under
13.3 section 259.37, subdivision 2;

13.4 (3) provide evidence that a bond has been obtained and will be continuously maintained
13.5 throughout the entire operating period of the agency, to cover the cost of transfer of records
13.6 to and storage of records by the agency which has agreed, according to rule established by
13.7 the commissioner, to receive the applicant agency's records if the applicant agency voluntarily
13.8 or involuntarily ceases operation and fails to provide for proper transfer of the records. The
13.9 bond must be made in favor of the agency which has agreed to receive the records; and

13.10 (4) submit a certified audit to the commissioner each year the license is renewed as
13.11 required under section 245A.03, subdivision 1.

13.12 **EFFECTIVE DATE.** This section is effective August 1, 2018.

13.13 Sec. 18. **[245A.043] LICENSE APPLICATION AFTER CHANGE OF OWNERSHIP.**

13.14 **Subdivision 1. Transfer prohibited.** A license issued under this chapter is only valid
13.15 for a premises and individual, organization, or government entity identified by the
13.16 commissioner on the license. A license is not transferable or assignable.

13.17 **Subd. 2. Change of ownership.** If the commissioner determines that there will be a
13.18 change of ownership, the commissioner shall require submission of a new license application.
13.19 A change of ownership occurs when:

13.20 (1) the license holder sells or transfers 100 percent of the property, stock, or assets;

13.21 (2) the license holder merges with another organization;

13.22 (3) the license holder consolidates with two or more organizations, resulting in the
13.23 creation of a new organization;

13.24 (4) there is a change in the federal tax identification number associated with the license
13.25 holder; or

13.26 (5) there is a turnover of each controlling individual associated with the license within
13.27 a 12-month period. A change to the license holder's controlling individuals, including a
13.28 change due to a transfer of stock, is not a change of ownership if at least one controlling
13.29 individual who was listed on the license for at least 12 consecutive months continues to be
13.30 a controlling individual after the reported change.

14.1 Subd. 3. Change of ownership requirements. (a) A license holder who intends to
14.2 change the ownership of the program or service as defined in subdivision 2 to a party that
14.3 intends to assume operation without an interruption in service longer than 60 days after
14.4 acquiring the program or service must provide the commissioner with written notice of the
14.5 proposed sale or change on a form provided by the commissioner, at least 60 days before
14.6 the anticipated date of the change in ownership. For purposes of this subdivision and
14.7 subdivision 4, "party" means the party that intends to operate the service or program.

14.8 (b) The party must submit a license application under this chapter on the form and in
14.9 the manner prescribed by the commissioner at least 30 days before the change of ownership
14.10 is complete, and must include documentation to support the upcoming change. The party
14.11 must comply with background study requirements under chapter 245C and shall pay the
14.12 application fee required in section 245A.10. A party that intends to assume operation without
14.13 an interruption in service longer than 60 days after acquiring the program or service is
14.14 exempt from the requirements of Minnesota Rules, part 9530.6800.

14.15 (c) The commissioner may develop streamlined application procedures when the party
14.16 is an existing license holder under this chapter and is acquiring a program licensed under
14.17 this chapter or service in the same service class as one or more licensed programs or services
14.18 the party operates and those licenses are in substantial compliance according to the licensing
14.19 standards in this chapter and applicable rules. For purposes of this subdivision, "substantial
14.20 compliance" means within the past 12 months the commissioner did not: (i) issue a sanction
14.21 under section 245A.07 against a license held by the party or (ii) make a license held by the
14.22 party conditional according to section 245A.06.

14.23 (d) Except when a temporary change of ownership license is issued pursuant to
14.24 subdivision 4, the existing license holder is solely responsible for operating the program
14.25 according to applicable rules and statutes until a license under this chapter is issued to the
14.26 party.

14.27 (e) If a licensing inspection of the program or service was conducted within the previous
14.28 12 months and the existing license holder's license record demonstrates substantial
14.29 compliance with the applicable licensing requirements, the commissioner may waive the
14.30 party's inspection required by section 245A.04, subdivision 4. The party must submit to the
14.31 commissioner proof that the premises was inspected by a fire marshal or that the fire marshal
14.32 deemed that an inspection was not warranted and proof that the premises was inspected for
14.33 compliance with the building code or that no inspection was deemed warranted.

15.1 (f) If the party is seeking a license for a program or service that has an outstanding
15.2 correction order, the party must submit a letter with the license application identifying how
15.3 and within what length of time the party shall resolve the outstanding correction order and
15.4 come into full compliance with the licensing requirements.

15.5 (g) Any action taken under section 245A.06 or 245A.07 against the existing license
15.6 holder's license at the time the party is applying for a license, including when the existing
15.7 license holder is operating under a conditional license or is subject to a revocation, shall
15.8 remain in effect until the commissioner determines that the grounds for the action are
15.9 corrected or no longer exist.

15.10 (h) The commissioner shall evaluate the application of the party according to section
15.11 245A.04, subdivision 6. Pursuant to section 245A.04, subdivision 7, if the commissioner
15.12 determines that the party complies with applicable laws and rules, the commissioner may
15.13 issue a license or a temporary change of ownership license.

15.14 (i) The commissioner may deny an application as provided in section 245A.05. An
15.15 applicant whose application was denied by the commissioner may appeal the denial according
15.16 to section 245A.05.

15.17 (j) This subdivision does not apply to a licensed program or service located in a home
15.18 where the license holder resides.

15.19 Subd. 4. **Temporary change of ownership license.** (a) After receiving the party's
15.20 application and upon the written request of the existing license holder and the party, the
15.21 commissioner may issue a temporary change of ownership license to the party while the
15.22 commissioner evaluates the party's application. Until a decision is made to grant or deny a
15.23 license under this chapter, the existing license holder and the party shall both be responsible
15.24 for operating the program or service according to applicable laws and rules, and the sale or
15.25 transfer of the license holder's ownership interest in the licensed program or service does
15.26 not terminate the existing license.

15.27 (b) The commissioner may establish criteria to issue a temporary change of ownership
15.28 license when a license holder's death, divorce, or other event affecting the ownership of the
15.29 program when an applicant seeks to assume operation of the program or service to ensure
15.30 continuity of the program or service while a license application is evaluated. This subdivision
15.31 applies to any program or service licensed under this chapter.

15.32 **EFFECTIVE DATE.** This section is effective August 1, 2018.

16.1 Sec. 19. Minnesota Statutes 2016, section 245A.05, is amended to read:

16.2 **245A.05 DENIAL OF APPLICATION.**

16.3 (a) The commissioner may deny a license if an applicant or controlling individual:

16.4 (1) fails to submit a substantially complete application after receiving notice from the
16.5 commissioner under section 245A.04, subdivision 1;

16.6 (2) fails to comply with applicable laws or rules;

16.7 (3) knowingly withholds relevant information from or gives false or misleading
16.8 information to the commissioner in connection with an application for a license or during
16.9 an investigation;

16.10 (4) has a disqualification that has not been set aside under section 245C.22 and no
16.11 variance has been granted;

16.12 (5) has an individual living in the household who received a background study under
16.13 section 245C.03, subdivision 1, paragraph (a), clause (2), who has a disqualification that
16.14 has not been set aside under section 245C.22, and no variance has been granted;

16.15 (6) is associated with an individual who received a background study under section
16.16 245C.03, subdivision 1, paragraph (a), clause (6), who may have unsupervised access to
16.17 children or vulnerable adults, and who has a disqualification that has not been set aside
16.18 under section 245C.22, and no variance has been granted; ~~or~~

16.19 (7) fails to comply with section 245A.04, subdivision 1, paragraph (f) or (g);₂

16.20 (8) fails to demonstrate competent knowledge as required by section 245A.04, subdivision
16.21 6;

16.22 (9) has a history of noncompliance as a license holder or controlling individual with
16.23 applicable laws or rules including but not limited to this chapter and chapters 199B and
16.24 245C; or

16.25 (10) is prohibited from holding a license according to section 245.095.

16.26 (b) An applicant whose application has been denied by the commissioner must be given
16.27 notice of the denial. Notice must be given by certified mail or personal service. The notice
16.28 must state the reasons the application was denied and must inform the applicant of the right
16.29 to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to
16.30 1400.8612. The applicant may appeal the denial by notifying the commissioner in writing
16.31 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
16.32 the commissioner within 20 calendar days after the applicant received the notice of denial.

17.1 If an appeal request is made by personal service, it must be received by the commissioner
17.2 within 20 calendar days after the applicant received the notice of denial. Section 245A.08
17.3 applies to hearings held to appeal the commissioner's denial of an application.

17.4 **EFFECTIVE DATE.** This section is effective August 1, 2018.

17.5 Sec. 20. Minnesota Statutes 2016, section 256.01, subdivision 18d, is amended to read:

17.6 Subd. 18d. **Data sharing with Department of Human Services; multiple identification**
17.7 **cards.** (a) The commissioner of public safety shall, on a monthly basis, provide the
17.8 commissioner of human services with the first, middle, and last name, the address, date of
17.9 birth, driver's license or state identification card number, Social Security or taxpayer
17.10 identification number, and all photographs or electronically produced images of all applicants
17.11 and holders whose drivers' licenses and state identification cards have been canceled under
17.12 section 171.14, paragraph (a), clause (2) or (3), by the commissioner of public safety. After
17.13 the initial data report has been provided by the commissioner of public safety to the
17.14 commissioner of human services under this paragraph, subsequent reports shall only include
17.15 cancellations that occurred after the end date of the cancellations represented in the previous
17.16 data report.

17.17 (b) The commissioner of human services shall compare the information provided under
17.18 paragraph (a) with the commissioner's data regarding recipients of all public assistance
17.19 programs managed by the Department of Human Services to determine whether any
17.20 individual with multiple identification cards issued by the Department of Public Safety has
17.21 illegally or improperly enrolled in any public assistance program managed by the Department
17.22 of Human Services.

17.23 (c) If the commissioner of human services determines that an applicant or recipient has
17.24 illegally or improperly enrolled in any public assistance program, the commissioner shall
17.25 provide all due process protections to the individual before terminating the individual from
17.26 the program according to applicable statute and notifying the county attorney.

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

17.28 Sec. 21. Minnesota Statutes 2016, section 256.01, subdivision 18e, is amended to read:

17.29 Subd. 18e. **Data sharing with the Department of Human Services; legal presence**
17.30 **date data.** (a) The commissioner of public safety shall, on a monthly basis, provide the
17.31 commissioner of human services with the first, middle, and last name, and address, date of
17.32 birth, Social Security or taxpayer identification number, and driver's license or state

18.1 identification card number of all applicants and holders of drivers' licenses and state
 18.2 identification cards whose temporary legal presence date has expired and as a result the
 18.3 driver's license or identification card has been accordingly canceled under section 171.14
 18.4 by the commissioner of public safety.

18.5 (b) The commissioner of human services shall use the information provided under
 18.6 paragraph (a) to determine whether the eligibility of any recipients of public assistance
 18.7 programs managed by the Department of Human Services has changed as a result of the
 18.8 ~~status change in~~ data provided by the Department of Public Safety data.

18.9 (c) If the commissioner of human services determines that a recipient has illegally or
 18.10 improperly received benefits from any public assistance program, the commissioner shall
 18.11 provide all due process protections to the individual before terminating the individual from
 18.12 the program according to applicable statute and ~~notifying~~ must notify the county attorney.

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

18.14 Sec. 22. Minnesota Statutes 2017 Supplement, section 256.9685, subdivision 1, is amended
 18.15 to read:

18.16 Subdivision 1. **Authority.** (a) The commissioner shall establish procedures for
 18.17 determining medical assistance payment rates under a prospective payment system for
 18.18 inpatient hospital services in hospitals that qualify as vendors of medical assistance. The
 18.19 commissioner shall establish, by rule, procedures for implementing this section and sections
 18.20 256.9686, 256.969, and 256.9695. Services must meet the requirements of section 256B.04,
 18.21 subdivision 15, to be eligible for payment.

18.22 (b) The commissioner shall publish in the Minnesota Health Care Program Provider
 18.23 Manual the industry standard, evidence-based clinical decision tool used for determining
 18.24 the medical necessity of a recipient's hospital admission. The tool shall be used in conjunction
 18.25 with the recipient's medical conditions and records. The commissioner's tool designation is
 18.26 not subject to administrative appeal and is not subject to the requirements of chapter 14,
 18.27 including section 14.386. This paragraph supersedes any contrary rule or law.

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

18.29 Sec. 23. Minnesota Statutes 2016, section 256B.02, subdivision 7, is amended to read:

18.30 Subd. 7. **Vendor of medical care.** (a) "Vendor of medical care" means any person or
 18.31 persons furnishing, within the scope of the vendor's respective license, any or all of the
 18.32 following goods or services: medical, surgical, hospital, ambulatory surgical center services,

19.1 optical, visual, dental and nursing services; drugs and medical supplies; appliances;
19.2 laboratory, diagnostic, and therapeutic services; nursing home and convalescent care;
19.3 screening and health assessment services provided by public health nurses as defined in
19.4 section 145A.02, subdivision 18; health care services provided at the residence of the patient
19.5 if the services are performed by a public health nurse and the nurse indicates in a statement
19.6 submitted under oath that the services were actually provided; and such other medical
19.7 services or supplies provided or prescribed by persons authorized by state law to give such
19.8 services and supplies, including services under section 256B.4912. For purposes of this
19.9 chapter, the term includes a person or entity that furnishes a good or service eligible for
19.10 medical assistance or federally approved waiver plan payments under this chapter. The term
19.11 includes, but is not limited to, directors and officers of corporations or members of
19.12 partnerships who, either individually or jointly with another or others, have the legal control,
19.13 supervision, or responsibility of submitting claims for reimbursement to the medical
19.14 assistance program. The term only includes directors and officers of corporations who
19.15 personally receive a portion of the distributed assets upon liquidation or dissolution, and
19.16 their liability is limited to the portion of the claim that bears the same proportion to the total
19.17 claim as their share of the distributed assets bears to the total distributed assets.

19.18 (b) "Vendor of medical care" also includes any person who is credentialed as a health
19.19 professional under standards set by the governing body of a federally recognized Indian
19.20 tribe authorized under an agreement with the federal government according to United States
19.21 Code, title 25, section 450f, to provide health services to its members, and who through a
19.22 tribal facility provides covered services to American Indian people within a contract health
19.23 service delivery area of a Minnesota reservation, as defined under Code of Federal
19.24 Regulations, title 42, section 36.22.

19.25 (c) A federally recognized Indian tribe that intends to implement standards for
19.26 credentialing health professionals must submit the standards to the commissioner of human
19.27 services, along with evidence of meeting, exceeding, or being exempt from corresponding
19.28 state standards. The commissioner shall maintain a copy of the standards and supporting
19.29 evidence, and shall use those standards to enroll tribal-approved health professionals as
19.30 medical assistance providers. For purposes of this section, "Indian" and "Indian tribe" mean
19.31 persons or entities that meet the definition in United States Code, title 25, section 450b.

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

20.1 Sec. 24. Minnesota Statutes 2016, section 256B.04, subdivision 21, is amended to read:

20.2 Subd. 21. **Provider enrollment.** (a) If the commissioner or the Centers for Medicare
20.3 and Medicaid Services determines that a provider is designated "high-risk," the commissioner
20.4 may withhold payment from providers within that category upon initial enrollment for a
20.5 90-day period. The withholding for each provider must begin on the date of the first
20.6 submission of a claim.

20.7 (b) An enrolled provider that is also licensed by the commissioner under chapter 245A,
20.8 or is licensed as a home care provider by the Department of Health under chapter 144A and
20.9 has a home and community-based services designation on the home care license under
20.10 section 144A.484, must designate an individual as the entity's compliance officer. The
20.11 compliance officer must:

20.12 (1) develop policies and procedures to assure adherence to medical assistance laws and
20.13 regulations and to prevent inappropriate claims submissions;

20.14 (2) train the employees of the provider entity, and any agents or subcontractors of the
20.15 provider entity including billers, on the policies and procedures under clause (1);

20.16 (3) respond to allegations of improper conduct related to the provision or billing of
20.17 medical assistance services, and implement action to remediate any resulting problems;

20.18 (4) use evaluation techniques to monitor compliance with medical assistance laws and
20.19 regulations;

20.20 (5) promptly report to the commissioner any identified violations of medical assistance
20.21 laws or regulations; and

20.22 (6) within 60 days of discovery by the provider of a medical assistance reimbursement
20.23 overpayment, report the overpayment to the commissioner and make arrangements with
20.24 the commissioner for the commissioner's recovery of the overpayment.

20.25 The commissioner may require, as a condition of enrollment in medical assistance, that a
20.26 provider within a particular industry sector or category establish a compliance program that
20.27 contains the core elements established by the Centers for Medicare and Medicaid Services.

20.28 (c) The commissioner may revoke the enrollment of an ordering or rendering provider
20.29 for a period of not more than one year, if the provider fails to maintain and, upon request
20.30 from the commissioner, provide access to documentation relating to written orders or requests
20.31 for payment for durable medical equipment, certifications for home health services, or
20.32 referrals for other items or services written or ordered by such provider, when the
20.33 commissioner has identified a pattern of a lack of documentation. A pattern means a failure

21.1 to maintain documentation or provide access to documentation on more than one occasion.
21.2 Nothing in this paragraph limits the authority of the commissioner to sanction a provider
21.3 under the provisions of section 256B.064.

21.4 (d) The commissioner shall terminate or deny the enrollment of any individual or entity
21.5 if the individual or entity has been terminated from participation in Medicare or under the
21.6 Medicaid program or Children's Health Insurance Program of any other state.

21.7 (e) As a condition of enrollment in medical assistance, the commissioner shall require
21.8 that a provider designated "moderate" or "high-risk" by the Centers for Medicare and
21.9 Medicaid Services or the commissioner permit the Centers for Medicare and Medicaid
21.10 Services, its agents, or its designated contractors and the state agency, its agents, or its
21.11 designated contractors to conduct unannounced on-site inspections of any provider location.
21.12 The commissioner shall publish in the Minnesota Health Care Program Provider Manual a
21.13 list of provider types designated "limited," "moderate," or "high-risk," based on the criteria
21.14 and standards used to designate Medicare providers in Code of Federal Regulations, title
21.15 42, section 424.518. The list and criteria are not subject to the requirements of chapter 14.
21.16 The commissioner's designations are not subject to administrative appeal.

21.17 (f) As a condition of enrollment in medical assistance, the commissioner shall require
21.18 that a high-risk provider, or a person with a direct or indirect ownership interest in the
21.19 provider of five percent or higher, consent to criminal background checks, including
21.20 fingerprinting, when required to do so under state law or by a determination by the
21.21 commissioner or the Centers for Medicare and Medicaid Services that a provider is designated
21.22 high-risk for fraud, waste, or abuse.

21.23 (g)(1) Upon initial enrollment, reenrollment, and notification of revalidation, all durable
21.24 medical equipment, prosthetics, orthotics, and supplies (DMEPOS) medical suppliers
21.25 meeting the durable medical equipment provider and supplier definition in clause (3),
21.26 operating in Minnesota and receiving Medicaid funds must purchase a surety bond that is
21.27 annually renewed and designates the Minnesota Department of Human Services as the
21.28 obligee, and must be submitted in a form approved by the commissioner. For purposes of
21.29 this clause, the following medical suppliers are not required to obtain a surety bond: a
21.30 federally qualified health center, a home health agency, the Indian Health Service, a
21.31 pharmacy, and a rural health clinic.

21.32 (2) At the time of initial enrollment or reenrollment, durable medical equipment providers
21.33 and suppliers defined in clause (3) must purchase a surety bond of \$50,000. If a revalidating
21.34 provider's Medicaid revenue in the previous calendar year is up to and including \$300,000,

22.1 the provider agency must purchase a surety bond of \$50,000. If a revalidating provider's
 22.2 Medicaid revenue in the previous calendar year is over \$300,000, the provider agency must
 22.3 purchase a surety bond of \$100,000. ~~The surety bond must allow for recovery of costs and~~
 22.4 ~~fees in pursuing a claim on the bond.~~ The surety bond must be in a form approved by the
 22.5 commissioner, renewed annually, and allow for recovery of the entire value of the bond for
 22.6 up to five years from the date of submission of a claim for medical assistance payment if
 22.7 the enrolled provider violates this chapter or Minnesota Rules, chapter 9505, regardless of
 22.8 the actual loss.

22.9 (3) "Durable medical equipment provider or supplier" means a medical supplier that can
 22.10 purchase medical equipment or supplies for sale or rental to the general public and is able
 22.11 to perform or arrange for necessary repairs to and maintenance of equipment offered for
 22.12 sale or rental.

22.13 (h) The Department of Human Services may require a provider to purchase a surety
 22.14 bond as a condition of initial enrollment, reenrollment, reinstatement, or continued enrollment
 22.15 if: (1) the provider fails to demonstrate financial viability, (2) the department determines
 22.16 there is significant evidence of or potential for fraud and abuse by the provider, or (3) the
 22.17 provider or category of providers is designated high-risk pursuant to paragraph (a) and as
 22.18 per Code of Federal Regulations, title 42, section 455.450. The surety bond must be in an
 22.19 amount of \$100,000 or ten percent of the provider's payments from Medicaid during the
 22.20 immediately preceding 12 months, whichever is greater. The surety bond must name the
 22.21 Department of Human Services as an obligee and must allow for recovery of costs and fees
 22.22 in pursuing a claim on the bond. This paragraph does not apply if the provider currently
 22.23 maintains a surety bond under the requirements in section 256B.0659 or 256B.85.

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

22.25 Sec. 25. Minnesota Statutes 2016, section 256B.0625, subdivision 43, is amended to read:

22.26 Subd. 43. **Mental health provider travel time.** (a) Medical assistance covers provider
 22.27 travel time if a recipient's individual treatment plan recipient requires the provision of mental
 22.28 health services outside of the provider's normal usual place of business. This does not include
 22.29 any travel time which is included in other billable services, and is only covered when the
 22.30 mental health service being provided to a recipient is covered under medical assistance.

22.31 (b) Mental health provider travel time under this subdivision covers the time the provider
 22.32 is in transit to deliver a mental health service to a recipient at a location that is not the
 22.33 provider's usual place of business or to the next location for delivery of a covered mental
 22.34 health service, and the time a provider is in transit returning from the location of the last

23.1 recipient who received services on that day to the provider's usual place of business. A
23.2 provider must travel the most direct route available. Mental health provider travel time does
23.3 not include time for scheduled or unscheduled stops, meal breaks, or vehicle maintenance
23.4 or repair, including refueling or vehicle emergencies. Recipient transport is not covered
23.5 under this subdivision.

23.6 (c) Mental health provider travel time under this subdivision is only covered when the
23.7 mental health service being provided is covered under medical assistance and only when
23.8 the covered service is delivered and billed. Mental health provider travel time is not covered
23.9 when the mental health service being provided otherwise includes provider travel time or
23.10 when the service is site based.

23.11 (d) If the first occurrence of mental health provider travel time in a day begins at a
23.12 location other than the provider's usual place of business, the provider shall bill for the lesser
23.13 of the travel time between the location and the recipient and the travel time between the
23.14 provider's usual place of business and the recipient. This provision does not apply to mental
23.15 health crisis services provided under section 256B.0624 outside of normal business hours
23.16 if on-call staff are being dispatched directly from a location other than the provider's usual
23.17 place of business.

23.18 (e) Mental health provider travel time may be billed for not more than one round trip
23.19 per recipient per day.

23.20 (f) As a condition of payment, a provider must document each occurrence of mental
23.21 health provider travel time according to this subdivision. Program funds paid for mental
23.22 health provider travel time that is not documented according to this subdivision shall be
23.23 recovered by the department. The documentation may be collected and maintained
23.24 electronically or in paper form but must be made available and produced upon request. A
23.25 provider must compile records that meet the following requirements for each occurrence:

23.26 (1) the record must be in English and must be legible according to the standard of a
23.27 reasonable person;

23.28 (2) the recipient's name and date of birth or individual identification number must be on
23.29 each page of the record;

23.30 (3) the reason the provider must travel to provide services, if not otherwise documented
23.31 in the recipient's individual treatment plan; and

23.32 (4) each entry in the record must document:

23.33 (i) the date on which the entry is made;

- 24.1 (ii) the date the travel occurred;
- 24.2 (iii) the printed last name, first name, and middle initial of the provider and the provider's
 24.3 identification number, if the provider has one;
- 24.4 (iv) the signature of the traveling provider stating that the provider understands that it
 24.5 is a federal crime to provide false information on service billings for medical assistance
 24.6 payments;
- 24.7 (v) the location of the provider's usual place of business;
- 24.8 (vi) the address, or the description if the address is not available, of both the origination
 24.9 site and destination site and the travel time for the most direct route from the origination
 24.10 site to the destination site;
- 24.11 (vii) any unusual travel conditions that may cause a need to bill for additional time over
 24.12 and above what an electronic source document shows the mileage and time necessary to
 24.13 travel from the origination site to destination site;
- 24.14 (viii) the time the provider left the origination site and the time the provider arrived at
 24.15 the destination site, with a.m. and p.m. designations; and
- 24.16 (ix) the electronic source documentation used to calculate the most direct route detailing
 24.17 driving directions, mileage, and time.

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

24.19 Sec. 26. Minnesota Statutes 2016, section 256B.064, subdivision 1b, is amended to read:

24.20 Subd. 1b. **Sanctions available.** The commissioner may impose the following sanctions
 24.21 for the conduct described in subdivision 1a: suspension or withholding of payments to a
 24.22 vendor and suspending or terminating participation in the program, or imposition of a fine
 24.23 under subdivision 2, paragraph (f). When imposing sanctions under this section, the
 24.24 commissioner shall consider the nature, chronicity, or severity of the conduct and the effect
 24.25 of the conduct on the health and safety of persons served by the vendor. The commissioner
 24.26 shall suspend a vendor's participation in the program for a minimum of five years if the
 24.27 vendor is convicted of a crime, received a stay of adjudication, or entered a court-ordered
 24.28 diversion program for an offense related to provision of a health service under medical
 24.29 assistance or health care fraud. Regardless of imposition of sanctions, the commissioner
 24.30 may make a referral to the appropriate state licensing board.

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

25.1 Sec. 27. Minnesota Statutes 2016, section 256B.064, subdivision 2, is amended to read:

25.2 Subd. 2. **Imposition of monetary recovery and sanctions.** (a) The commissioner shall
25.3 determine any monetary amounts to be recovered and sanctions to be imposed upon a vendor
25.4 of medical care under this section. Except as provided in paragraphs (b) and (d), neither a
25.5 monetary recovery nor a sanction will be imposed by the commissioner without prior notice
25.6 and an opportunity for a hearing, according to chapter 14, on the commissioner's proposed
25.7 action, provided that the commissioner may suspend or reduce payment to a vendor of
25.8 medical care, except a nursing home or convalescent care facility, after notice and prior to
25.9 the hearing if in the commissioner's opinion that action is necessary to protect the public
25.10 welfare and the interests of the program.

25.11 (b) Except when the commissioner finds good cause not to suspend payments under
25.12 Code of Federal Regulations, title 42, section 455.23 (e) or (f), the commissioner shall
25.13 withhold or reduce payments to a vendor of medical care without providing advance notice
25.14 of such withholding or reduction if either of the following occurs:

25.15 (1) the vendor is convicted of a crime involving the conduct described in subdivision
25.16 1a; or

25.17 (2) the commissioner determines there is a credible allegation of fraud for which an
25.18 investigation is pending under the program. A credible allegation of fraud is an allegation
25.19 which has been verified by the state, from any source, including but not limited to:

25.20 (i) fraud hotline complaints;

25.21 (ii) claims data mining; and

25.22 (iii) patterns identified through provider audits, civil false claims cases, and law
25.23 enforcement investigations.

25.24 Allegations are considered to be credible when they have an indicia of reliability and
25.25 the state agency has reviewed all allegations, facts, and evidence carefully and acts
25.26 judiciously on a case-by-case basis.

25.27 (c) The commissioner must send notice of the withholding or reduction of payments
25.28 under paragraph (b) within five days of taking such action unless requested in writing by a
25.29 law enforcement agency to temporarily withhold the notice. The notice must:

25.30 (1) state that payments are being withheld according to paragraph (b);

25.31 (2) set forth the general allegations as to the nature of the withholding action, but need
25.32 not disclose any specific information concerning an ongoing investigation;

26.1 (3) except in the case of a conviction for conduct described in subdivision 1a, state that
26.2 the withholding is for a temporary period and cite the circumstances under which withholding
26.3 will be terminated;

26.4 (4) identify the types of claims to which the withholding applies; and

26.5 (5) inform the vendor of the right to submit written evidence for consideration by the
26.6 commissioner.

26.7 The withholding or reduction of payments will not continue after the commissioner
26.8 determines there is insufficient evidence of fraud by the vendor, or after legal proceedings
26.9 relating to the alleged fraud are completed, unless the commissioner has sent notice of
26.10 intention to impose monetary recovery or sanctions under paragraph (a). Upon conviction
26.11 for a crime related to the provision, management, or administration of a health service under
26.12 medical assistance, a payment held pursuant to this section by the commissioner or a managed
26.13 care organization that contracts with the commissioner under section 256B.035 is forfeited
26.14 up to the amount of any overpayment identified by the commissioner or managed care
26.15 organization, regardless of the amount charged in the criminal complaint or the amount of
26.16 criminal restitution ordered.

26.17 (d) The commissioner shall suspend or terminate a vendor's participation in the program
26.18 without providing advance notice and an opportunity for a hearing when the suspension or
26.19 termination is required because of the vendor's exclusion from participation in Medicare.
26.20 Within five days of taking such action, the commissioner must send notice of the suspension
26.21 or termination. The notice must:

26.22 (1) state that suspension or termination is the result of the vendor's exclusion from
26.23 Medicare;

26.24 (2) identify the effective date of the suspension or termination; and

26.25 (3) inform the vendor of the need to be reinstated to Medicare before reapplying for
26.26 participation in the program.

26.27 (e) Upon receipt of a notice under paragraph (a) that a monetary recovery or sanction is
26.28 to be imposed, a vendor may request a contested case, as defined in section 14.02, subdivision
26.29 3, by filing with the commissioner a written request of appeal. The appeal request must be
26.30 received by the commissioner no later than 30 days after the date the notification of monetary
26.31 recovery or sanction was mailed to the vendor. The appeal request must specify:

26.32 (1) each disputed item, the reason for the dispute, and an estimate of the dollar amount
26.33 involved for each disputed item;

- 27.1 (2) the computation that the vendor believes is correct;
- 27.2 (3) the authority in statute or rule upon which the vendor relies for each disputed item;
- 27.3 (4) the name and address of the person or entity with whom contacts may be made
- 27.4 regarding the appeal; and
- 27.5 (5) other information required by the commissioner.

27.6 (f) The commissioner may order a vendor to forfeit a fine for failure to fully document

27.7 services according to standards in this chapter and Minnesota Rules, chapter 9505. The

27.8 commissioner may assess fines if specific required components of documentation are

27.9 missing. The fine for incomplete documentation shall equal 20 percent of the amount paid

27.10 on the claims for reimbursement submitted by the vendor, or up to \$5,000, whichever is

27.11 less. If the commissioner determines that a vendor repeatedly violated this chapter or

27.12 Minnesota Rules, chapter 9505, related to the provision of services to program recipients

27.13 and the submission of claims for payment, the commissioner may order a vendor to forfeit

27.14 a fine based on the nature, severity, and chronicity of the violations, in an amount of up to

27.15 \$5,000 or 20 percent of the value of the claims, whichever is greater.

27.16 (g) The vendor shall pay the fine assessed on or before the payment date specified. If

27.17 the vendor fails to pay the fine, the commissioner may withhold or reduce payments and

27.18 recover the amount of the fine. A timely appeal shall stay payment of the fine until the

27.19 commissioner issues a final order.

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

27.21 Sec. 28. Minnesota Statutes 2016, section 256B.064, is amended by adding a subdivision

27.22 to read:

27.23 **Subd. 3. Vendor mandates on prohibited hiring.** (a) The commissioner shall maintain

27.24 and publish a list of each excluded individual and entity that was convicted of a crime related

27.25 to the provision, management, or administration of a medical assistance health service, or

27.26 suspended or terminated under subdivision 2. A vendor that receives funding from medical

27.27 assistance shall not:

27.28 (1) employ an individual or entity who is on the exclusion list; or

27.29 (2) enter into or maintain a business relationship with an individual or entity that is on

27.30 the exclusion list.

27.31 (b) Before hiring or entering into a business transaction, a vendor must check the

27.32 exclusion list. The vendor must check the exclusion list on a monthly basis and document

28.1 the date and time the exclusion list was checked and the name and title of the person who
 28.2 checked the exclusion list. The vendor must:

28.3 (1) immediately terminate a current employee on the exclusion list; and

28.4 (2) immediately terminate a business relationship with an individual or entity on the
 28.5 exclusion list.

28.6 (c) A vendor's requirement to check the exclusion list and to terminate an employee on
 28.7 the exclusion list applies to each employee, even if the named employee is not responsible
 28.8 for direct patient care or direct submission of a claim to medical assistance. The requirement
 28.9 to check the exclusion list and terminate a business relationship with an individual or entity
 28.10 on the exclusion list applies to each business relationship, even if the named individual or
 28.11 entity is not responsible for direct patient care or direct submission of a claim to medical
 28.12 assistance.

28.13 (d) A vendor that employs or enters into or maintains a business relationship with an
 28.14 individual or entity on the exclusion list must refund any payment related to a service
 28.15 rendered by an individual or entity on the exclusion list from the date the individual is
 28.16 employed or the date the individual is placed on the exclusion list, whichever is later, and
 28.17 may be subject to:

28.18 (1) sanctions under subdivision 2;

28.19 (2) a civil monetary penalty of up to \$25,000 for each determination by the department
 28.20 that the vendor employed or contracted with an individual or entity on the exclusion list;
 28.21 and

28.22 (3) other fines or penalties allowed by law.

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

28.24 **Sec. 29. [256B.0646] MINNESOTA RESTRICTED RECIPIENT PROGRAM.**

28.25 (a) When a recipient's use of personal care assistance or home and community-based
 28.26 personal care services and supports results in repeated abusive or fraudulent billing, regardless
 28.27 of error, fault, or intent, the commissioner may place the recipient in the Minnesota restricted
 28.28 recipient program. A recipient placed in the Minnesota restricted recipient program under
 28.29 this section must:

28.30 (1) be placed with a traditional personal care assistance provider agency or use an agency
 28.31 provider model; and

29.1 (2) obtain a referral from the recipient's designated primary care provider for personal
 29.2 care assistance or home and community-based personal care services and supports.

29.3 (b) Additional conditions may be placed on the use of personal care assistance services
 29.4 or home and community-based personal care services and supports if the commissioner
 29.5 determines it is necessary to prevent future abusive or fraudulent billing.

29.6 (c) The department shall notify in writing a recipient placed in the Minnesota restricted
 29.7 recipient program under this section and Minnesota Rules, part 9505.2200. The notice shall
 29.8 be sent by first class mail to the recipient's current address on file with the department. A
 29.9 recipient placed in Minnesota's restricted recipient program may contest the placement by
 29.10 submitting a written request for a hearing to the department within 90 days of the notice
 29.11 being sent.

29.12 (d) Placement in the Minnesota restricted recipient program under this section is subject
 29.13 to appeal according to section 256B.064.

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

29.15 Sec. 30. Minnesota Statutes 2016, section 256B.0651, subdivision 17, is amended to read:

29.16 Subd. 17. **Recipient protection.** (a) Providers of home care services must provide each
 29.17 recipient with a copy of the home care bill of rights under section 144A.44 at least 30 days
 29.18 prior to terminating services to a recipient, if the termination results from provider sanctions
 29.19 under section 256B.064, such as a payment withhold, a suspension of participation, or a
 29.20 termination of participation. If a home care provider determines it is unable to continue
 29.21 providing services to a recipient, the provider must notify the recipient, the recipient's
 29.22 responsible party, and the commissioner 30 days prior to terminating services to the recipient
 29.23 because of an action under section 256B.064, and must assist the commissioner and lead
 29.24 agency in supporting the recipient in transitioning to another home care provider of the
 29.25 recipient's choice.

29.26 (b) In the event of a payment withhold from a home care provider, a suspension of
 29.27 participation, or a termination of participation of a home care provider under section
 29.28 256B.064, the commissioner may inform the Office of Ombudsman for Long-Term Care
 29.29 and the lead agencies for all recipients with active service agreements with the provider. At
 29.30 the commissioner's request, the lead agencies must contact recipients to ensure that the
 29.31 recipients are continuing to receive needed care, and that the recipients have been given
 29.32 free choice of provider if they transfer to another home care provider. In addition, the
 29.33 commissioner or the commissioner's delegate may directly notify recipients who receive

30.1 care from the provider that payments have been or will be withheld or that the provider's
 30.2 participation in medical assistance has been or will be suspended or terminated, if the
 30.3 commissioner determines that notification is necessary to protect the welfare of the recipients.
 30.4 For purposes of this subdivision, "lead agencies" means counties, tribes, and managed care
 30.5 organizations.

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

30.7 Sec. 31. Minnesota Statutes 2016, section 256B.0659, subdivision 3, is amended to read:

30.8 Subd. 3. ~~Nonecovered Personal care assistance services~~ **not covered.** (a) Personal care
 30.9 assistance services are not eligible for medical assistance payment under this section when
 30.10 provided:

30.11 (1) by the recipient's spouse, parent of a recipient under the age of 18, paid legal guardian,
 30.12 licensed foster provider, except as allowed under section 256B.0652, subdivision 10, or
 30.13 responsible party;

30.14 (2) in order to meet staffing or license requirements in a residential or child care setting;

30.15 (3) solely as a child care or babysitting service; ~~or~~

30.16 (4) without authorization by the commissioner or the commissioner's designee; or

30.17 (5) on dates not within the frequency requirements of subdivision 14, paragraph (c), and
 30.18 subdivision 19, paragraph (a).

30.19 (b) The following personal care services are not eligible for medical assistance payment
 30.20 under this section when provided in residential settings:

30.21 (1) when the provider of home care services who is not related by blood, marriage, or
 30.22 adoption owns or otherwise controls the living arrangement, including licensed or unlicensed
 30.23 services; or

30.24 (2) when personal care assistance services are the responsibility of a residential or
 30.25 program license holder under the terms of a service agreement and administrative rules.

30.26 (c) Other specific tasks not covered under paragraph (a) or (b) that are not eligible for
 30.27 medical assistance reimbursement for personal care assistance services under this section
 30.28 include:

30.29 (1) sterile procedures;

30.30 (2) injections of fluids and medications into veins, muscles, or skin;

30.31 (3) home maintenance or chore services;

31.1 (4) homemaker services not an integral part of assessed personal care assistance services
31.2 needed by a recipient;

31.3 (5) application of restraints or implementation of procedures under section 245.825;

31.4 (6) instrumental activities of daily living for children under the age of 18, except when
31.5 immediate attention is needed for health or hygiene reasons integral to the personal care
31.6 services and the need is listed in the service plan by the assessor; and

31.7 (7) assessments for personal care assistance services by personal care assistance provider
31.8 agencies or by independently enrolled registered nurses.

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

31.10 Sec. 32. Minnesota Statutes 2016, section 256B.0659, subdivision 12, is amended to read:

31.11 Subd. 12. **Documentation of personal care assistance services provided.** (a) Personal
31.12 care assistance services for a recipient must be documented daily by each personal care
31.13 assistant, on a time sheet form approved by the commissioner. All documentation may be
31.14 Web-based, electronic, or paper documentation. The completed form must be submitted on
31.15 a monthly basis to the provider and kept in the recipient's health record.

31.16 (b) The activity documentation must correspond to the personal care assistance care plan
31.17 and be reviewed by the qualified professional.

31.18 (c) The personal care assistant time sheet must be on a form approved by the
31.19 commissioner documenting time the personal care assistant provides services in the home.
31.20 The following criteria must be included in the time sheet:

31.21 (1) full name of personal care assistant and individual provider number;

31.22 (2) provider name and telephone numbers;

31.23 (3) full name of recipient and either the recipient's medical assistance identification
31.24 number or date of birth;

31.25 (4) consecutive dates, including month, day, and year, and arrival and departure times
31.26 with a.m. or p.m. notations;

31.27 (5) signatures of recipient or the responsible party;

31.28 (6) personal signature of the personal care assistant;

31.29 (7) any shared care provided, if applicable;

32.1 (8) a statement that it is a federal crime to provide false information on personal care
32.2 service billings for medical assistance payments; and

32.3 (9) dates and location of recipient stays in a hospital, care facility, or incarceration.

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

32.5 Sec. 33. Minnesota Statutes 2016, section 256B.0659, subdivision 14, is amended to read:

32.6 Subd. 14. **Qualified professional; duties.** (a) Effective January 1, 2010, all personal
32.7 care assistants must be supervised by a qualified professional.

32.8 (b) Through direct training, observation, return demonstrations, and consultation with
32.9 the staff and the recipient, the qualified professional must ensure and document that the
32.10 personal care assistant is:

32.11 (1) capable of providing the required personal care assistance services;

32.12 (2) knowledgeable about the plan of personal care assistance services before services
32.13 are performed; and

32.14 (3) able to identify conditions that should be immediately brought to the attention of the
32.15 qualified professional.

32.16 (c) The qualified professional shall evaluate the personal care assistant within the first
32.17 14 days of starting to provide regularly scheduled services for a recipient, or sooner as
32.18 determined by the qualified professional, except for the personal care assistance choice
32.19 option under subdivision 19, paragraph (a), clause (4). For the initial evaluation, the qualified
32.20 professional shall evaluate the personal care assistance services for a recipient through direct
32.21 observation of a personal care assistant's work. The qualified professional may conduct
32.22 additional training and evaluation visits, based upon the needs of the recipient and the
32.23 personal care assistant's ability to meet those needs. Subsequent visits to evaluate the personal
32.24 care assistance services provided to a recipient do not require direct observation of each
32.25 personal care assistant's work and shall occur:

32.26 (1) at least every 90 days thereafter for the first year of a recipient's services;

32.27 (2) every 120 days after the first year of a recipient's service or whenever needed for
32.28 response to a recipient's request for increased supervision of the personal care assistance
32.29 staff; and

32.30 (3) after the first 180 days of a recipient's service, supervisory visits may alternate
32.31 between unscheduled phone or Internet technology and in-person visits, unless the in-person
32.32 visits are needed according to the care plan.

33.1 (d) Communication with the recipient is a part of the evaluation process of the personal
33.2 care assistance staff.

33.3 (e) At each supervisory visit, the qualified professional shall evaluate personal care
33.4 assistance services including the following information:

33.5 (1) satisfaction level of the recipient with personal care assistance services;

33.6 (2) review of the month-to-month plan for use of personal care assistance services;

33.7 (3) review of documentation of personal care assistance services provided;

33.8 (4) whether the personal care assistance services are meeting the goals of the service as
33.9 stated in the personal care assistance care plan and service plan;

33.10 (5) a written record of the results of the evaluation and actions taken to correct any
33.11 deficiencies in the work of a personal care assistant; and

33.12 (6) revision of the personal care assistance care plan as necessary in consultation with
33.13 the recipient or responsible party, to meet the needs of the recipient.

33.14 (f) The qualified professional shall complete the required documentation in the agency
33.15 recipient and employee files and the recipient's home, including the following documentation:

33.16 (1) the personal care assistance care plan based on the service plan and individualized
33.17 needs of the recipient;

33.18 (2) a month-to-month plan for use of personal care assistance services;

33.19 (3) changes in need of the recipient requiring a change to the level of service and the
33.20 personal care assistance care plan;

33.21 (4) evaluation results of supervision visits and identified issues with personal care
33.22 assistance staff with actions taken;

33.23 (5) all communication with the recipient and personal care assistance staff; ~~and~~

33.24 (6) hands-on training or individualized training for the care of the recipient;

33.25 (7) the month, day, and year, and arrival and departure times with a.m. or p.m.

33.26 designations of each visit or call to the recipient when services are provided; and

33.27 (8) the total amount of time of each service visit with the recipient.

33.28 (g) The documentation in paragraph (f) must be done on agency templates.

33.29 (h) The services that are not eligible for payment as qualified professional services
33.30 include:

34.1 (1) direct professional nursing tasks that could be assessed and authorized as skilled
34.2 nursing tasks;

34.3 (2) the time spent documenting services;

34.4 ~~(2)~~ (3) agency administrative activities;

34.5 ~~(3)~~ (4) training other than the individualized training required to provide care for a
34.6 recipient; and

34.7 ~~(4)~~ (5) any other activity that is not described in this section.

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

34.9 Sec. 34. Minnesota Statutes 2016, section 256B.0659, subdivision 21, is amended to read:

34.10 Subd. 21. **Requirements for provider enrollment of personal care assistance provider**
34.11 **agencies.** (a) All personal care assistance provider agencies must provide, at the time of
34.12 enrollment, reenrollment, and revalidation as a personal care assistance provider agency in
34.13 a format determined by the commissioner, information and documentation that includes,
34.14 but is not limited to, the following:

34.15 (1) the personal care assistance provider agency's current contact information including
34.16 address, telephone number, and e-mail address;

34.17 (2) proof of surety bond coverage. Upon new enrollment, or if the provider's Medicaid
34.18 revenue in the previous calendar year is up to and including \$300,000, the provider agency
34.19 must purchase a surety bond of \$50,000. If the Medicaid revenue in the previous year is
34.20 over \$300,000, the provider agency must purchase a surety bond of \$100,000. The surety
34.21 bond must be in a form approved by the commissioner, must be renewed annually, and must
34.22 allow for recovery of ~~costs and fees in pursuing a claim on the bond~~ the entire value of the
34.23 bond for up to five years from the date of submission of a claim for medical assistance
34.24 payment if the enrolled provider violates this chapter or Minnesota Rules, chapter 9505,
34.25 regardless of the actual loss;

34.26 (3) proof of fidelity bond coverage in the amount of \$20,000;

34.27 (4) proof of workers' compensation insurance coverage;

34.28 (5) proof of liability insurance;

34.29 (6) a description of the personal care assistance provider agency's organization identifying
34.30 the names of all owners, managing employees, staff, board of directors, and the affiliations
34.31 of the directors, owners, or staff to other service providers;

35.1 (7) a copy of the personal care assistance provider agency's written policies and
35.2 procedures including: hiring of employees; training requirements; service delivery; and
35.3 employee and consumer safety including process for notification and resolution of consumer
35.4 grievances, identification and prevention of communicable diseases, and employee
35.5 misconduct;

35.6 (8) copies of all other forms the personal care assistance provider agency uses in the
35.7 course of daily business including, but not limited to:

35.8 (i) a copy of the personal care assistance provider agency's time sheet if the time sheet
35.9 varies from the standard time sheet for personal care assistance services approved by the
35.10 commissioner, and a letter requesting approval of the personal care assistance provider
35.11 agency's nonstandard time sheet;

35.12 (ii) the personal care assistance provider agency's template for the personal care assistance
35.13 care plan; and

35.14 (iii) the personal care assistance provider agency's template for the written agreement
35.15 in subdivision 20 for recipients using the personal care assistance choice option, if applicable;

35.16 (9) a list of all training and classes that the personal care assistance provider agency
35.17 requires of its staff providing personal care assistance services;

35.18 (10) documentation that the personal care assistance provider agency and staff have
35.19 successfully completed all the training required by this section;

35.20 (11) documentation of the agency's marketing practices;

35.21 (12) disclosure of ownership, leasing, or management of all residential properties that
35.22 is used or could be used for providing home care services;

35.23 (13) documentation that the agency will use the following percentages of revenue
35.24 generated from the medical assistance rate paid for personal care assistance services for
35.25 employee personal care assistant wages and benefits: 72.5 percent of revenue in the personal
35.26 care assistance choice option and 72.5 percent of revenue from other personal care assistance
35.27 providers. The revenue generated by the qualified professional and the reasonable costs
35.28 associated with the qualified professional shall not be used in making this calculation; and

35.29 (14) effective May 15, 2010, documentation that the agency does not burden recipients'
35.30 free exercise of their right to choose service providers by requiring personal care assistants
35.31 to sign an agreement not to work with any particular personal care assistance recipient or
35.32 for another personal care assistance provider agency after leaving the agency and that the

36.1 agency is not taking action on any such agreements or requirements regardless of the date
36.2 signed.

36.3 (b) Personal care assistance provider agencies shall provide the information specified
36.4 in paragraph (a) to the commissioner at the time the personal care assistance provider agency
36.5 enrolls as a vendor or upon request from the commissioner. The commissioner shall collect
36.6 the information specified in paragraph (a) from all personal care assistance providers
36.7 beginning July 1, 2009.

36.8 (c) All personal care assistance provider agencies shall require all employees in
36.9 management and supervisory positions and owners of the agency who are active in the
36.10 day-to-day management and operations of the agency to complete mandatory training as
36.11 determined by the commissioner before enrollment of the agency as a provider. Employees
36.12 in management and supervisory positions and owners who are active in the day-to-day
36.13 operations of an agency who have completed the required training as an employee with a
36.14 personal care assistance provider agency do not need to repeat the required training if they
36.15 are hired by another agency, if they have completed the training within the past three years.
36.16 By September 1, 2010, the required training must be available with meaningful access
36.17 according to title VI of the Civil Rights Act and federal regulations adopted under that law
36.18 or any guidance from the United States Health and Human Services Department. The
36.19 required training must be available online or by electronic remote connection. The required
36.20 training must provide for competency testing. Personal care assistance provider agency
36.21 billing staff shall complete training about personal care assistance program financial
36.22 management. This training is effective July 1, 2009. Any personal care assistance provider
36.23 agency enrolled before that date shall, if it has not already, complete the provider training
36.24 within 18 months of July 1, 2009. Any new owners or employees in management and
36.25 supervisory positions involved in the day-to-day operations are required to complete
36.26 mandatory training as a requisite of working for the agency. Personal care assistance provider
36.27 agencies certified for participation in Medicare as home health agencies are exempt from
36.28 the training required in this subdivision. When available, Medicare-certified home health
36.29 agency owners, supervisors, or managers must successfully complete the competency test.

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

36.31 Sec. 35. Minnesota Statutes 2016, section 256B.4912, is amended by adding a subdivision
36.32 to read:

36.33 **Subd. 11. Service documentation and billing requirements.** (a) Only a service provided
36.34 as specified in a federally approved waiver plan, as authorized under sections 256B.0913,

37.1 256B.0915, 256B.092, and 256B.49, is eligible for payment. A service provided on days
37.2 and times other than the days and hours of operation specified on any license that is required
37.3 under chapter 245A or 245D is not eligible for payment. As a condition of payment, a home
37.4 and community-based waiver provider must document each time a service was provided to
37.5 a recipient. Payment for services not documented according to this subdivision, not specified
37.6 in a federally approved waiver plan, or not provided during the days and hours of operation
37.7 specified on any license required under chapter 245A or 245D may be recovered by the
37.8 commissioner according to section 256B.064 and Minnesota Rules, parts 9505.2160 to
37.9 9505.2245.

37.10 (b) For payment of a service, documentation must meet the standards in paragraphs (c)
37.11 to (k).

37.12 (c) The service delivered to a recipient must be documented in the provider's record of
37.13 service delivery.

37.14 (d) The recipient's name and recipient identification number must be entered on each
37.15 document.

37.16 (e) The provider's record of service delivery must be in English and must be legible
37.17 according to the standard of a reasonable person.

37.18 (f) The provider's record of service delivery must contain a statement that it is a federal
37.19 crime to provide false information on service billings for medical assistance or for services
37.20 provided under a federally approved waiver plan, as authorized under sections 256B.0913,
37.21 256B.0915, 256B.092, and 256B.49.

37.22 (g) If an entry is a time-based service, each entry in the provider's record of service
37.23 delivery must contain:

37.24 (1) the date that the entry was made;

37.25 (2) the day, month, and year when the service was provided;

37.26 (3) the service name or description of the service provided;

37.27 (4) the start and stop times with a.m. and p.m. designations, except for case management
37.28 services as defined under sections 256B.0913, subdivision 7, 256B.0915, subdivision 1a,
37.29 256B.092, subdivision 1a, and 256B.49, subdivision 13; and

37.30 (5) the name, signature, and title, if any, of the provider of service. If the service is
37.31 provided by multiple staff members, the provider may designate a staff member responsible
37.32 for verifying services and completing the documentation required by this paragraph.

38.1 (h) For all other services each entry in the provider's record of service delivery must
38.2 contain:

38.3 (1) the date the entry of service delivery was made;

38.4 (2) the day, month, and year when the service was provided;

38.5 (3) a service name or description of the service provided;

38.6 (4) the name, signature, and title, if any, of the person providing the service. If the service
38.7 is provided by multiple staff, the provider may designate a staff person responsible for
38.8 verifying services and completing the documentation required by this paragraph; and

38.9 (5) for residential supports and services under section 245D.03, subdivision 1, paragraph
38.10 (c), clause (3), an entry in the provider's record of service delivery under this subdivision
38.11 shall occur at least monthly.

38.12 (i) If the service billed is transportation, each entry must contain the information from
38.13 paragraphs (c) to (f) and (h). A provider must:

38.14 (1) maintain odometer and other records pursuant to section 256B.0625, subdivision
38.15 17b, paragraph (b), clause (3), sufficient to distinguish an individual trip with a specific
38.16 vehicle and driver for a transportation service that is billed by mileage, except if the provider
38.17 is a common carrier as defined by Minnesota Rules, part 9505.0315, subpart 1, item B, or
38.18 publicly operated transit systems. This documentation may be collected and maintained
38.19 electronically or in paper form, but must be made available and produced upon request;

38.20 (2) maintain documentation demonstrating that a vehicle and a driver meets the standards
38.21 determined by the Department of Human Services on vehicle and driver qualifications;

38.22 (3) only bill a waived transportation service if the transportation is not to or from a
38.23 health care service available through the Medicaid state plan; and

38.24 (4) only bill a waived transportation service when the rate for waiver service does not
38.25 include transportation.

38.26 (j) If the service provided is equipment or supplies, the documentation must contain the
38.27 information from paragraphs (c) to (f) and:

38.28 (1) the recipient's assessed need for the equipment or supplies and the reason the
38.29 equipment or supplies are not covered by the Medicaid state plan;

38.30 (2) the type and brand name of equipment or supplies delivered to or purchased by the
38.31 recipient, including whether the equipment or supplies were rented or purchased;

39.1 (3) the quantity of supplies delivered or purchased;

39.2 (4) the shipping invoice or a delivery service tracking log or other documentation showing
 39.3 the date of delivery that proves the equipment or supplies were delivered to the recipient
 39.4 or a receipt if the equipment or supplies were purchased by the recipient; and

39.5 (5) the cost of equipment or supplies if the amount paid for the service depends on the
 39.6 cost.

39.7 (k) A service defined as "adult day care" under section 245A.02, subdivision 2a, and
 39.8 licensed under Minnesota Rules, parts 9555.9600 to 9555.9730, must meet the documentation
 39.9 standards specified in paragraphs (c) to (g) and must comply with the following:

39.10 (1) individual recipient's service records must contain the following:

39.11 (i) the recipient's needs assessment and current plan of care according to section
 39.12 245A.143, subdivisions 4 to 7, or Minnesota Rules, part 9555.9700, if applicable; and

39.13 (ii) attendance records as specified under section 245A.14, subdivision 14, paragraph
 39.14 (c), documenting the date of attendance with the day, month, and year, and pick-up and
 39.15 drop-off times in hours and minutes, with a.m. and p.m. designations; and

39.16 (2) entity records must contain the following:

39.17 (i) the monthly and quarterly program requirements in Minnesota Rules, part 9555.9710,
 39.18 subparts 1, items E and H, and 3, 4, and 6, if applicable;

39.19 (ii) the names and qualifications of the registered physical therapists, registered nurses,
 39.20 and registered dietitians who provide services to the adult day care or nonresidential program;
 39.21 and

39.22 (iii) the location where the service was provided and, if the location is an alternate
 39.23 location than the primary place of service, the record must contain the address, or the
 39.24 description if the address is not available, of both the origin and destination location, the
 39.25 length of time at the alternate location with a.m. and p.m. designations, and a list of recipients
 39.26 who went to the alternate location.

39.27 **EFFECTIVE DATE.** This section is effective August 1, 2018.

39.28 Sec. 36. Minnesota Statutes 2016, section 393.07, subdivision 10, is amended to read:

39.29 **Subd. 10. Food stamp program; Maternal and Child Nutrition Act.** (a) The local
 39.30 social services agency shall establish and administer the food stamp program according to
 39.31 rules of the commissioner of human services, the supervision of the commissioner as specified

40.1 in section 256.01, and all federal laws and regulations. The commissioner of human services
40.2 shall monitor food stamp program delivery on an ongoing basis to ensure that each county
40.3 complies with federal laws and regulations. Program requirements to be monitored include,
40.4 but are not limited to, number of applications, number of approvals, number of cases pending,
40.5 length of time required to process each application and deliver benefits, number of applicants
40.6 eligible for expedited issuance, length of time required to process and deliver expedited
40.7 issuance, number of terminations and reasons for terminations, client profiles by age,
40.8 household composition and income level and sources, and the use of phone certification
40.9 and home visits. The commissioner shall determine the county-by-county and statewide
40.10 participation rate.

40.11 (b) On July 1 of each year, the commissioner of human services shall determine a
40.12 statewide and county-by-county food stamp program participation rate. The commissioner
40.13 may designate a different agency to administer the food stamp program in a county if the
40.14 agency administering the program fails to increase the food stamp program participation
40.15 rate among families or eligible individuals, or comply with all federal laws and regulations
40.16 governing the food stamp program. The commissioner shall review agency performance
40.17 annually to determine compliance with this paragraph.

40.18 (c) A person who commits any of the following acts has violated section 256.98 or
40.19 609.821, or both, and is subject to both the criminal and civil penalties provided under those
40.20 sections:

40.21 (1) obtains or attempts to obtain, or aids or abets any person to obtain by means of a
40.22 willful statement or misrepresentation, or intentional concealment of a material fact, food
40.23 stamps or vouchers issued according to sections 145.891 to 145.897 to which the person is
40.24 not entitled or in an amount greater than that to which that person is entitled or which specify
40.25 nutritional supplements to which that person is not entitled; or

40.26 (2) presents or causes to be presented, coupons or vouchers issued according to sections
40.27 145.891 to 145.897 for payment or redemption knowing them to have been received,
40.28 transferred or used in a manner contrary to existing state or federal law; or

40.29 (3) willfully uses, possesses, or transfers food stamp coupons, authorization to purchase
40.30 cards or vouchers issued according to sections 145.891 to 145.897 in any manner contrary
40.31 to existing state or federal law, rules, or regulations; or

40.32 (4) buys or sells food stamp coupons, authorization to purchase cards, other assistance
40.33 transaction devices, vouchers issued according to sections 145.891 to 145.897, or any food

41.1 obtained through the redemption of vouchers issued according to sections 145.891 to 145.897
41.2 for cash or consideration other than eligible food.

41.3 ~~(d) A peace officer or welfare fraud investigator may confiscate food stamps,~~
41.4 ~~authorization to purchase cards, or other assistance transaction devices found in the~~
41.5 ~~possession of any person who is neither a recipient of the food stamp program nor otherwise~~
41.6 ~~authorized to possess and use such materials. Confiscated property shall be disposed of as~~
41.7 ~~the commissioner may direct and consistent with state and federal food stamp law. The~~
41.8 ~~confiscated property must be retained for a period of not less than 30 days to allow any~~
41.9 ~~affected person to appeal the confiscation under section 256.045.~~

41.10 ~~(e)~~ (d) Establishment of an overpayment is limited to 12 months prior to the month of
41.11 discovery due to agency error. Establishment of an overpayment is limited to six years prior
41.12 to the month of discovery due to client error or an intentional program violation determined
41.13 under section 256.046.

41.14 ~~(f)~~ (e) With regard to the federal tax revenue offset program only, recovery incentives
41.15 authorized by the federal food and consumer service shall be retained at the rate of 50 percent
41.16 by the state agency and 50 percent by the certifying county agency.

41.17 ~~(g)~~ (f) A peace officer, welfare fraud investigator, federal law enforcement official, or
41.18 the commissioner of health may confiscate vouchers found in the possession of any person
41.19 who is neither issued vouchers under sections 145.891 to 145.897, nor otherwise authorized
41.20 to possess and use such vouchers. Confiscated property shall be disposed of as the
41.21 commissioner of health may direct and consistent with state and federal law. The confiscated
41.22 property must be retained for a period of not less than 30 days.

41.23 ~~(h)~~ (g) The commissioner of human services may seek a waiver from the United States
41.24 Department of Agriculture to allow the state to specify foods that may and may not be
41.25 purchased in Minnesota with benefits funded by the federal Food Stamp Program. The
41.26 commissioner shall consult with the members of the house of representatives and senate
41.27 policy committees having jurisdiction over food support issues in developing the waiver.
41.28 The commissioner, in consultation with the commissioners of health and education, shall
41.29 develop a broad public health policy related to improved nutrition and health status. The
41.30 commissioner must seek legislative approval prior to implementing the waiver.

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

42.1 Sec. 37. **PROGRAM SIMPLIFICATION AND UNIFORMITY ADVISORY**
 42.2 **COMMITTEE.**

42.3 Subdivision 1. Duties. (a) The Program Simplification and Uniformity Advisory
 42.4 Committee shall advise the commissioner of human services on policies and procedures to
 42.5 create a human services delivery system that simplifies and aligns agency programs. The
 42.6 committee shall meet at least quarterly and may meet more frequently as required by the
 42.7 commissioner. The committee shall annually elect a chair from its members, who shall work
 42.8 with the commissioner to establish the agenda for each meeting. The commissioner, or the
 42.9 commissioner's designee, shall attend each advisory committee meeting.

42.10 (b) The Program Simplification and Uniformity Advisory Committee shall advise and
 42.11 make recommendations to the commissioner on the development of policies, strategies, and
 42.12 approaches to simplify, align, and unify programs that:

42.13 (1) ensure program integrity by preventing waste, fraud, and abuse, and improve program
 42.14 efficiency;

42.15 (2) reduce program redundancies and duplication;

42.16 (3) prepare for and facilitate the development and implementation of new information
 42.17 technology eligibility systems;

42.18 (4) promote client-centered programs; and

42.19 (5) promote the development and implementation of an integrated human services
 42.20 eligibility and delivery system.

42.21 Subd. 2. Members. The Program Simplification and Uniformity Advisory Committee
 42.22 consists of:

42.23 (1) four voting members who represent county and social service administrators, at least
 42.24 two of whom must represent a county other than Anoka, Carver, Chisago, Dakota, Hennepin,
 42.25 Isanti, Ramsey, Scott, Sherburne, Washington, or Wright;

42.26 (2) two voting members who represent tribal social service agencies;

42.27 (3) four voting members of agencies and organizations who represent public assistance
 42.28 recipients, including persons with physical and developmental disabilities, persons with
 42.29 mental illness, seniors, parents or legal guardians of children, or low-income individuals;

42.30 (4) four voting members who are users of public human services programs, including
 42.31 persons with physical and developmental disabilities, persons with mental illness, seniors,
 42.32 parents or legal guardians of children, or low-income individuals;

43.1 (5) two voting members who represent county financial and eligibility workers;

43.2 (6) two voting members of the house of representatives, one from the majority party
43.3 appointed by the speaker of the house and one from the minority party appointed by the
43.4 minority leader, and two voting members from the senate, one from the majority party
43.5 appointed by the senate majority leader and one from the minority party appointed by the
43.6 senate minority leader;

43.7 (7) four at-large voting members as determined by the members under clauses (1) to
43.8 (4);

43.9 (8) up to four nonvoting members appointed by the commissioner of human services
43.10 who are program policy experts to provide technical support to the committee;

43.11 (9) one nonvoting member appointed by the commissioner of health who is a program
43.12 policy expert to provide technical support to the committee;

43.13 (10) one nonvoting member appointed by the commissioner of employment and economic
43.14 development who is a program policy expert to provide technical support to the committee;
43.15 and

43.16 (11) one nonvoting member appointed by the commissioner of commerce who is a
43.17 program policy expert to provide technical support to the committee.

43.18 Subd. 3. **Voting members and compensation.** A voting committee member shall not
43.19 be employed by the state of Minnesota except for voting members appointed under
43.20 subdivision 2, clause (6). A committee member shall not receive compensation for committee
43.21 work.

43.22 Subd. 4. **Expiration.** This committee expires June 30, 2021.

43.23 **EFFECTIVE DATE.** This section is effective the day following final enactment and
43.24 expires June 30, 2021.