

**CHAPTER 9525**  
**DEPARTMENT OF HUMAN SERVICES**  
**PROGRAMS FOR MENTALLY RETARDED**  
**PERSONS**

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**LICENSURE OF RESIDENTIAL PROGRAMS FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS**

**9525.0210** [Repealed, 13 SR 2446]

**9525.0215 PURPOSE AND APPLICABILITY.**

Subpart 1. **Purpose and applicability.** The purpose of parts 9525.0215 to 9525.0355 is to establish minimum standards governing the operation of residential programs for persons with mental retardation or related conditions.

Subp. 2. **Exclusions.** Parts 9525.0215 to 9525.0355 do not apply to any of the following residential programs for persons with mental retardation or related conditions:

A. residential programs serving four or fewer persons unless the residential program is certified as an intermediate care facility under Code of Federal Regulations, title 42, part 483;

B. home and community-based services licensed under parts 9525.2000 to 9525.2130 to provide residential-based habilitation services to four or fewer persons;

C. semi-independent living services licensed under parts 9525.0500 to 9525.0660; or

D. residential programs that are excluded from licensure under Minnesota Statutes, chapter 245A.

**Statutory Authority:** *MS s 252.28 subd 2; ch 245A*

**History:** *13 SR 2446*

**9525.0220** [Repealed, 13 SR 2446]

**9525.0225 DEFINITIONS.**

Subpart 1. **Scope.** The terms used in parts 9525.0215 to 9525.0355 have the meanings given to them in this part.

Subp. 2. **Adult.** "Adult" means a person 18 years of age or older.

Subp. 3. **Advocate.** "Advocate" has the meaning given it in part 9525.0015, subpart 3.

Subp. 4. **Applicant.** "Applicant" has the meaning given it in Minnesota Statutes, section 245A.02, subdivision 3.

Subp. 5. **Baseline measurement.** "Baseline measurement" means the frequency, intensity, duration, or other quantification of a behavior that has been observed and recorded before initiating or changing an intervention or procedure to modify the behavior.

Subp. 6. **Case manager.** "Case manager" means the individual designated by the county board to provide case management services as defined in parts 9525.0015 to 9525.0165.

Subp. 7. **Child.** "Child" means a person under 18 years of age.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

Subp. 9. **County of financial responsibility.** "County of financial responsibility" has the meaning given it in Minnesota Statutes, section 256G.02, subdivision 4.

Subp. 10. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 11. **Direct service staff.** "Direct service staff" means employees of a residential program who train or directly supervise persons receiving services in a residential program and who participate in the development or implementation of a person's provider implementation plan. Professional support staff, as defined in subpart 26, are direct service staff when they are working directly with persons and are involved in daily activities with persons.

Subp. 12. **Family.** "Family" means a person's biological or adoptive parents, stepparents, grandparents, siblings, children, grandchildren, or spouse.

Subp. 13. **Host county.** "Host county" has the meaning given in part 9525.0015, subpart 12.

Subp. 14. **Incident.** "Incident" means any injury or accident; a seizure requiring a physician's attention; an error in drug administration; a person's unauthorized absence from the residence; circumstances that involve a law enforcement agency; or a person's death.

Subp. 15. **Individual habilitation plan or IHP.** "Individual habilitation plan" or "IHP" means the written plan required by and developed under parts 9525.0015 to 9525.0165.

Subp. 16. **Individual service plan or ISP.** "Individual service plan" or "ISP" means the written plan required by and developed under parts 9525.0015 to 9525.0165.

Subp. 17. **Interdisciplinary team.** "Interdisciplinary team" has the meaning given in part 9525.0015, subpart 15.

Subp. 18. **Intermediate care facility for persons with mental retardation or related conditions or ICF/MR.** "Intermediate care facility for persons with mental retardation or related conditions" or "ICF/MR" means a residential program licensed to provide services to persons with mental retardation or related conditions under Minnesota Statutes, section 252.28 and chapter 245A and a physical facility licensed as a supervised living facility under Minnesota Statutes, chapter 144, which together are certified by the Minnesota Department of Health as meeting the standards in Code of Federal Regulations, title 42, part 483, for ICFs/MR.

Subp. 19. **Legal representative.** "Legal representative" means the parent or parents of a person when that person is under 18 years of age, or a court-appointed guardian or conservator who is authorized by the court to make decisions about services for a person regardless of the person's age.

Subp. 20. **License.** "License" has the meaning given it in Minnesota Statutes, section 245A.02, subdivision 8.

Subp. 21. **License holder.** "License holder" has the meaning given it in Minnesota Statutes, section 245A.02, subdivision 9.

Subp. 22. **Living unit.** "Living unit" means a physically self-contained area, including living room, bathroom, and bedroom or bedrooms, that houses 16 or fewer residents. The living unit must meet the requirements in part 9525.0255, subpart 1.

Subp. 23. **Objective.** "Objective" means a short-term expectation and its accompanying measurable behavioral criteria specified in the individual habilitation plan and provider implementation plan. Objectives are designed to result in achievement of the annual goals in a person's individual service plan.

Subp. 24. **Outcome.** "Outcome" means the measure of change from the baseline measurement or the degree of attainment of specified goals and objectives that is achieved as a result of provision of service.

Subp. 25. **Person.** "Person" means a person with mental retardation as defined in part 9525.0015, subpart 20, or a related condition as defined in parts 9525.0180 to 9525.0190 who is receiving services in a residential program licensed under parts 9525.0215 to 9525.0355.

Subp. 26. **Professional support staff.** "Professional support staff" means professional staff such as rehabilitation counselors, physical therapists, occupational therapists, registered nurses, speech therapists, and consulting psychologists, who assist the direct service staff by:

A. providing specific services to the same persons who are served by the direct service staff; or

B. instructing the direct service staff in procedures, practices, or programs to follow in providing services to persons.

Subp. 27. **Provider implementation plan or PIP.** "Provider implementation plan" or "PIP" means a detailed internal plan developed by the license holder and used within the residential program to direct the daily activities of staff in carrying out the objectives established within a person's individual habilitation plan. The provider implementation plan is frequently referred to as an individual program plan.

Subp. 28. **Residential program.** "Residential program" means a program that provides 24-hour-a-day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment for four or more persons with mental retardation or related conditions outside their own homes. Residential program includes both the residential facility and the program of services provided persons.

Subp. 29. **Variance.** "Variance" means written permission from the commissioner that allows an applicant or license holder to depart from specified provisions in parts 9525.0215 to 9525.0355.

Subp. 30. **Volunteer.** "Volunteer" means an individual who, under the direction of the license holder, provides services without pay to persons or to the residential program.

**Statutory Authority:** *MS s 252.28 subd 2; ch 245A*

**History:** *13 SR 2446*

**9525.0230** [Repealed, 13 SR 2446]

### **9525.0235 LICENSURE.**

Subpart 1. **License required.** An individual, corporation, partnership, voluntary association, or other organization must not operate a residential program unless licensed by the commissioner under parts 9525.0215 to 9525.0355.

Subp. 2. **Supervised living facility license.** The commissioner shall not issue a license to any applicant that does not have a valid supervised living facility license issued by the commissioner of health under Minnesota Statutes, section 144.56; and parts 4665.0100 to 4665.9900.

**Subp. 3. Approved need determination.** The commissioner shall not issue a license to any applicant that does not have an approved need determination under part 9525.0145. This subpart does not apply to regional treatment centers.

**Subp. 4. Background study.** Before a license is issued, a background study must be completed of the applicant and all employees, contractors, and unsupervised volunteers as mandated by Minnesota Statutes, section 245A.04, subdivision 3.

**Subp. 5. Information on organization.** If the applicant is an authorized representative of a partnership, corporation, voluntary association, or other organization legally responsible for the operation of the residential program, the applicant must have available in the residential program's administrative records specified in part 9525.0335 the names and addresses of the owners and board members, the articles of incorporation, and an organizational chart.

**Subp. 6. Disqualification standards.** Minnesota Statutes, section 245A.04, subdivision 6, requires the commissioner to apply disqualification standards in this part to evaluate results of the study in subpart 4. In order to become licensed or to remain licensed under parts 9525.0215 to 9525.0355, an applicant or license holder must not be an individual, employ or contract with an individual, or use as a volunteer an individual who has any of the characteristics in items A to D.

**A.** The individual has a conviction of, has admitted to, has been charged with and is awaiting trial for, or there is substantial evidence indicating that the individual has committed:

(1) an act of physical abuse or sexual abuse as defined in Minnesota Statutes, section 626.556;

(2) an act of abuse as defined in Minnesota Statutes, section 626.557, subdivision 2, paragraph (d), clauses (1) and (3);

(3) murder or manslaughter as defined in Minnesota Statutes, sections 609.185 to 609.205, and 609.2661 to 609.2665;

(4) the solicitation of children to engage in sexual conduct as defined in Minnesota Statutes, section 609.352; or

(5) an act or crime, similar to or the same as the acts or crimes listed in this item, that is listed under the laws of another state, the United States, or another country.

**B.** The individual has a conviction of, has admitted to, has an adjudication of delinquency for, has been charged with and is awaiting trial for, or a preponderance of the evidence indicates the individual has committed:

(1) neglect as defined in Minnesota Statutes, section 626.556 or 626.557 or abuse that is nontherapeutic conduct or illegal use of person or property as defined in Minnesota Statutes, section 626.557, subdivision 2, paragraph (d), clauses (2) and (4);

(2) a felony under Minnesota Statutes, chapter 152;

(3) any crime listed in Minnesota Statutes, sections 609.17; 609.175; 609.21 to 609.224; 609.23 to 609.294; 609.321 to 609.324; 609.33 to 609.345; 609.365; 609.377; 609.378; 609.52; 609.521; 609.525; 609.53; 609.54; 609.561 to 609.563; 609.582, subdivision 1; 609.625 to 609.635; 609.66 to 609.67; 609.687; 609.71; 609.713; 609.746; 609.79; 609.795; 609.821; 609.89; or 617.23; or

(4) an act or crime, similar to or the same as the acts or crimes listed in this item, that is listed under the laws of another state or of the United States or of another country.

**C.** The individual has mental illness as defined in Minnesota Statutes, section 245.462, subdivision 20, and the behavior has a negative effect on the ability of the individual to provide services to persons.

**D.** The individual abuses prescription drugs or uses alcohol or con-

trolled substances as named in Minnesota Statutes, chapter 152, or alcohol to the extent that the use or abuse impairs the individual's ability to provide services to persons.

**Subp. 7. Reevaluation of disqualification.** An applicant or license holder who is disqualified from licensure, or an employee, volunteer, or contractor of an applicant or license holder who is not permitted to work based on the disqualification standards in subpart 6 may request that the commissioner reevaluate the disqualification decision and set aside the disqualification. The request for reevaluation must be in writing and sent to the commissioner by certified mail.

A. A request for reevaluation of a disqualification based on subpart 6, item A, C, or D, must be accompanied by information establishing that the evidence relied upon by the commissioner is erroneous. The commissioner shall not disregard the evidence establishing that an act described in subpart 6, item A, C, or D, occurred based on the factors in item B.

B. A request for reevaluation of a disqualification based on subpart 6, item B, must be accompanied by:

(1) copies of information held by an individual, organization, or agency specified in Minnesota Statutes, section 254A.03, subdivision 3, pertaining to the evidence or circumstances surrounding the event;

(2) a statement of the period of time elapsed since the event;

(3) evidence of training or rehabilitation of the applicant or license holder, or an employee, volunteer, or contractor of an applicant or license holder that has occurred since the event; and

(4) any other information that the applicant or license holder, or an employee, volunteer, or contractor of an applicant or license holder believes the commissioner should consider in reevaluating the disqualification decision.

C. In determining whether or not to set aside a disqualification based on subpart 6, item B, the commissioner shall consider the risk of harm to persons, including the consequences of the event that led to the finding; the vulnerability of the victim of the event; the time elapsed without a repeat of the same or similar event; and documentation of successful completion of training or rehabilitation pertinent to the event.

D. **Notice by commissioner of reevaluation decision.** Within 30 days after the commissioner has received all information necessary to reevaluate a disqualification, the commissioner shall inform the applicant or license holder and the individual involved, in writing, whether the disqualification has been set aside or affirmed, and the reasons for this decision.

E. The commissioner's disposition of a request for reevaluation of a disqualification under this part is the final administrative agency action.

**Subp. 8. Evaluation for cause.** The commissioner may require, before licensure or at any time during the licensed term, a physical, mental health, chemical dependency, or criminal history evaluation of any individual who has direct contact with persons, if the commissioner has reasonable cause to believe any of the qualifications or requirements have not been met or that the individual cannot care for persons being served. Evaluations, if required, must be conducted by a professional qualified by license, certification, education, or training to perform the specific evaluation. Evaluation refusal shall result in employment disqualification.

**Subp. 9. Separate licenses.** Applicants and license holders must have a separate license for each location where a residential program is operated.

**Subp. 10. Documentation of regulatory compliance.** The applicant or license holder must provide documentation that:

A. the residential program is in compliance with current state building, zoning, fire, and health codes and regulations and with other applicable local codes and ordinances; or

B. variances from compliance with the codes and ordinances in item A have been granted by the state or local unit of government with jurisdiction to enforce the code or ordinance.

Any deficiencies cited by a fire marshal, building official, or health officer as a threat to health and safety must be corrected and documented as corrected by the inspecting official before a license will be issued unless the inspecting official has granted and documented a variance.

**Subp. 11. Change in license terms.** The license holder must apply to the commissioner and a new license must be issued before the license holder:

- A. moves the residential program to another location;
- B. changes or transfers ownership or responsibility for the operation of the residential program;
- C. changes the licensed capacity of the program;
- D. changes the range of ages of residents served; or
- E. changes the services identified in the residential program's current need determination.

**Subp. 12. Commissioner's rights of access.** The commissioner must be given access to the residential program, including grounds, residence, documents, residents, and staff in accordance with Minnesota Statutes, section 245A.04, subdivision 5.

**Subp. 13. Variances.** An applicant or license holder may request a variance to parts 9525.0215 to 9525.0355. A request for a variance must be in writing and sent to the commissioner. A copy must be provided to the board of county commissioners of the host county. The written request must specify:

- A. the provision from which a variance is requested;
- B. the reasons why the applicant or license holder cannot comply with the specified provision;
- C. the period of time, not to exceed the greater of one year or the license term, for which the variance has been requested; and
- D. the equivalent measures the applicant or license holder will take to ensure the health, safety, and rights of persons and to comply with the intent of parts 9525.0215 to 9525.0355 if the variance is granted.

**Subp. 14. Evaluation of a variance request.** A variance shall be granted only if the commissioner determines that the following conditions exist:

- A. the applicant or license holder has made a written request for variance that meets the requirements in subpart 13;
- B. granting the variance does not threaten the health, safety, or rights of persons receiving services;
- C. granting the variance does not violate Minnesota Statutes; and
- D. the applicant or license holder is in compliance with all other provisions of parts 9525.0215 to 9525.0355.

**Subp. 15. Notice by commissioner.** Within 30 days after receiving a request for a variance and the documentation supporting it, the commissioner shall inform the applicant or license holder in writing whether the request has been granted or denied and the reasons for this decision. The commissioner's decision to grant or deny a variance request is final and not subject to appeal under Minnesota Statutes, chapter 14.

**Statutory Authority:** *MS s 252.28 subd 2; ch 245A*

**History:** *13 SR 2446*

**9525.0240 [Repealed, 13 SR 2446]**

**9525.0243 NEGATIVE LICENSING ACTIONS.**

Under Minnesota Statutes, sections 245A.01 to 245A.16, failure to comply with parts 9525.0215 to 9525.0355 or the terms of licensure may be cause for a negative licensing action. Negative licensing actions shall be taken according to Minnesota Statutes, sections 245A.03 to 245A.09.

Within ten working days after the license holder receives notice that the license is made probationary, suspended, or revoked, the license holder shall send a copy of the commissioner's action to each person or their legal representative and each person's case manager.

**Statutory Authority:** *MS s 252.28 subd 2; ch 245A*

**History:** *13 SR 2446*

**9525.0245 PROGRAM REQUIREMENTS FOR LICENSURE.**

**Subpart 1. Individual service needs.** The license holder must ensure that services are provided or obtained for each person in accordance with the person's individual needs as specified in the ISP and IHP.

**Subp. 2. Service outcomes.** Methods, materials, and settings used to provide residential program services and to implement the provider implementation plan must be designed to:

A. increase each person's independence in performing tasks and activities by teaching skills that reduce dependence on caregivers;

B. provide training in the environment where the skill being taught is typically used, including community environments used by nondisabled individuals;

C. increase each person's opportunities to interact with nondisabled individuals who are not paid caregivers in settings used by nondisabled individuals;

D. increase each person's opportunities to use and participate in a variety of generic community resources and activities including but not limited to public transportation when available; recreational, cultural, and educational resources; stores; restaurants; and religious services when desired;

E. increase each person's opportunities to develop decision-making skills and to make informed choices in all aspects of daily living, including but not limited to choosing roommates and friends, purchasing personal possessions including clothing, and participating in program planning; and

F. use materials, activities, and interactions similar to those used by individuals of the same chronological age who are not disabled.

**Subp. 3. Least restrictive environment.** Each person's participation, movement, communication, and personal choices may be restricted only as necessary to protect the person and others, and as specified in the person's ISP and IHP. Supervision and assistance must be provided only when necessary for the person to complete a task, to participate in an activity, or to protect the person or others.

**Subp. 4. Level of participation.** The license holder must document measures, as required by each person's IHP, to increase the level of participation by the person in environments, activities, routines, and skills in which the person is unable to function independently. Measures include staff assistance or supervision, training methodologies, and adaptations to equipment or environments.

**Subp. 5. Staff conduct.** The license holder shall ensure that staff treat persons with respect, protect the personal privacy needs of persons, and do not use language that emphasizes a person's disability.

**Subp. 6. Rights of persons.** The license holder must ensure that the rights of persons are protected in accordance with Code of Federal Regulations, title 42, section 483.420, and Minnesota Statutes, section 144.651.

**Subp. 7. Ancillary services.** The license holder must document that resources

outside the residential program are used in offering ancillary services to persons. Ancillary services include temporary or periodic nonemergency services such as physical, dental, hearing, or orthopedic examinations.

**Subp. 8. Leaving the residence.** As specified in each person's ISP or IHP, each person must leave the residence to participate in daily education, employment, or community activities. The license holder shall ensure that the residential program is prepared to care for persons who are at the residence during the day because of illness, work schedules, or other reasons.

**Subp. 9. Routine.** The daily routine, including mealtimes, leisure, holidays, and school and work hours, must be similar to that followed in the community by individuals of similar chronological age.

**Statutory Authority:** *MS s 252.28 subd 2; ch 245A*

**History:** *13 SR 2446*

**9525.0250** [Repealed, 13 SR 2446]

**9525.0255 PHYSICAL ENVIRONMENT.**

**Subpart 1. Living unit.** A living unit must meet the requirements in items A to F.

A. Each living unit must be physically and functionally differentiated from areas for vocational services. Training in self-care and independent living skills may be carried out in a person's living unit.

B. Walls separating living units and separating bedrooms from other living areas must extend from floor to ceiling.

C. The number of persons residing in a living unit must not exceed 16.

D. The number of persons sleeping in a bedroom must not exceed four in a residential program initially licensed before October 10, 1989. The number of persons sleeping in a bedroom must not exceed two in residential programs initially licensed after October 10, 1989.

E. Furnishings must be similar in appearance to those in typical homes and must be clean and maintained in good repair.

F. Persons must be provided individual storage space for personal possessions that is similar in size and appearance to that of an individual of the same age and sex who is not disabled.

G. Residential programs initially licensed after October 10, 1989, must have a kitchen and dining area in each living unit.

**Subp. 2. Physical adaptations.** When a person has sensory, mobility, physical, or behavioral needs, the license holder shall ensure the residence and furnishings are physically adapted as needed to provide the services specified in the person's ISP or IHP.

**Subp. 3. Telephone.** The residential program must have a telephone available for personal use by persons in residence.

**Subp. 4. Locked doors.** The residential program must not use locked doors to restrict a person's movement or as a substitute for staff interaction with persons. Exterior doors may be locked to ensure the safety of persons.

**Statutory Authority:** *MS s 252.28 subd 2; ch 245A*

**History:** *13 SR 2446*

**9525.0260** [Repealed, 13 SR 2446]

**9525.0265 PROVIDER IMPLEMENTATION PLAN.**

**Subpart 1. Plan development.** The license holder must develop a provider implementation plan for each person. A person's IHP or portions of the IHP that meet the requirements of this part may be substituted for all or portions of the provider implementation plan.

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A. The plan must be developed by a team that includes the living unit supervisor, direct service staff designated by the license holder, and any other individuals designated by the person or the person's legal representative, the case manager, and the living unit supervisor.

B. The plan must be based on the residential service needs identified in the person's ISP and must conform to the residential service objectives in the IHP.

C. The plan must be initially developed within 30 days after admission to the residential program and must be revised annually or when requested by the case manager. The plan may be developed at an IHP meeting.

D. The plan must be in writing and signed by the person or the person's legal representative.

E. The license holder must provide the person or the person's legal representative and the case manager with a copy of the plan within five working days after the plan is developed or revised.

**Subp. 2. Evaluation.** Evaluations of skills the person needs to function more independently in the residential program and in the community must be conducted in the residential program and in community settings used by nondisabled individuals.

A. Within 30 days after a person's admission, the license holder shall conduct any additional evaluations needed to supplement the assessments completed before admission, including evaluation of:

(1) personal and environmental factors that may place a person at risk of abuse or neglect in accordance with part 9555.8300; and

(2) any additional areas requested by the person's case manager.

B. The license holder shall provide written summaries of all evaluations and specific service recommendations to the person's case manager and to the person and the person's legal representative.

C. The license holder shall advise the case manager when additional evaluations of the person are needed and shall conduct evaluations requested by the case manager.

**Subp. 3. Contents of provider implementation plan.** The provider implementation plan must include:

A. written, measurable, behavioral objectives, including measurable criteria for mastery, that are designed to result in achievement of the residential service outcomes specified in the person's current ISP and IHP and assigned to the license holder;

B. a baseline measurement of the person's skill level in each behavioral objective;

C. the specific methods that will be used for each objective including information about techniques, physical and social environments, equipment, and materials required to implement the objective;

D. the projected starting date and completion date for achievement of each objective;

E. a description of the types of data and the methods and schedule of data collection to measure outcomes;

F. the names of the staff or contractors responsible for implementing each objective;

G. a description of how implementation of the plan will be coordinated with services provided by other agencies; and

H. a description of how implementation of the plan involves family and friends.

**Subp. 4. Implementation.** The plan must be implemented in accordance with part 9525.0245.

Subp. 5. **Monthly review.** The living unit supervisor shall monitor the person's performance in achieving the plan objectives monthly and shall:

A. modify the methods used to implement the plan if indicated by objective measurements of performance;

B. summarize in writing any modifications and directions to staff for implementing modifications;

C. sign and date the monthly review; and

D. comply with the requirements of part 9525.0105, subpart 7, if the monthly review results in a modification of the objectives or methodologies identified within the IHP.

Subp. 6. **Quarterly evaluations.** The license holder must provide the person or the person's legal representative and the person's case manager with a quarterly report containing a summary of data, an analysis of the data, and an evaluation of services actually provided, sufficient to determine the extent to which services have resulted in achievement of the goals and objectives of the person's ISP and IHP and whether services are being provided in accordance with the ISP and IHP. The report must also state whether any changes are needed in the ISP or IHP.

Subp. 7. **Annual review.** At least 30 days before the annual review of the person's ISP and IHP, the license holder shall provide the person's case manager with:

A. a written evaluation of service outcomes, including the extent to which residential services have resulted in achievement of the person's IHP objectives;

B. copies of evaluations conducted under subpart 2; and

C. recommendations for changes in the person's ISP and IHP.

Subp. 8. **Coordination with case manager.** The license holder shall ensure coordination with each person's case manager in accordance with items A to C.

A. Staff who have worked with the person shall participate in the interdisciplinary team meeting that develops an IHP for each person.

B. Within 30 days after an interdisciplinary team meeting, the license holder shall revise the PIP in accordance with subpart 1 and implement changes according to the IHP.

C. The license holder shall notify the case manager of:

(1) significant changes in the person's condition or circumstances that affect the person's ability to participate in accordance with the ISP or IHP;

(2) additional resources needed to implement the PIP; and

(3) changes in the residential program that affect the license holder's ability to implement the PIP.

**Statutory Authority:** *MS s 252.28 subd 2; ch 245A*

**History:** *13 SR 2446*

**9525.0270** [Repealed, 13 SR 2446]

### **9525.0275 FAMILY INVOLVEMENT.**

Subpart 1. **Family participation.** Unless restrictions are contained in a person's ISP or IHP, the license holder shall invite each person's family to participate in providing services to the person. Examples of family participation are transportation, leisure activities, religious observance, personal or professional services needed by the person, clothing, holidays and vacations, and adaptive devices or equipment.

Subp. 2. **Participation in planning.** If the person is a child or if a person who is an adult or that person's legal representative gives permission, the license holder shall invite members of the person's family to participate in the develop-

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ment and annual review of the PIP. A copy of the invitation must be placed in the person's file.

Subp. 3. **Visiting.** The license holder shall allow family members to visit at any time unless the person, if an adult, objects or the person's ISP contains restrictions.

**Statutory Authority:** *MS s 252.28 subd 2; ch 245A*

**History:** *13 SR 2446*

9525.0280 [Repealed, 13 SR 2446]

**9525.0285 RESOURCES.**

Subpart 1. **General.** The license holder shall ensure that each person retains and uses personal funds, unless restrictions are required in a person's ISP or IHP.

Subp. 2. **Separation of funds.** The license holder must ensure separation of each person's funds from funds of the license holder or residential program or staff.

Subp. 3. **Safekeeping.** If a person's ISP or IHP requires the residential program to assist the person with safekeeping of money or valuables, the license holder shall:

A. provide, if requested by the person or the person's case manager or legal representative, a statement itemizing the person's financial transactions;

B. limit the value of cash and valuables retained by the residential program to an amount designated by the person or the person's legal representative; and

C. return money and valuables in the license holder's keeping to the person or the person's legal representative, subject to restrictions in the IHP or ISP, within three working days after requested.

Subp. 4. **Prohibition.** License holders, staff, and contractors shall not:

A. borrow money from a person;

B. purchase personal items from a person;

C. sell merchandise or personal services to a person; or

D. require a person to purchase items for which the license holder is eligible for reimbursement.

**Statutory Authority:** *MS s 252.28 subd 2; ch 245A*

**History:** *13 SR 2446*

9525.0290 [Repealed, 13 SR 2446]

**9525.0295 ADMISSION AND DISCHARGE.**

Subpart 1. **County authorization.** The license holder shall admit only persons for whom residence in a residential program has been authorized by a county board under part 9525.0085, subpart 2, or persons committed to the residential program under Minnesota Statutes, chapter 253B.

Subp. 2. **Written discharge policies and procedures.** The license holder must have written policies and procedures governing the discharge of persons from the residential program that meet the criteria in subparts 3 to 6.

Subp. 3. **Self-initiated discharge.** Discharge may be initiated at any time by a person or the person's legal representative or by a person's case manager.

Subp. 4. **Discharge initiated by the license holder.** Discharge may be initiated by the license holder if:

A. the license holder determines the residential program is unable to meet the person's needs; and

B. at least 60 days before the planned date of discharge the license holder:

(1) notifies the person who is to be discharged, the person's case manager, and the person's legal representative of:

(a) the services needed by the person that the residential program is unable to provide and the reasons the residential program is unable to provide them;

(b) the proposed date of discharge; and

(c) recommendations for more appropriate services; and

(2) makes a written request to the case manager to convene a screening meeting in accordance with Minnesota Statutes, section 256B.092, to determine appropriate services.

**Subp. 5. Discharge planning and follow-up.** The license holder shall ensure that residential program staff are available to participate in discharge planning and follow-up according to items A and B.

A. At least one staff member familiar with the person shall attend the discharge planning meeting convened by the person's case manager.

B. Staff familiar with the person shall be available to:

(1) provide a summary of the person's current medical status and current progress in achieving goals and objectives;

(2) review the ISP developed for discharge and recommend additional services or service modifications to the person's case manager and the discharge screening team; and

(3) assist the person's case manager to develop an interim habilitation plan for the person's first 30 days after discharge.

C. The license holder shall ensure the person's case manager is provided copies of the following records:

(1) the person's medical records; and

(2) programs, plans, and consultant reports relating to the reduction of inappropriate behaviors.

**Subp. 6. Discharge summary.** Within 30 days after discharge, a discharge summary must be entered in the person's record that includes a review of the person's progress from the date of the person's last annual review to the discharge date, the program to which the person is discharged, and the date of discharge.

**Statutory Authority:** *MS s 252.28 subd 2; ch 245A*

**History:** *13 SR 2446*

**9525.0300** [Repealed, 13 SR 2446]

**9525.0305 RESIDENT RECORDS.**

**Subpart 1. General requirements.** The license holder shall maintain records for each person according to subparts 2 to 5. Entries must be in ink, legible, and signed and dated by the individual making the entry. The license holder shall retain records three years after a person leaves the residential program.

**Subp. 2. Admission records.** The license holder shall develop a record for each person upon admission that contains the following information:

A. name, birth date, and social security number;

B. date of admission and previous residential history;

C. the name, address, and telephone number of the person's legal representative or family member designated to be contacted in case of emergency or discharge; case manager; physician and dentist; and advocate, if any;

D. whether the person is subject to guardianship or conservatorship and if under conservatorship, a copy of the order specifying the rights of the conservator and the rights retained by the person;

E. the language spoken or other means of communication understood

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by the person, interpreters, if any, and the primary language or other means of communication used by the person's family;

F. religious affiliation;

G. copies of the person's ISP, IHP, if developed, and supplemental reports included in the IHP; and

H. a statement authorizing emergency medical treatment signed by the person or the person's legal representative.

**Subp. 3. Postadmission record keeping.** Each person's record must include up-to-date records of the following:

A. A plan file that includes:

(1) The person's individual service plan and individual habilitation plan. When a person's case manager does not provide either a current ISP or a current IHP, the license holder shall make a written request to the case manager to provide copies of the ISP and IHP. The license holder shall make a written request to the case manager to convene the interdisciplinary team when a current ISP or IHP has not been developed.

(2) The provider implementation plan developed and maintained in accordance with part 9525.0265.

(3) The evaluations and reviews required in part 9525.0265, subparts 2 and 5.

(4) The quarterly evaluations required in part 9525.0265, subpart 6.

(5) The annual review required in part 9525.0265, subpart 7.

B. Health records including, for persons with seizures, a plan developed in conjunction with the person's physician that specifies the information relating to the person's seizures that must be recorded.

C. Copies of invitations to the person's family or legal representatives to participate in provider implementation plan meetings.

D. Incident reports involving the person, on a form prescribed by the commissioner.

E. A quarterly summary of family involvement.

F. The discharge summary required under part 9525.0295, subpart 6, when the person is discharged from the residential program.

G. A record of other service providers that includes the name of the provider, the contact person, phone number, services being provided, services needing coordination with the residential program, and the residential program staff responsible for coordination.

**Subp. 4. Access to records.** The license holder must ensure that the following people have access to the person's record:

A. the person and the person's legal representative;

B. the commissioner;

C. the person's case manager; and

D. direct service staff on the person's living unit and professional service staff unless the information is not relevant to carrying out the ISP and IHP.

**Subp. 5. Confidentiality.** Except as provided in subpart 4, the license holder shall ensure the confidentiality of information in the person's record and shall not release information in the record without a written consent signed by the person or the person's legal representative that includes:

A. the date of authorization and length of time for which it is valid;

B. the purpose of releasing information;

C. the information to be released; and

D. the name of the individual or organization receiving the information.

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**Statutory Authority:** *MS s 252.28 subd 2; ch 245A*

**History:** *13 SR 2446*

**9525.0310** [Repealed, 13 SR 2446]

**9525.0315 ADMINISTRATION.**

**Subpart 1. Governing body.** The license holder shall ensure that the residential program has a governing body that:

A. exercises general direction over the affairs of the residential program and determines the qualifications of the chief executive officer; or

B. meets the requirements of a governing body under Code of Federal Regulations, title 42, section 483.410(a).

The governing body may be the license holder or an individual or group appointed by the license holder.

**Subp. 2. Chief executive officer.** The license holder shall ensure that the residential program has a chief executive officer who is responsible for managing the daily operation of the residential program, including staff management.

**Subp. 3. Compliance with applicable laws and rules.** The residential program must be in compliance with all applicable federal, state, and local laws, regulations, ordinances, and codes at all times, including:

A. Minnesota Statutes, sections 144.50 to 144.56, and chapter 4665 governing sanitation and safety of the physical plant; food and nutrition requirements; health services; and medication handling procedures;

B. fire and safety standards of the Minnesota Department of Public Safety;

C. Minnesota Statutes, section 144.651, the Residents' Bill of Rights;

D. Minnesota Statutes, chapter 13, the Government Data Practices Act;

E. Minnesota Statutes, sections 626.556 and 626.557, and parts 9560.0210 to 9560.0234 and 9555.8000 to 9555.8500 governing the reporting of maltreatment of children and vulnerable adults; and

F. parts 9525.2700 to 9525.2810 governing the use of aversive and deprivation procedures.

**Statutory Authority:** *MS s 252.28 subd 2; ch 245A*

**History:** *13 SR 2446*

**9525.0320** [Repealed, 13 SR 2446]

**9525.0325 WRITTEN POLICIES.**

**Subpart 1. General policy requirement.** The license holder shall:

A. develop and implement written policies covering the areas in subpart 3; and

B. annually review and update as needed the written policies and inform all persons or their legal representative and case manager when a policy has been revised.

**Subp. 2. Availability of written policies.** The license holder shall make written policies available according to items A to C.

A. The license holder shall inform all persons or their legal representatives upon admission, in writing, that the residential program has written policies governing the areas listed in subpart 3 and that these policies will be provided upon request.

B. The license holder shall provide a copy of policies under subpart 3, item F.

C. The license holder shall provide copies of the written policies upon request to members of the governing body, the host county and counties of financial responsibility, employees, and others.

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**Subp. 3. Required policies.** Policies must cover the following areas:

- A. the philosophy and goals of the residential program;
- B. a description of the services offered by the residential program consistent with the need determination made under part 9525.0145;
- C. policies governing admission and discharge in accordance with part 9525.0295;
- D. the residential program's fees, billing arrangements, and plans for payment;
- E. personnel policies;
- F. policies and procedures ensuring the exercise and protection of persons' rights in accordance with Minnesota Statutes, section 144.651, and Code of Federal Regulations, title 42, section 483.420(d);
- G. policies for investigating incidents and taking corrective action;
- H. policies for handling grievances of persons and their families that include providing the following information to persons and their families:
  - (1) name and phone number of an individual within the residential program to contact to register a complaint or dispute a decision;
  - (2) time schedules for registration of complaints and disputes; and
  - (3) time limits for decisions regarding complaints and disputes;
- I. policies describing the methods used by the residential program to elicit the participation of persons and their families regarding the policies and procedures that affect them;
- J. policies governing access to persons' records and the collection and dissemination of data on persons;
- K. policies concerning the selection, training, assignment, and supervision of volunteers; and
- L. policies for use of psychotropic medications that comply with the Psychotropic Medication Use Checklist which is incorporated by reference. This document is available for inspection at the Minnesota State Law Library, 117 University Avenue, Saint Paul, Minnesota 55155. It is not subject to frequent change.

**Statutory Authority:** *MS s 252.28 subd 2; ch 245A*

**History:** *13 SR 2446*

**9525.0330** [Repealed, 13 SR 2446]

**9525.0335 ADMINISTRATIVE RECORDS.**

The license holder shall maintain the following administrative records and shall make the records available for inspection by the commissioner:

- A. a listing of persons in the residential program that includes name, age, and sex;
- B. a copy of the current supervised living facility license issued by the commissioner of health under chapter 4665;
- C. a copy of the current certificate of need determination required under part 9525.0145;
- D. a copy, if applicable, of the residential program's certification as an ICF/MR;
- E. copies of all contracts, including contracts required under parts 9525.0015 to 9525.0165, subcontracts with consultants, and purchase-of-service contracts with other providers of persons' services;
- F. each person's records maintained in accordance with part 9525.0305;
- G. records of incidents, including the license holder's investigation and corrective action;

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H. records of fire drills and a copy of the emergency evacuation plan for each living unit;

I. an organization chart;

J. volunteer records, including qualifications and services being performed; and

K. a written personnel file for each employee and contract consultant that includes:

(1) the individual's application or other written summary of the individual's qualifications;

(2) written job description or consultant contract that specifies responsibilities, qualifications necessary to perform the job, degree of authority to execute job responsibilities, and standards of job performance;

(3) the employee's health record; and

(4) for each direct services staff member, a training file that includes:

(a) documentation of orientation completed in accordance with part 9525.0355;

(b) documentation of training and education activities completed during employment; and

(c) an annual training plan.

**Statutory Authority:** *MS s 252.28 subd 2; ch 245A*

**History:** *13 SR 2446*

**9525.0340 [Repealed, 13 SR 2446]****9525.0345 STAFFING REQUIREMENTS.**

**Subpart 1. Direct service staff.** Direct service staff must:

A. be at least 16 years of age; and

B. upon completion of orientation

(1) be able to communicate in the communication mode of the persons with whom the staff member is working; examples of communication modes are sign language and communication boards; and

(2) demonstrate knowledge of and competence to implement the PIP for each person with whom the staff member is working on a regular basis.

**Subp. 2. Living unit supervisor.** The living unit supervisor must have the qualifications in items A to C.

A. The living unit supervisor must either:

(1) meet the qualifications for a Qualified Mental Retardation Professional (QMRP) specified in Code of Federal Regulations, title 42, section 483.430(a); or

(2) have a bachelor's degree in education, human services, or related fields or three years' work experience with persons with mental retardation or related conditions.

B. The living unit supervisor must have documented training or experience participating on interdisciplinary teams and performing residential program planning and writing individual goals and objectives.

C. The living unit supervisor must have completed orientation under part 9525.0355, subpart 2.

**Subp. 3. Licensure and certification requirements.** Staff and contract consultants with qualifications that require licensure, certification, or registration by the state of Minnesota must have the current licensure, certification, or registration in their field in their personnel file.

**Subp. 4. Minimum staffing requirements.** The license holder must ensure that there are present the number of direct service staff necessary to:

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A. implement each person's IHP and PIP; and

B. meet the staff ratio requirements in Code of Federal Regulations, title 42, section 483.430(d).

Subp. 5. **Special staffing needs.** The license holder must employ or contract with specially trained staff to meet special physical, communication, or behavior needs of each person in accordance with the person's ISP and IHP.

Subp. 6. **Living unit staffing.** The license holder shall ensure each living unit is staffed in accordance with items A to C.

A. At least one direct service staff member must be present and accessible whenever persons are present.

B. Each living unit must have a living unit supervisor to coordinate or supervise the coordination of services to persons.

C. A staff member trained in first aid and cardiopulmonary resuscitation; handling seizure disorders; and monitoring the side-effects of medication, including tardive dyskinesia, must be accessible when required in any person's ISP or health record.

**Statutory Authority:** *MS s 252.28 subd 2; ch 245A*

**History:** *13 SR 2446*

**9525.0350** [Repealed, 13 SR 2446]

**9525.0355 STAFF ORIENTATION AND TRAINING.**

Subpart 1. **Written plan.** The license holder must have a written plan for staff orientation and training that meets the requirements in subparts 2 to 7.

Subp. 2. **Orientation subjects.** Orientation must include the following subjects:

A. a review and explanation of the plan file under part 9525.0305, subpart 3, item A, of each person with whom the individual will be regularly providing services;

B. the rights of persons in Minnesota Statutes, section 144.651, and Code of Federal Regulations, title 42, section 483.420, and the methods used by the license holder to ensure rights are not violated;

C. the license holder's written policies under part 9525.0325;

D. the specific job the individual will perform and training in the methods to be used in achieving the goals and objectives of the persons with whom the individual will be regularly providing services. This training must specify how the methods used are directed toward achieving the service outcomes in part 9525.0245, subpart 2;

E. the requirements of Minnesota Statutes, sections 626.556 and 626.557, and parts 9560.0210 to 9560.0234 and 9555.8000 to 9555.8500 governing reporting of maltreatment of children and vulnerable adults; and Minnesota Statutes, chapter 13, the Minnesota Data Practices Act;

F. the requirements of parts 9525.2700 to 9525.2810 governing use of aversive and deprivation procedures, for all individuals who are directly involved in the use of such procedures;

G. an overview of the different types of developmental disabilities and their causes, a review of common terms and acronyms used in the field of developmental disabilities, and the principle of normalization and how the application of this principle has affected the services provided to persons with developmental disabilities; and

H. approved procedures used to administer medications and to monitor side effects, for all individuals who administer or monitor medication.

Subp. 3. **Orientation hours.** The license holder shall document that each new direct service staff member completes orientation in accordance with items A to C.

A. Staff who are employed over 20 hours a week must complete 30 hours of orientation within the individual's first 30 calendar days of employment.

B. Staff who are employed less than 20 hours a week must complete 30 hours of orientation within the individual's first 60 calendar days of employment.

C. The license holder may waive orientation in the subjects in subpart 2, items E to H, for staff who document completion within the previous two years of training in those subjects.

Subp. 4. **Volunteers.** The license holder must ensure that volunteers who provide direct services to persons receive the training and orientation necessary to accomplish the tasks assigned by the license holder.

Subp. 5. **Initial supervision.** During the first ten working days of employment or until orientation is completed, whichever occurs first, direct service staff who are working directly with persons must be supervised in person by staff who have completed orientation.

Subp. 6. **Training.** The license holder shall ensure and shall document that direct service staff annually complete the number of hours of training that equals at least two percent of the hours for which the individual is annually paid, up to 40 hours of training. Countable training hours include orientation, in-service training, or training from educational coursework, conferences, seminars, or video tapes.

Subp. 7. **Training subjects.** Annual training must include three or more of the following subjects:

A. additional training in the orientation subjects in subpart 2, items E to H;

B. conducting assessments of:

(1) skills and behaviors needed by persons in the environments where the skills and behaviors are typically used or displayed by nondisabled individuals;

(2) environmental, health, and communicative factors that influence a person's behavior; and

(3) the need for equipment or environments to assist persons in daily living, learning, and working;

C. developing and writing measurable objectives that focus on training persons in functional skill areas and are directed at achieving the service outcomes in part 9525.0245, subpart 2;

D. analyzing tasks and developing methods of instruction and intervention strategies to achieve objectives and behavioral changes;

E. using positive instructional procedures and adaptations of equipment or environments to enable persons to live or work more independently and to actively interact in community settings with nondisabled individuals who are not paid staff. These procedures include positive techniques to achieve behavior change, use of advanced technology, alternative communication systems, and techniques for lifting, turning, positioning, or transferring persons;

F. collecting information and data that measure changes in persons' behavior and the effectiveness of instructional procedures, including the establishment of baseline measurement and charting and graphing behavioral changes;

G. analyzing information to evaluate the effectiveness of instructional methods in achieving objectives of a person's PIP;

H. developing methods and strategies to recommend service changes or to modify services for persons to more effectively achieve the goals and objectives of the IHP and service outcomes in part 9525.0245, subpart 2, including Program Analysis of Service Systems (PASS);

I. assuring the health and safety of persons, including training in first aid and cardiopulmonary resuscitation; programs designed to promote a person's

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health and wellness; and monitoring the side-effects of medications, including tardive dyskinesia; and

J. other areas identified by the living unit supervisor or case manager to improve the implementation of the PIP.

**Statutory Authority:** *MS s 252.28 subd 2; ch 245A*

**History:** *13 SR 2446*

**9525.0360** [Repealed, 13 SR 2446]

**9525.0370** [Repealed, 13 SR 2446]

**9525.0380** [Repealed, 13 SR 2452]

**9525.0390** [Repealed, 13 SR 2446]

**9525.0400** [Repealed, 13 SR 2446]

**9525.0410** [Repealed, 13 SR 2446]

**9525.0420** [Repealed, 13 SR 2446]

**9525.0430** [Repealed, 13 SR 2446]

### **LICENSES; RESIDENTIAL-BASED HABILITATION SERVICES**

#### **9525.2000 PURPOSE AND APPLICABILITY.**

Subpart 1. **Purpose.** The purpose of parts 9525.2000 to 9525.2140 is to establish minimum standards that an applicant or license holder must meet to be licensed to provide residential-based habilitation services for persons with mental retardation or related conditions.

Subp. 2. **Applicability.** Parts 9525.2000 to 9525.2140 apply to any applicant or license holder, including a licensed provider of foster care, that provides residential-based habilitation services, including supported living services to children or adults, and in-home family support services to four or fewer persons under contract with a county under parts 9525.1800 to 9525.1930. Parts 9525.2000 to 9525.2140 apply only to residential-based habilitation services that are provided and funded in accordance with the waiver of requirements under United States Code, title 42, section 1396 et. seq.

Subp. 3. **Exclusions.** Parts 9525.2000 to 9525.2140 do not govern the provision of respite care and do not apply to residential programs serving more than four persons that are licensed under parts 9525.0210 to 9525.0430.

**Statutory Authority:** *MS s 252.28 subd 2; 252A.03 subd 1; 256B.092*

**History:** *13 SR 2439*

#### **9525.2010 DEFINITIONS:**

Subpart 1. **Scope.** The terms used in parts 9525.2000 to 9525.2140 have the meanings given them in this part.

Subp. 2. **Adult.** "Adult" means a person 18 years of age or older.

Subp. 3. **Advocate.** "Advocate" has the meaning given in part 9525.0013.

Subp. 4. **Applicant.** "Applicant" means an individual, corporation, partnership, voluntary association, or other organization that has applied for licensure under Minnesota Statutes, sections 245A.01 to 245A.16 and parts 9525.2000 to 9525.2140.

Subp. 5. **Baseline measurement.** "Baseline measurement" means the frequency, intensity, duration, or other quantification of a behavior that has been observed and recorded before initiating or changing an intervention or procedure to modify behavior.

Subp. 6. **Caregiver.** "Caregiver" means the individual who cares for and supervises a person receiving services at the person's residence.

Subp. 7. **Case manager.** "Case manager" means the individual designated by the county board to provide case management services as defined in parts 9525.0015 to 9525.0165.

Subp. 8. **Child.** "Child" means a person under 18 years of age.

Subp. 9. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

Subp. 10. **County board.** "County board" means the county board of commissioners for the county of financial responsibility as specified in Minnesota Statutes, section 256B.02, subdivision 3.

Subp. 11. **County of financial responsibility.** "County of financial responsibility" has the meaning given it in Minnesota Statutes, section 256G.02, subdivision 4.

Subp. 12. **County of service.** "County of service" means the county arranging for or providing community social services to persons at the request of the person, the person's legal representative, or the county of financial responsibility.

Subp. 13. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 14. **Direct service.** "Direct service" means training or supervision and assistance of a person receiving residential-based habilitation services and participation in the development or implementation of a person's individual habilitation plan.

Subp. 15. **Family.** "Family" means a person's biological or adoptive parents, stepparents, grandparents, siblings, children, grandchildren, or spouse.

Subp. 16. **Goal.** "Goal" means the desired behavioral outcome of an activity that can be observed and reliably measured by two or more independent observers.

Subp. 17. **Home and community-based services.** "Home and community-based services" means the following services that are provided to persons with mental retardation and related conditions if the services are authorized under United States Code, title 42, section 1396 et. seq., and authorized under the waiver granted by the United States Department of Health and Human Services: case management, respite care, homemaker, in-home family support services, supported living services for children, supported living services for adults, day training and habilitation, and adaptive aids as defined in part 9525.1860; and other home and community-based services authorized under United States Code, title 42, section 1396 et. seq., if approved for Minnesota by the United States Department of Health and Human Services.

Subp. 18. **Host county.** "Host county" means a county contracting for the provision of social services with an approved vendor within its county boundaries at the request of another county.

Subp. 19. **Incident.** "Incident" means any injury or accident; a seizure requiring a physician's attention; an error in drug administration; circumstances that involve a law enforcement agency; or a person's death.

Subp. 20. **Individual habilitation plan (IHP).** "Individual habilitation plan (IHP)" means the written plan required by and developed under parts 9525.0015 to 9525.0165.

Subp. 21. **Individual service plan.** "Individual service plan" means the written plan required by and developed under parts 9525.0015 to 9525.0165.

Subp. 22. **In-home family support services.** "In-home family support services" means residential-based habilitation services provided to persons with mental retardation or related conditions, and their adoptive or biological family, in the family's residence and in the community. Services are designed to enable the person to remain with, or return to, the family.

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Subp. 23. **Interdisciplinary team.** "Interdisciplinary team" has the meaning given it in part 9525.0015, subpart 15.

Subp. 24. **Legal representative.** "Legal representative" means the parent or parents of a person with mental retardation or a related condition when that person is under 18 years of age, or a court appointed guardian or conservator who is authorized by the court to make decisions about services for a person with mental retardation or a related condition regardless of the person's age.

Subp. 25. **License holder.** "License holder" means an individual, corporation, partnership, voluntary association, or other organization that is legally responsible for, and has been granted a license by the commissioner under Minnesota Statutes, sections 245A.01 to 245A.16 to provide, residential-based habilitation services under parts 9525.2000 to 9525.2140.

Subp. 26. **Objective.** "Objective" means a short-term expectation, accompanied by measurable behavioral criteria, that is written in the individual habilitation plan. Objectives are designed to result in achievement of the annual goals in a person's individual service plan.

Subp. 27. **Outcome.** "Outcome" means the measure of change or the degree of attainment of specified goals and objectives that is achieved as a result of provision of residential-based habilitation service.

Subp. 28. **Person with mental retardation or a related condition or person.** "Person with mental retardation or a related condition" or "person" means:

A. a child or adult who meets the definition of a "person with mental retardation" in part 9525.0015, item A or B; or

B. a child or adult who has a related condition as defined in parts 9525.0180 to 9525.0190.

Subp. 29. **Qualified mental retardation professional (QMRP).** "Qualified mental retardation professional (QMRP)" means an individual who meets the qualifications specified in Code of Federal Regulations, title 42, section 442.401, as amended.

Subp. 30. **Residential-based habilitation services.** "Residential-based habilitation services" means services provided in a person's residence and in the community, that are directed toward increasing and maintaining the person's physical, intellectual, emotional, and social functioning. Residential-based habilitation services include therapeutic activities, assistance, counseling, training, supervision, and monitoring in the areas of self-care, sensory and motor development, interpersonal skills, communication, socialization, working, reduction or elimination of maladaptive behavior, community participation and mobility, health care, leisure and recreation, money management, and household chores. Supported living services and in-home family support services are the two categories of residential-based habilitation services governed by parts 9525.2000 to 9525.2140.

Subp. 31. **Respite care.** "Respite care" means short-term supervision, assistance, and care provided to a person receiving waived services due to the temporary absence of or need for relief of the person's family, foster family, or primary caregiver. For the purposes of these rule parts, respite care is not a residential-based habilitation service.

Subp. 32. **Service.** "Service" means planned activities designed to achieve the outcomes assigned to the license holder by the interdisciplinary team and specified in the individual service plans of persons served by the license holder.

Subp. 33. **Supported living services for adults.** "Supported living services for adults" means residential-based habilitation services provided on a daily basis to an adult waived services recipient who resides in a service site licensed under parts 9555.5105 to 9555.6105 and 9555.6265 or in a service site that is defined as a person's own home in parts 9525.1800 to 9525.1930.

Subp. 34. **Supported living services for children.** "Supported living services

for children” means residential-based habilitation services provided on a daily basis to a waived services recipient under 18 years of age who resides in a service site licensed under parts 9545.0010 to 9545.0260 for up to three residents.

**Subp. 35. Variance.** “Variance” means written permission given by the commissioner that allows the applicant or license holder to depart from specified provisions in parts 9525.2000 to 9525.2140.

**Subp. 36. Volunteer.** “Volunteer” means an individual who, under the direction of the license holder, provides direct services without pay to persons served by the license holder.

**Statutory Authority:** *MS s 252.28 subd 2; 252A.03 subd 1; 256B.092*

**History:** *13 SR 2439*

### 9525.2020 LICENSURE.

**Subpart 1. License required.** An individual, corporation, partnership, voluntary association, or other organization must be licensed by the commissioner to provide home and community-based residential habilitation services.

**Subp. 2. Study of the applicant.** Before a license is issued, a background study must be completed of the applicant and all employees, subcontractors, and unsupervised volunteers as mandated by Minnesota Statutes, section 245A.04, subdivision 3.

**Subp. 3. Disqualification standards.** Minnesota Statutes, section 245A.04, subdivision 6, requires the commissioner to apply disqualification standards in this part to evaluate results of the study made under subpart 2. In order to become licensed or to remain licensed under parts 9525.2000 to 9525.2140, an applicant or license holder must not be an individual, employ or subcontract with an individual, or use as a volunteer an individual who has any of the characteristics in items A to D.

**A.** The individual has a conviction of, has admitted to, has been charged with and is awaiting trial for, or there is substantial evidence indicating that the individual has committed:

(1) an act of physical abuse or sexual abuse as defined in Minnesota Statutes, section 626.556;

(2) an act of abuse as defined in Minnesota Statutes, section 626.557, subdivision 2, paragraph (d), clauses (1) to (3);

(3) murder or manslaughter as defined in Minnesota Statutes, sections 609.185 to 609.205, and 609.2661 to 609.2665;

(4) the solicitation of children to engage in sexual conduct as defined in Minnesota Statutes, section 609.352; or

(5) an act or crime similar to or the same as the acts or crimes listed in this item that is listed in the laws of another state, the United States, or another country.

**B.** The individual has a conviction of, has admitted to, has an adjudication of delinquency for, has been charged with, is awaiting trial for, or a preponderance of the evidence indicates that the individual has committed:

(1) neglect as defined in Minnesota Statutes, section 626.556 or 626.557, or abuse that is nontherapeutic conduct or illegal use of person or property as defined in Minnesota Statutes, section 626.557, subdivision 2, paragraph (d), clauses (2) and (4);

(2) a felony under Minnesota Statutes, chapter 152;

(3) any crime listed in Minnesota Statutes, sections 609.17; 609.175; 609.21 to 609.224; 609.23 to 609.294; 609.321 to 609.324; 609.33 to 609.345; 609.365; 609.377; 609.378; 609.52; 609.521; 609.525; 609.53; 609.54; 609.561 to 609.563; 609.582, subdivision 1; 609.625 to 609.635; 609.66 to 609.67; 609.687; 609.71; 609.713; 609.746; 609.79; 609.795; 609.821; 609.89; or 617.23; or

(4) an act or crime similar to or the same as the acts and crimes listed in this item that is listed in the laws of another state, the United States, or another country.

C. The individual has mental illness as defined in Minnesota Statutes, section 245.462, subdivision 20, and the mental illness has a negative effect on the ability of the individual to provide service to persons receiving services.

D. The individual abuses prescription drugs or uses alcohol or controlled substances as named in Minnesota Statutes, chapter 152, to the extent that the use or abuse impairs the individual's ability to provide services.

**Subp. 4. Reevaluation of disqualification.** An applicant or a license holder who is disqualified from licensure, or an employee, volunteer, or subcontractor of an applicant or license holder, who is not permitted to work based on the disqualification standards in this subpart may request that the commissioner reevaluate the disqualification decision and set aside the disqualification. The request for reevaluation must be made in writing and sent to the commissioner by certified mail.

A. A request for reevaluation of a disqualification based on subpart 3, item A, C, or D must be accompanied by information establishing that the evidence relied upon by the commissioner is erroneous. The commissioner shall not disregard the evidence establishing that an act described in subpart 3, item A, C, or D, occurred based on the factors in item B.

B. A request for reevaluation of a disqualification based on subpart 3, item B, must be accompanied by:

(1) copies of information held by an individual, organization, or agency specified in Minnesota Statutes, section 245A.03, subdivision 3, pertaining to the evidence or circumstances surrounding the event;

(2) a statement of the period of time elapsed since the event;

(3) evidence of training or rehabilitation of the applicant or license holder, or an employee, volunteer, or contractor of an applicant or license holder that has occurred since the event; and

(4) any other information that the applicant or license holder, or an employee, volunteer, or contractor of an applicant or license holder believes the commissioner should consider in reevaluating the disqualification decision.

C. In determining whether or not to set aside a disqualification based on subpart 3, item B, the commissioner shall consider the risk of harm to persons, including consequences of the event that led to the finding; the vulnerability of the victim of the event; the time elapsed without a repeat of the same or similar event; and documentation of successful completion of training or rehabilitation pertinent to the incident.

D. Within 30 days after the commissioner has received all information necessary to reevaluate a disqualification, the commissioner shall inform the applicant or license holder and the individual involved, in writing, whether the disqualification has been set aside or affirmed, and the reasons for this decision.

E. The commissioner's disposition of a request for reevaluation of a disqualification under this part is the final administrative agency action.

**Subp. 5. Evaluation for cause.** The commissioner may require, before licensure or at any time during the licensed term, a physical, mental health, chemical dependency, or criminal history evaluation of any individual performing direct service staff duties if the commissioner has reasonable cause to believe any of the qualifications or requirements have not been met or that the individual cannot care for persons being served. Evaluations must be conducted by a professional qualified by license, certification, education, or training to perform the specific evaluation. Evaluation refusal shall result in employment disqualification.

**Subp. 6. Variances.** An applicant or license holder may request a variance

to parts 9525.2000 to 9525.2140. A request for a variance must be in writing and sent to the commissioner. A copy must be provided to the board of county commissioners of the county of service and, if applicable, the host county. The written request must specify:

- A. the provision from which a variance is requested;
- B. the reasons why the applicant or license holder cannot comply with the specified provision;
- C. the period of time, not to exceed the greater of one year or the license term, for which the variance has been requested; and
- D. the equivalent measures the applicant or license holder will take to ensure the health, safety, and rights of persons and to comply with the intent of parts 9525.2000 to 9525.2140, if the variance is granted.

**Subp. 7. Evaluation of a variance request.** A variance may be granted only if the commissioner determines that the conditions in items A to E exist:

- A. the applicant or license holder has made a written request for variance that meets the requirements in subpart 6;
- B. granting the variance does not threaten the health, safety, or rights of persons receiving services;
- C. granting the variance does not violate Minnesota Statutes;
- D. the county of service and the host county concur with the applicant's or license holder's request; and
- E. the applicant or license holder is in compliance with all other provisions of parts 9525.2000 to 9525.2140.

**Subp. 8. Notice by commissioner.** Within 30 days after receiving a request for a variance and the documentation supporting it, the commissioner shall inform the applicant or license holder in writing whether the request has been granted or denied and the reasons for this decision. The commissioner's decision to grant or deny a variance request is final and not subject to appeal under Minnesota Statutes, chapter 14.

**Subp. 9. Notice by license holder.** Within ten working days after the date that the license holder receives the commissioner's decision to grant a variance request or to issue a probationary license, suspension, or revocation, the license holder shall send a copy of the commissioner's decision to the legal representatives and county case managers of all persons receiving services.

**Statutory Authority:** *MS s 252.28 subd 2; 252A.03 subd 1; 256B.092*

**History:** *13 SR 2439*

### **9525.2025 NEGATIVE LICENSING ACTIONS.**

Under Minnesota Statutes, sections 245A.01 to 245A.16, failure to comply with parts 9525.2000 to 9525.2140 or the terms of licensure may be cause for a negative licensing action. Negative licensing actions shall be taken according to Minnesota Statutes, sections 245A.03 to 245A.09.

Within ten working days after the license holder receives notice that the license is made probationary, suspended, or revoked, the license holder shall send a copy of the commissioner's action to each person receiving services or the person's legal representative and each person's case manager.

**Statutory Authority:** *MS s 252.28 subd 2; 252A.03 subd 1; 256B.092*

**History:** *13 SR 2439*

### **9525.2030 SERVICE REQUIREMENTS.**

**Subpart 1. Individual service needs.** The license holder must provide or obtain residential-based habilitation services for each person in accordance with the person's individual needs as specified in the individual service plan and the IHP, and as authorized by the case manager.

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Subp. 2. **Methods, materials, and settings.** Methods, materials, and settings used to provide residential habilitation services and to implement the IHP must be designed to:

A. increase each person's independence in performing tasks and activities by teaching skills that reduce dependence on caregivers;

B. provide training in the environment where the skill being taught is typically used;

C. increase each person's opportunities to interact with nondisabled individuals who are not paid caregivers;

D. increase each person's opportunities to use and participate in a variety of community resources and activities, including, but not limited to, public transportation when available; recreational, cultural, and educational resources; stores; restaurants; and religious services when desired;

E. increase each person's opportunities to develop decision-making skills and to make informed choices in all aspects of daily living, including, but not limited to, selection of service providers, goals, and methods; location and decor of residence; roommates; daily routines; leisure activities; and personal possessions; and

F. provide daily schedules, routines, environments, and interactions similar to those of nondisabled individuals of the same chronological age.

Subp. 3. **Least restrictive environment.** Each person's participation, movement, communication, and personal choice may be restricted only as necessary to protect the person and others and as specified in the person's individual service plan or IHP. Supervision and assistance may be provided only when necessary for the person to complete a task or participate in an activity, or to protect the person or others.

Subp. 4. **Respectful treatment of persons.** The license holder must ensure that staff treat persons with respect, protect the personal privacy needs of persons, and do not use language that emphasizes a person's disability.

Subp. 5. **Level of participation.** The license holder must document measures, as required by each person's individual service plan, to increase the level of participation by the person in environments, activities, routines, and skills in which the person is unable to function independently. Such measures shall include staff assistance or supervision, training methodologies, and adaptations to equipment or environments.

Subp. 6. **Family relationships.** If desired by a person, services shall be designed to encourage the development of family relationships and regular interaction by the person with family and extended family members unless limited by the person's individual service plan. When a person is residing in a family home, services shall be designed to meet the person's needs while accommodating the family's existing routines and values.

**Statutory Authority:** *MS s 252.28 subd 2; 252A.03 subd 1; 256B.092*

**History:** *13 SR 2439*

### 9525.2040 SERVICE AUTHORIZATION.

Before a license holder provides a residential-based habilitative service identified in a person's individual service plan, the conditions in items A and B must be met:

A. the license holder has a copy of the signed service contract between the license holder and the county; and

B. the license holder has been authorized by the county of financial responsibility pursuant to parts 9525.0085, subpart 2; 9525.1830, subpart 1, item E; and 9525.1850, item H, to provide the type, amount, and frequency of services specified in the person's individual service plan.

**Statutory Authority:** *MS s 252.28 subd 2; 252A.03 subd 1; 256B.092*

**History:** *13 SR 2439*

### 9525.2050 SERVICE INITIATION.

**Subpart 1. Written policy required.** The license holder must have a written policy that sets forth procedures for initiating services to persons. This policy must be consistent with the county's determination or redetermination of need for the license holder's service under parts 9525.0015 to 9525.0165, if applicable; the county contract required by parts 9525.1870; and 9525.2000 to 9525.2140.

**Subp. 2. Information on persons receiving services.** When a license holder begins providing services to a person, the license holder must have written information about the person that contains:

A. A copy of the person's current individual service plan. When a person's case manager does not provide an individual service plan, the license holder shall make a written request to the case manager to provide a copy of the individual service plan.

B. A copy of a physical examination report on the person that is dated no more than 365 days before the date on which service was initiated and that includes information about seizures, allergies, and other health problems that may affect the provision of services. For persons with seizures, the written information must include a plan developed in conjunction with the person's physician that specifies the information relating to the person's seizures which must be recorded.

C. Information that must be kept current and contain:

(1) the person's name, address, birth date, telephone number, and religious affiliation;

(2) the names, addresses, and telephone numbers of the person's legal representative, including whether the person is under guardianship or conservatorship, and if under conservatorship, a copy of the order specifying the rights retained by the person; family and friends; advocate; case manager; caregiver; physician or source of medical care; hospital of preference; and other professionals involved in the care and treatment of the person;

(3) a statement signed by the person or the person's legal representative authorizing the license holder to act in a medical emergency if the person's legal representative cannot be reached or is delayed in arriving;

(4) the name of each medication currently prescribed for the person, a schedule for administration, the proper dosage and possible side effects of the medication, and statements signed by the person or the person's legal representative authorizing the license holder to administer or assist in administering the medication, if applicable;

(5) a list of the person's specific dietary needs and food-related allergies, if applicable;

(6) the date the person began receiving residential-based habilitation services from the license holder and the reasons for service initiation; and

(7) the person's learning styles, methods of communication, adaptive equipment used by the person, and the person's interests and preferences.

**Subp. 3. Review of plan file.** Before service initiation, each employee or subcontractor who is responsible for providing residential-based habilitation services to a person reviews the plan file as described in part 9525.2100, subpart 2, for that person. The license holder shall provide training to each employee or subcontractor in the methods to be used to achieve the goals and objectives for that person.

**Statutory Authority:** *MS s 252.28 subd 2; 252A.03 subd 1; 256B.092*

**History:** *13 SR 2439*

**9525.2060 RIGHTS OF PERSONS RECEIVING SERVICES.**

**Subpart 1. Statement of rights.** The rights of persons receiving home care services listed in Minnesota Statutes, section 144A.44, apply to the provision of residential-based habilitation services licensed under parts 9525.2000 to 9525.2140.

**Subp. 2. Interpretation and enforcement of rights.** A license holder under parts 9525.2000 to 9525.2140 is bound by the requirements of Minnesota Statutes, section 144A.44, subdivision 2, relating to the interpretation and enforcement of these rights. In addition, the license holder must inform each person, or the legal representative, of these rights in a form of communication that the person can understand. The license holder must document that the person or the person's legal representative received a copy and an explanation of the rights as listed in this part.

**Statutory Authority:** *MS s 252.28 subd 2; 252A.03 subd 1; 256B.092*

**History:** *13 SR 2439*

**9525.2070 RESOURCES.**

**Subpart 1. General.** The license holder shall not have any contact with, or responsibility for, a person's funds, unless authorized to do so by the person's case manager and the person or the person's legal representative. When a license holder handles a person's funds, the license holder must meet all of the requirements of this part.

**Subp. 2. Separation of funds.** The license holder must ensure separation of each person's funds from funds of the license holder or staff.

**Subp. 3. Safekeeping.** If a person's IHP requires the license holder to assist the person with safekeeping of money or valuables, the license holder shall:

A. provide, if requested by the person or the person's case manager or legal representative, a statement itemizing the person's financial transactions;

B. limit the value of cash and valuables retained by the license holder to an amount designated by the person or the person's legal representative; and

C. return money and valuables in the license holder's keeping to the person or the person's legal representative, subject to restrictions in the person's individual service plan or IHP, within three working days after a request.

**Subp. 4. Prohibition.** The license holder shall ensure that the license holder, staff, and subcontractors do not:

A. borrow money from a person;

B. purchase personal items from a person;

C. sell merchandise or personal services to a person; or

D. require a person to purchase items for which the license holder is eligible to be reimbursed.

**Statutory Authority:** *MS s 252.28 subd 2; 252A.03 subd 1; 256B.092*

**History:** *13 SR 2439*

**9525.2080 SERVICE RECOMMENDATIONS.**

The license holder shall provide written service recommendations to the county case manager and the person or the person's legal representative. Written service recommendations must be directed toward achieving the outcomes stated in part 9525.2030 and shall be prepared:

A. before the interdisciplinary team meeting, held during the first 30 days of service provision, where the individual habilitation plan is developed;

B. as part of the quarterly reports, the annual evaluation of service outcomes and additional reports prepared according to part 9525.2110;

C. upon completion of an assessment authorized by the county case manager as required in part 9525.2090;

D. following an incident requiring emergency intervention as described in part 9525.2100, subpart 3; and

E. when the license holder identifies a reason for the case manager to consider changing services, service methods, or service outcomes.

**Statutory Authority:** *MS s 252.28 subd 2; 252A.03 subd 1; 256B.092*

**History:** *13 SR 2439*

#### **9525.2090 ASSESSMENT.**

An initial assessment, as required in part 9525.0055, subpart 1, is the responsibility of the person's case manager. The license holder shall assess the person in any areas authorized by the case manager. When conducting an assessment, the license holder shall compare the person's performance, behavior, activity, and participation to that of nondisabled individuals in general. The license holder must provide the case manager and the person or the legal representative with a written summary of the completed assessment before the development of the IHP or when requested by the case manager. For each authorized area of assessment, the written summary must include an analysis of:

A. the person's current condition including a description of the person's behavior, skills, and lack of skills;

B. the person's established support systems, including a description of the current level of supervision, training, and assistance received by the person;

C. a description of the person's status and need for assistance, supervision, and training;

D. how the person's behavior, skills, or lack of skills enables or prevents full integration into community settings used by the general public;

E. an evaluation of the personal and environmental factors that may place the person at risk of abuse or neglect, as required in part 9555.8300; and

F. service recommendations in accordance with part 9525.2080.

**Statutory Authority:** *MS s 252.28 subd 2; 252A.03 subd 1; 256B.092*

**History:** *13 SR 2439*

#### **9525.2100 INDIVIDUAL HABILITATION PLAN DEVELOPMENT AND IMPLEMENTATION.**

**Subpart 1. Participation in development of the IHP.** The IHP is developed at an interdisciplinary team meeting convened and chaired by the person's case manager within 30 days of service initiation. The license holder must participate in interdisciplinary team meetings and be involved in the development of the person's IHP.

**Subp. 2. Implementation of the IHP.** The license holder must provide the residential-based habilitation services specified in the IHP and authorized by the case manager. The license holder shall document the procedures and methods used to implement these services and describe how these procedures and methods are directed toward achieving the requirements listed in part 9525.2030. This documentation must be initially developed within ten calendar days of development of the IHP, must be reviewed at least annually, and revised as necessary. The procedures and methods must be consistent with the requirements of the IHP unless a modification of the IHP is agreed to by the person or the legal representative and is authorized by the case manager or unless modifications are required by emergency intervention described in subpart 3. The license holder's documentation of the procedures and methods used must be made available to the person or the person's legal representative and must include:

A. written, measurable behavioral objectives including measurable criteria for mastery that are designed to result in achievement of the residential service outcomes specified in the person's current individual service plan and IHP and assigned to the license holder;

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B. a baseline measurement of the person's skill level in each behavioral objective;

C. the specific methods that will be used for each objective, including information about techniques, physical and social environments, and equipment and materials required to implement the objective;

D. the projected starting date and completion date for achievement of each objective;

E. a description of the types of data and the methods and schedule of data collection to measure outcomes;

F. the names of the staff or contractors responsible for implementing each objective;

G. a description of how the services provided by the license holder are coordinated with the services provided by other agencies and individuals listed in the plan file according to subpart 4, item L;

H. a description of how implementation of the IHP involves family and friends; and

I. medication administration procedures, if applicable, with written approval by a licensed physician or registered nurse.

**Subp. 3. Emergency intervention.** When the health or safety of the person is in imminent danger and the license holder is responsible for the care and supervision of the person, the license holder must secure or provide necessary emergency intervention. Emergency intervention secured or provided by the license holder does not require prior county approval or prior referencing in the individual service plan or IHP. Within 24 hours of the incident, the license holder must notify the county, the person's family, and the person's legal representative of the emergency and the intervention provided. Within five working days of the incident, the license holder shall provide the case manager and the person or the person's legal representative a written summary of the incident. The summary must include a description of the presenting circumstances, the manner and results of the emergency intervention, a description and cost of the intervention, and written recommendations in accordance with part 9525.2080.

**Subp. 4. Plan file.** The license holder must have an individual plan file for each person receiving services. This file must be immediately available to the staff responsible for service implementation. The file must contain:

A. The information listed in part 9525.2050, subpart 2.

B. The assessments, data, and summaries described in part 9525.2090.

C. The current IHP for the person.

D. Documentation of the license holder's implementation of the IHP, as required by subpart 2, including the data collected to measure the person's progress.

E. The quarterly reports described in part 9525.2110.

F. The annual evaluation of the service outcomes described in part 9525.2110 that includes the assessment information described in part 9525.2090.

G. The license holder's written recommendations to the case manager as required by part 9525.2080.

H. Documentation of QMRP coordination and supervision of service delivery required in part 9525.2130, subpart 2.

I. Reports written on a form prescribed by the commissioner describing the occurrence of and response by the license holder to any incident as defined in part 9525.2010, subpart 19. All incident reports must be in the plan file within 24 hours of the incident.

J. A record of all medications administered by the license holder and documentation of the monitoring of side effects. If a license holder administers

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psychotropic medication, the license holder must have a policy for use of psychotropic medications that complies with the Psychotropic Medication Use Checklist, and must fill out the checklist at least annually and maintain a copy in the person's plan file. The Psychotropic Medication Use Checklist is incorporated by reference and is available for inspection at the Minnesota State Law Library, 117 University Avenue, Saint Paul, Minnesota 55155. It is not subject to frequent change.

K. A statement of the financial transactions for each person to whom the license holder has been authorized by the county case manager to provide assistance with money management.

L. A listing of other agencies or individuals providing services to the person. The listing must identify the name of the agency, the phone number of the contact person for the agency, the services provided to the person by the agency, and areas needing service coordination.

**Statutory Authority:** *MS s 252.28 subd 2; 252A.03 subd 1; 256B.092*

**History:** *13 SR 2439*

**9525.2110 EVALUATION.**

**Subpart 1. Quarterly reports.** The license holder must provide the case manager and the person, or the person's legal representative, a quarterly report containing a summary of data, an analysis of the data, and an evaluation of services actually provided. The information in the report must be sufficient to determine the extent to which services have resulted in achievement of the goals and objectives of the person's habilitation plan, and whether services, including methods used, are being provided in accordance with the individual service plan and the IHP. The quarterly reports must also include the license holder's recommendations and rationale for changing or continuing the objectives or methods.

**Subp. 2. Annual evaluation of service outcomes.** During the last quarter of the person's service year, the license holder shall provide the case manager and the person or person's legal representative with a written, annual evaluation of the service outcomes. The annual evaluation must be completed before the annual review of the individual service plan or within 30 days of a written request by the case manager. The annual evaluation of service outcomes must include:

A. a summary of data indicating changes in behavior as they relate to the achievement of the outcomes in the IHP and the outcomes listed in part 9525.2030;

B. a summary of the results of any assessment authorized by the case manager and required in part 9525.2090; and

C. the license holder's recommendations and rationale for changing or continuing services, service methods, or service outcomes. Recommendations must be directed towards achieving the outcomes listed in part 9525.2030.

**Subp. 3. Additional reports.** The license holder shall provide additional reports as requested by the case manager and incorporated in the signed service contract or IHP.

**Statutory Authority:** *MS s 252.28 subd 2; 252A.03 subd 1; 256B.092*

**History:** *13 SR 2439*

**9525.2120 TERMINATING SERVICES.**

**Subpart 1. Written policy required.** The license holder must have a written policy that sets forth criteria for terminating services and specifies the procedures to be followed as services are terminated, including procedures for emergency termination.

**Subp. 2. Reporting intended terminations.** The license holder must notify the person and the person's case manager and legal representative in writing of the

intended termination. Notice of the proposed termination of services must be given at least 60 days before the proposed termination is to become effective, unless termination is made according to emergency termination procedures required in subpart 1. The written notice must include the reasons for, and projected date of, the intended termination and the resources and services recommended to meet the person's needs. Before termination, the license holder shall provide the case manager with a summary of the person's current medical status and copies of any medical records that the case manager does not have.

**Subp. 3. Record retention.** A license holder must maintain the records kept on a person for three years after services are terminated.

**Statutory Authority:** *MS s 252.28 subd 2; 252A.03 subd 1; 256B.092.*

**History:** *13 SR 2439*

### 9525.2130 STAFFING.

**Subpart 1. General staff qualifications.** License holders must ensure that each employee or subcontractor who will have direct contact with persons receiving services is at least 18 years of age, is not disqualified to provide services according to part 9525.2020, subpart 3, is physically able to care for persons receiving services. Before allowing an individual to provide direct services to persons, the license holder shall have a copy of a physician's statement, that is dated no more than one year before the initiation of services by that individual, indicating that the individual does not present a risk of transmission of reportable communicable diseases as named in parts 4605.7000 to 4605.7800.

**Subp. 2. QMRP coordination and supervision of service delivery.** The ongoing delivery and evaluation of services provided by the license holder must be coordinated by a QMRP. The license holder shall maintain documentation showing that the individual meets the definition of QMRP contained in part 9525.2010, subpart 29. The QMRP must provide coordination, support, and evaluation of services that must include:

A. Regular visits to observe and evaluate the implementation of programs and services identified in the IHP. Regular visits must occur at a minimum of two times each month when services are provided four or more days per week, and one time per month when services are provided three days per week or less. Regular visits must be made more frequently if specified in the IHP.

B. Documentation of the QMRP's evaluations and observations of visits. This documentation must be placed in the person's plan file and discussed with the staff members responsible for implementing the programs and services observed.

C. Visits at a minimum of once every seven calendar days when the QMRP finds unsatisfactory conditions while making a visit or when the case manager determines that there are unsatisfactory conditions, until the QMRP or case manager, if problems were raised by the case manager, determines that the unsatisfactory conditions have been corrected.

D. Regular instructions and assistance to the staff in implementing the IHP at a frequency consistent with the need to assure that the individual service plan and the IHP are implemented in an appropriate and effective manner.

E. Identification and documentation of staff training needed to assure that the individual service plan and the IHP are implemented in an appropriate and effective manner.

F. A review, completed at least once each month, of all program data and information regarding implementation of the IHP, including written recommendations for continuation or modification of the programs, objectives, and methods.

G. A review of incidents that require inpatient or outpatient medical treatment or law enforcement assistance. The QMRP must take appropriate action within 24 hours of the occurrence of the incident.

H. A review of all incident reports about the person receiving services. The reviews must be completed at least once each month and include identification of incident patterns and corrective action as necessary.

I. The completion or approval of the quarterly and annual reports required in part 9525.2110, subpart 1.

**Statutory Authority:** *MS s 252.28 subd 2; 252A.03 subd 1; 256B.092*

**History:** *13 SR 2439*

### 9525.2140 STAFF TRAINING AND ORIENTATION.

Subpart 1. **Orientation.** When a license holder employs or contracts with individuals to provide residential-based habilitation services, the license holder must provide orientation that meets the requirements in items A to F. The license holder shall maintain documentation showing that each individual has satisfactorily completed the required orientation.

A. The orientation must include:

(1) a review and explanation of the plan file described in part 9525.2100, subpart 4, for each person to whom the individual will be providing services;

(2) an explanation of the rights of persons as listed in part 9525.2060 and the methods used by the license holder to assure that rights are not violated;

(3) an explanation and discussion of the license holder's written policies, procedures, and practices, including those governing initiation, provision, and termination of services;

(4) an explanation of the specific job the employee will perform and training in the methods to be used in achieving the goals and objectives of the persons to whom the employee will be providing services. This training must specify how the methods used are directed toward achieving the service outcomes listed in part 9525.2030;

(5) an explanation of the requirements of Minnesota Statutes, sections 626.556 and 626.557, governing reporting of maltreatment of children and vulnerable adults, Minnesota Statutes, chapter 13, which is the Minnesota Government Data Practices Act, and parts 9555.8000 to 9555.8500 governing reporting of maltreatment of vulnerable adults;

(6) an explanation of the requirements of parts 9525.2700 to 9525.2810 governing use of aversive and deprivation procedures, for all individuals who are directly involved in the use of such procedures;

(7) an overview of the different types of developmental disabilities and their causes, a review of common terms and acronyms used in the field of developmental disabilities, and the principle of normalization and how the application of this principle has affected the services provided to persons with developmental disabilities; and

(8) an explanation of the approved procedures used to administer medications and to monitor side effects for all individuals who are responsible to administer or monitor medication.

B. The orientation must include both supervised on-the-job training and other types of training in an amount equal to at least 30 hours.

C. The orientation must be provided to all staff and supervised volunteers who provide direct service.

D. The 30-hour orientation must be completed within the first 30 calendar days of employment or contracted service for employees or subcontractors working more than 20 hours per week. For employees or subcontractors working 20 or less hours per week, the 30-hour orientation must be completed within the first 60 calendar days. Each employee or subcontractor must complete eight hours of orientation before providing direct services to persons.

E. The license holder shall identify in writing the training and supervision necessary for each volunteer to accomplish assigned tasks. The license holder must then ensure that volunteers who provide direct services to persons receive the training and supervision necessary to accomplish the tasks assigned by the license holder.

F. Direct services provided by an employee shall be provided under the continuous and direct supervision of a QMRP, or other employee who has completed the required orientation for each person to whom services will be provided by the untrained employee, until the employee has completed:

(1) 20 hours of orientation; or

(2) ten hours of orientation if the employee:

(a) has at least the equivalent of one year of experience within the past five years in the care, training, or supervision of persons with mental retardation or related conditions; or

(b) can document having completed, within the past two years, at least 24 hours of training related to the care, supervision, or training of persons with mental retardation or related conditions. If the training was received before employment, at least 12 of these hours of training must have been received within the 12-month period before employment;

G. Until the entire orientation has been satisfactorily completed, services provided by an employee or subcontractor not receiving continuous, direct supervision of a QMRP or other employee who has completed the required orientation shall be limited to those service areas in which the employee or subcontractor has successfully completed orientation.

**Subp. 2. Scope and schedule of ongoing training.** When the license holder provides direct service, the license holder must annually complete a number of hours of training that equal two percent of the number of hours billed annually, up to 40 hours of training, as the license holder's time. If a license holder employs or contracts with an individual who provides direct service, the license holder must ensure that the individual annually completes a number of hours of training equal to at least two percent of the hours for which the individual is annually paid, up to 40 hours of training. In an employee's first year of employment, the ongoing training requirement for an employee not meeting the qualifications in subpart 1, item F, must be completed within the first 120 calendar days of the employment. The hours counted as training may include in-service training, new employee orientation, and training from educational coursework, conferences, seminars, videotapes, books, or other materials. The training must:

A. be scheduled so that it does not interfere with provision of the number of service days or hours the license holder is under contract to provide;

B. be documented as having been completed by each individual providing direct services;

C. address all areas identified by the QMRP or case manager as areas needing additional training to implement the requirements of the individual service plans and IHP's of persons receiving services; and

D. respond to the behavior, habilitative, health, and developmental needs of the persons receiving services.

**Subp. 3. Content of ongoing training.** When designing ongoing training, the license holder must choose from the following areas of instruction, and training in one subject area shall not be provided to the exclusion of training in other areas:

A. additional training in the area specified in subpart 1;

B. conducting assessments of:

(1) skills and behaviors needed by persons in the environments where the skills and behaviors are typically used or displayed by nondisabled individuals;

(2) environmental, health, and communicative factors that influence a person's behavior; and

(3) the need for equipment or environments to assist persons in daily living, learning, and working;

C. developing and writing measurable objectives that focus on training persons in functional skill areas and are directed at achieving outcomes specified in part 9525.2030;

D. analyzing tasks and developing steps to achieve objectives and behavioral changes;

E. using positive instructional procedures and adaptations of equipment or environments to enable persons to live or work more independently and to actively interact in community settings with nondisabled individuals who are not paid staff. These procedures include positive techniques to achieve behavior change, use of advanced technology, alternative communication systems, and techniques for lifting, turning, positioning, or transferring persons;

F. collecting information and data that measure changes in person's behavior and the effectiveness of instructional procedures including the establishment of baseline measurement, and charting and graphing behavioral changes;

G. analyzing information to evaluate the effectiveness of instructional procedures in achieving goals and objectives of a person's IHP and outcomes specified in part 9525.2030;

H. developing methods and strategies to recommend service changes or to modify services for persons to more effectively achieve the goals and objectives of the IHP and outcomes specified in part 9525.2030, including Program Analysis of Service Systems (PASS);

I. protecting and assuring the health, safety, and well-being of persons, including first aid and cardiopulmonary resuscitation training and programs designed to promote a person's health and wellness; and

J. other areas identified by the QMRP or case manager as needed to improve the implementation of the IHP.

**Statutory Authority:** *MS s 252.28 subd 2; 252A.03 subd 1; 256B.092*

**History:** *13 SR 2439*