

CHAPTER 9545
DEPARTMENT OF HUMAN SERVICES
LICENSING OF FACILITIES FOR CHILDREN

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FAMILY FOSTER CARE AND GROUP FAMILY FOSTER CARE

9545.0010 DEFINITIONS.

Subpart 1. **Agency.** Unless qualified, "agency" means the county social service agency, or human service board, or licensed voluntary child-placing child-caring agency; the agency is the duly delegated representative of the commissioner.

Subp. 2. **Agency requirement.** "Agency requirement" means those portions of the rule binding upon the agency but not upon the provider, and so marked. Failure of the

agency to meet one or more agency requirements is not a defense for the provider's failure to meet provider requirements.

Subp. 3. **Applicant.** "Applicant" means individual(s) who have submitted a signed and dated application form (DPW-138) to an agency.

Subp. 4. **Child.** "Child" means any person under the age of 18 years.

Subp. 5. **Commissioner.** Unless qualified, "commissioner" means the commissioner of the Department of Human Services or any representative of the commissioner.

Subp. 6. **Department.** Unless qualified, "department" means the Department of Human Services.

Subp. 7. **Foster family home (FFH).** "Foster family home" means a family home licensed to provide one or more of the following types of care for children who are unrelated to the family and who are cared for 24 hours a day:

A. "emergency shelter home" means an FFH designated primarily for time-limited emergency placements, usually lasting no longer than 30 days for any child;

B. "interim home" means an FFH caring for children expected to return home within one year or to be placed for adoption within two years;

C. "permanent home" means an FFH caring for children (whether state wards or not) under written agreement for planned care until child reaches majority;

D. "restricted home" means an FFH licensed for a specific child (an FFH licensed as a restricted home may not accept children other than the specifically named child(ren));

E. "special services home" means an FFH able to provide extraordinary care or services, by virtue of training, experience, or special skills; and

F. "group family foster home" means an FFH providing care for no more than ten children, including the family's own children.

Subp. 8. **Handicap.** "Handicap" means a condition of mental retardation or a related condition, mental illness, physical handicap, sight or hearing deficiency, or chemical dependency.

Subp. 9. **License.** "License" means the document issued by the commissioner and authorizing the applicant to provide foster care.

Subp. 10. **Licensed capacity.** "Licensed capacity" means the maximum number of foster children who can live in a foster home at any given time.

Subp. 11. **Provider.** "Provider" means person(s) giving care to foster child(ren) in a licensed FFH. The provider is responsible for meeting and maintaining minimum licensing requirements in cooperation with the agency.

Subp. 12. **Related.** "Related" means any of the following persons related to the child by marriage, blood, or adoption: parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, niece, nephew, uncle, aunt. It also includes a legally appointed guardian.

Subp. 13. **Substitute caregiver.** "Substitute caregiver" means the person(s) providing temporary care for the foster child(ren) in the absence of the foster parent(s). Arrangements for substitute care must have the approval of the agency and the foster parent(s).

Subp. 14. **Waiver.** "Waiver" means written permission from either the department or designated agency to disregard a particular section of a licensing rule for no longer than 12 months.

Statutory Authority: *MS s 245A.09*

History: *L 1984 c 654 art 5 s 58; 12 SR 1148*

9545.0020 LICENSING LAWS AND PROCEDURES.

Subpart 1. **Requirement and exclusions.** A foster family home (FFH) must be licensed by the department, with the following exclusions:

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A. a home providing care and supervision only to children related to the family;

B. a home providing care and supervision for a total period of less than 30 days in any 12-month period;

C. a home providing care and supervision only to child(ren) placed in that home by an agency for the purpose of legal adoption, unless the adoption has not been completed within two years of placement; and

D. a home providing care and supervision only for one unrelated child of 16 or 17 years who has been independently placed by the child or a relative for purposes of education or work.

Subp. 2. Application form. Application for a license shall be made to the agency on the form issued by the department. This form shall be obtained from the public agency in the county where the applicant resides or from a licensed voluntary child-placing child-caring agency.

Subp. 3. [Repealed, 15 SR 2105]

Subp. 4. Specifications on license. Every license shall specify the kind of license and the maximum number of foster children to be provided care at any one time.

Subp. 5. Orientation and compliance of home before placements. No child shall be placed by an agency in an unlicensed home until that home has begun the required orientation, and until that home has been evaluated for compliance with parts 9545.0090, item A; 9545.0180, subparts 3 and 5, items A to E (agency requirement).

Subp. 6. Information for applicants. Every applicant for an FFH license shall be furnished by the agency with a copy of this rule and a copy of the form "Agreement between Foster Parents and Placement Agency" (agency requirement).

Subp. 7. Closure of home. Notice of the closure of an FFH must be sent to the department (agency requirement).

Subp. 8. Right to enter. The commissioner or agency shall have access to the FFH for evaluation at any time during normal working hours and at other times by mutual agreement. For the purpose of investigating complaints concerning the health and safety of the foster children, the commissioner or agency shall have access to the home at any time during the 24-hour day.

Subp. 9. [Repealed, 15 SR 2105]

Subp. 10. Appeals. Any applicant whose application for a license is denied and any provider whose license is revoked or not renewed for cause may appeal to the commissioner in accordance with Minnesota Statutes, chapter 14. The agency shall notify by certified mail any FFH whose license is denied, suspended, revoked, or not renewed. This notification shall state the grounds for such action and shall inform the applicant or operator of the right to appeal the action. Appeals hearings shall be heard by the Office of Administrative Hearings.

Subp. 11. Homes without license. State law provides that any person without a license who operates an FFH required to be licensed, shall be guilty of a misdemeanor and subject to a fine of up to \$300. A home, not otherwise exempt from licensure, is required to apply for a license within 30 days of accepting an unrelated child if the child is expected to remain in the home for 30 days or longer.

Subp. 12. Waiver. Specific rules may be waived with the approval of the department according to the procedure established for such waiver, provided that the health and safety of the child(ren) is assured. The granting of a waiver shall not constitute a precedent for any other FFH. No waiver shall be valid for more than one year.

Subp. 13. Authorization for acceptance or removal of foster children. Foster children may be accepted into or removed from an FFH only under authorization of a local social services agency or a licensed agency or the court in the county where the child resides.

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Subp. 14. **Denial, nonrenewal, revocation of license.** Failure, inability, or refusal to comply with parts 9545.0010 to 9545.0260 shall be cause for denial, nonrenewal, or revocation of license.

Subp. 15. **Concurrent licenses.** An FFH may not concurrently hold a license for family day care, group family day care, or group day care without the prior approval of the agency.

Subp. 16. **One agency to issue license.** An FFH shall not be licensed through more than one agency at a time.

Subp. 17. **Copy of rule for all homes.** All currently licensed homes shall be furnished with a copy of parts 9545.0010 to 9545.0260 after they become effective.

Statutory Authority: *MS s 245A.09; 245A.16*

History: *15 SR 2105; 17 SR 1279; L 1994 c 631 s 31*

9545.0030 LIMITATIONS OF LICENSE.

A family foster home shall be limited to the following, including the home's own children. See also part 9545.0250.

Reason: The abilities of parent(s) to provide care to foster children differ greatly. The maximum number of children allowed in foster homes must be flexible. But the maximums set must also allow foster family parents to devote sufficient time to each child.

A. Interim and permanent homes. Less than two years' experience as a foster home: no more than three foster children; no more than five children, total.

B. Interim and permanent homes. Two or more years' experience as a foster home; no more than five children, total.

C. Emergency shelter homes (designated). No more than seven children, total.

D. Special services homes (designated). No more than four foster children; no more than five children, total.

E. Where the foster care provider has not completed the required annual training at the time of relicensure, no further placements may be made in that home until the provider has complied with the training requirements. The license will be restricted to the children currently placed in that home (agency requirement).

F. No FFH may care for more than two children under the age of two years, unrelated to the FFH provider(s).

Statutory Authority: *MS s 245A.09*

9545.0040 EXCEPTIONS TO MAXIMUM NUMBER OF CHILDREN ALLOWED IN HOMES.

Exceptions to the maximum number of foster children will be allowed when:

A. Siblings need placement together as determined by the agency. Maximum number: seven children.

B. The home has five or six children of its own under age 18. Maximum number: seven children.

C. A child needs to be placed again in the same home as determined by the agency. Maximum number: seven children.

Statutory Authority: *MS s 245A.09*

9545.0050 MINIMUM AGE OF PROVIDERS.

All FFH providers must be at least 21 years of age at the time of licensure.

Statutory Authority: *MS s 245A.09*

9545.0060 NONTRANSFERABILITY OF LICENSE.

A license is not transferable to another provider or site.

Statutory Authority: *MS s 245A.09*

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9545.0070 NOTICE TO AGENCY OF CHANGES AFFECTING LICENSES.

The agency must be notified, in advance, of any changes that would affect the terms of the license, such as a change of address or additional persons in the home.

Statutory Authority: *MS s 245A.09*

9545.0080 ADULT ROOMERS OR BOARDERS.

An FFH may not have adult roomers or boarders unrelated to the FFH provider without special permission of the agency. The FFH shall keep the agency informed about all persons living in the home and all others having regular contact with the foster child in the foster home.

Statutory Authority: *MS s 245A.09*

9545.0090 PERSONAL QUALITIES OF FOSTER FAMILY HOME APPLICANTS.

FFH applicants shall be kind, mature, and responsible people with a genuine liking for children. They shall possess consistent and healthy methods of handling the lifestyle unique to their own families. Evaluation of applicants shall consider cultural differences.

Reason: Children who must live apart from their own homes are uniquely in need of stable, understanding families. Many children needing placement are emotionally, mentally, or physically handicapped. These children need extra understanding and parenting to cope with their problems.

A. Satisfactory compliance: An FFH license shall not be issued or renewed where any person (except foster children) living in the household has any of the following characteristics:

- (1) a disqualification under part 9543.3070;
- (2) chemical dependency, unless the individual(s) identified as chemically dependent has been chemically free for at least 12 months; or
- (3) residence of the family's own children in foster care, correctional facility, or residential treatment for emotional disturbance within the previous 12 months if, in the judgment of the agency, the functioning of the family has been impaired.

B. Satisfactory compliance: In order to protect children in foster care and assure them the maximum opportunities for growth and development, each family caring for children shall be evaluated on the following essential elements:

- (1) have established and are comfortable with their own identity to the degree that meeting their own needs does not interfere with their meeting the needs of foster children;
- (2) have optimism, a sense of humor, resiliency, and ability to enjoy life;
- (3) be in touch with their own feelings, be able to express these feelings, and have a capacity to look at themselves realistically as to the kinds of children they can accept and work with;
- (4) have health and vigor to meet the needs of children placed with them;
- (5) have meaningful extended family, neighborhood, cultural, and community ties;
- (6) have the ability to deal with anger, sorrow, frustration, conflict, and other emotions in a manner which will build positive interpersonal relationships rather than in a way that could be emotionally or physically destructive to other persons;
- (7) have the ability to give positive guidance, care, and training to a child according to the child's stage of growth, special abilities, and limitations;
- (8) have the ability to use discipline in a constructive rather than destructive way;
- (9) understand, accept, and seek to nurture cultural, spiritual, racial, and affectional ties of the child;

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(10) have the ability and flexibility to accept a child in placement who has special needs, treat a foster child as a member of their family, recognizing that a foster child has other family ties;

(11) have the ability to accept the foster child's own family and maintain an understanding relationship with them;

(12) have the ability to work with the agency and other community resources;

(13) have a capacity and willingness to involve themselves in ongoing educational opportunities, as well as other learning experiences;

(14) be able to constructively resolve problems when difficulties arise;

(15) be comfortable in relating to professional treatment personnel of all kinds, including the ability to discuss differences of viewpoint, and to be an advocate for the foster child when indicated; and

(16) have an ability to openly discuss their attitudes about persons with differing life styles and philosophies and a capacity to accept people who are different from themselves.

Statutory Authority: *MS s 245A.04; 245A.09*

History: *15 SR 2043*

9545.0100 COOPERATION BETWEEN APPLICANTS AND AGENCIES.

FFH applicants and agencies must be able to work in partnership.

Reason: The agency has overall responsibility for planning with the child. The service of foster parents is an integral and important part of that plan. The relationship between the FFH and the agency must be one of mutual trust and respect.

Satisfactory compliance:

A. The FFH applicant and agency must sign and abide by the terms of the Foster Parent Agreement.

B. An FFH shall be visited at least once a month by a representative of the agency for the first six months after the first placement (agency requirement).

C. An evaluation visit shall be made by the agency at least once every 12 months for as long as the FFH provider maintains an FFH license. A copy of the written evaluation report shall be given to the FFH provider (agency requirement).

D. The FFH has a right to know the policy, procedure, and intentions of the agency towards placement of children in that FFH. The FFH may request and receive such information from the agency at the time of licensure and at any time that FFH has been without a placement for a 12-month period (agency requirement).

E. Training opportunities shall be made available and accessible to all applicants and FFH providers. Substitute caregivers shall be eligible for the same training as the licensed FFH providers (agency requirement).

F. There shall be a grievance mechanism for resolving differences between the agency and the FFH. The FFH provider shall be given a written statement of grievance procedures. Grievance procedures shall address those areas of disagreement not included in the appeal procedures set forth by the department (agency requirement).

Statutory Authority: *MS s 245A.09*

9545.0110 AGE OR PHYSICAL HANDICAP OF PROVIDERS.

Age or physical handicap of FFH providers shall be a consideration only as it affects their ability to provide adequate care to foster children or may affect an individual child's adjustment to the family.

Statutory Authority: *MS s 245A.09*

9545.0120 EVALUATION OF PROSPECTIVE PROVIDERS.

The agency may request consultation from specialists in evaluating the abilities of prospective FFH providers, but must evaluate each applicant on an individual basis (agency requirement).

Statutory Authority: *MS s 245A.09*

9545.0130 APPROVAL OF SUPERVISION PLAN FOR FOSTER CHILDREN.

When all adults in the FFH are employed or otherwise occupied for substantial amounts of time away from home, the plans for care and supervision of the foster children must be approved in advance by the agency.

Statutory Authority: *MS s 245A.09*

9545.0140 HEALTH OF PERSONS LIVING IN FFH.

Subpart 1. **Physical health.** The health of persons living in the FFH shall not be a hazard to the children.

Satisfactory compliance: The applicant shall supply evidence to the agency:

A. Sometime during the 12 months prior to initial licensure, each person living in the home has had a negative Mantoux test or chest X-ray.

B. A statement from the applicant's physician dated within the six months prior to licensure that either:

(1) members of the family have received a physical examination and are physically able to provide care to children; or

(2) members of the family are receiving all necessary continuing medical care and are physically able to provide care to children.

This statement may not be necessary for children who are members of the foster family if current school reports indicate good health.

The agency may, at its own discretion, require a physical examination of any person living in the home.

The FFH shall make the agency immediately aware of any communicable or infectious disease in the FFH.

Subp. 2. **Mental health.** When, in the opinion of the agency, any person in the home exhibits a mental health problem, the agency may require an evaluation of that person by a mental health specialist as a requirement for license.

Statutory Authority: *MS s 245A.09*

9545.0150 TRAINING FOR FOSTER CARE PROVIDERS.

Family foster care providers shall participate in training to develop and enhance their skills.

Reason: The vast majority of children needing placement are children with problems. Many children are emotionally, mentally, or physically handicapped.

The intent of an ongoing training program is to build on the foster parents' initial interest in providing service and to maximize their ability to provide the highest quality services to children. The aim of this training is to transfer information about foster care and foster children.

Orientation and in service training can, and should, take place in a variety of settings and through a variety of methods. For example: group sessions offered by local agencies or foster parent associations; regular courses offered by technical colleges, colleges, or universities; TV or correspondence courses; agricultural extension classes; organizational activities such as conferences, conventions, and seminars; special sessions offered by local school districts or mental health centers; Red Cross training; one to one tutoring by agency staff or experienced foster parents.

Satisfactory compliance:

A. Every applicant for an FFH license shall begin the minimum of six hours of orientation prior to receiving the first child in placement.

B. An FFH provider who wishes to take a leave of absence from foster care for up to 12 months, may have the annual training requirement waived for that 12-month period.

C. Every FFH, except those providing exclusively permanent home care or restricted home care, shall participate in a minimum of 12 hours annually of training related to foster care. The 12 hours may be shared among the adult FFH providers in the home.

D. Training opportunities shall include, but not be limited to:

- (1) child and adolescent development;
- (2) communication skills;
- (3) roles and relationships in foster care;
- (4) community services for children;
- (5) methods of discipline;
- (6) constructive problem solving;
- (7) the meaning of a foster child's birth parents;
- (8) basic first aid;
- (9) home safety;
- (10) trauma of separation and skills for handling; and
- (11) human sexuality.

E. An FFH with five consecutive years of experience as an FFH may be exempted from mandatory annual training at the discretion of the agency.

F. In addition to regular training requirements, every FFH licensed as an emergency shelter home or a special services home or a group family foster home shall participate in a minimum of six hours annually of additional training related to the special needs of these children.

Statutory Authority: *MS s 245A.09*

History: *L 1987 c 258 s 12, c 403 art 3 s 96; L 1989 c 246 s 2; L 1994 c 465 art 1 s 62; L 1994 c 631 s 31*

9545.0160 PROHIBITION AGAINST ABUSE.

No child shall be subjected to physical or psychological abuse.

Reason: Although families differ in their approach to discipline, harsh or threatening methods are particularly damaging to children in foster care. Discipline should be defined as an overall plan for teaching acceptable behavior; punishment is, more narrowly, negative reinforcement for unacceptable behavior. The carrying out of the individual plan for a foster child or the contract between the child and the foster parents involving specified consequences should not be construed as imposing punishment on that child.

Satisfactory compliance:

A. Methods of discipline to be used in the FFH shall be discussed with the agency during the application process. Child training and discipline shall be handled with kindness and understanding.

B. No child in care shall be subjected to unusual, severe, or cruel punishment.

C. No child in care shall be subjected to verbal abuse, derogatory remarks about the child or members of the child's family, or to threats to expel the child from the foster home.

D. Isolation, when used as discipline, shall not exceed ten minutes for any child under six years of age. Isolation shall not exceed one hour for a child six years of age or older. Isolation shall be in a light, well-ventilated room of at least 50 square feet,

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and within hearing of an adult. An adult shall periodically check, at least every ten minutes, on a child in isolation. No child shall be isolated in a closet or a locked room.

E. No child shall be punished for bed-wetting or with regard to toilet training.

F. No child in care shall be deprived of meals, mail, or family visits as a method of discipline.

G. Punishment shall not be delegated to another child.

H. Methods of discipline shall be periodically evaluated by the FFH and the agency.

I. Corporal punishment is prohibited. Corporal punishment includes but is not limited to hitting, slapping, spanking, pinching, shaking, kicking, or biting.

Statutory Authority: *MS s 245A.09; 17 SR 1279*

9545.0170 DATA PRIVACY.

Private data about the child or the child's family shall be kept private.

Statutory Authority: *MS s 245A.09*

History: *17 SR 1279*

9545.0180 HEALTH CARE IN FAMILY FOSTER HOMES.

Subpart 1. **Emergencies.** The FFH provider shall be prepared to cope with health emergencies.

Satisfactory compliance:

A. The FFH provider shall have a plan approved by the agency for meeting medical emergencies; this plan shall include the name and phone number of the child's physician, as provided by the agency.

B. The FFH provider shall have first aid supplies readily available to treat minor injuries.

C. No foster child shall be given prescription medicine not specifically prescribed for that child. Any medicine prescribed for a foster child shall be given exactly as prescribed and shall be given by an adult.

D. The FFH provider shall have written instructions from a licensed physician or dentist prior to the administration of any prescription medication. Medication with current prescription information on the label shall constitute such instructions.

Subp. 2. **Pets.** FFH homes that have house pets shall ensure that such pets have had all necessary shots; FFH homes shall not have turtles, chickens, or ducks as house pets.

Subp. 3. **Report of death or serious illness or injury.** The FFH provider shall report immediately to the agency the occurrence of an unusual accident such as the death or serious injury or serious illness of a foster child. A serious injury or illness shall be defined as one requiring professional medical attention.

Subp. 4. **Medical and dental care for foster children.** The FFH provider shall be responsible for carrying out the agreed-upon plan for medical and dental care for the foster child(ren).

Subp. 5. **Contact with agency.** The FFH provider shall have a means for contacting the agency 24 hours per day, seven days per week (agency requirement).

Statutory Authority: *MS s 245A.09*

History: *17 SR 1279*

9545.0190 PHYSICAL ENVIRONMENT.

Subpart 1. **Safety and health.** Consideration shall be given to varying lifestyles and different cultures when determining whether applicants meet the standards. If approval would require deviation from the rule, the agency must request a waiver in writing from the department, taking into consideration the health and safety of child(ren) in placement (agency requirement).

Reason: All children deserve a safe and healthy environment. But equally important is the preservation of cultural heritage. To promote the establishment of foster homes representing all cultures, the agency must consider the cultural standards.

Subp. 2. **Water and milk supply.** There must be a safe water and milk supply.

Subp. 3. **Cleanliness and freedom from hazard.** The house and premises shall be reasonably clean, reasonably neat, and free from hazards that jeopardize health and safety.

Satisfactory compliance:

A. FFH premises shall be inspected by the agency (agency requirement).

B. House and premises shall be clean, reasonably neat, and free from accumulations of dirt, rubbish, or peeling paint.

C. All medicines, chemicals, cleaning supplies, and other toxic substances shall be stored out of the reach of children. They must not be stored with or immediately beside food products.

D. The use of potentially hazardous materials and tools shall be supervised.

E. Outdoor play space shall be enclosed, if necessary, to provide protection.

F. The FFH provider shall maintain personal cleanliness while preparing food.

G. Food and cooking utensils shall be stored to protect from dust, vermin, leakage from pipes, or other contamination.

H. Food needing refrigeration shall be stored at a temperature that will prevent spoilage and bacterial growth (40 degrees Fahrenheit recommended).

I. Appliances regularly used in the storage and preparation of food shall be safe and in good working order.

J. The use of home-canned fruits and vegetables is permitted.

K. Measures shall be taken to protect against the entrance into the home or breeding of vermin and insects.

Subp. 4. **Supervision of children.** Children in care shall be adequately supervised at all times.

Subp. 5. **Fire safety.** The FFH home shall be safe from fire and structural hazards.

Satisfactory compliance:

A. An inspection for fire safety using the Fire Safety Check List shall be made jointly by the applicant and the agency before licensure and annually thereafter before relicensure. The agency may request a fire marshal inspection of any FFH (agency requirement).

B. An FFH to be located in a mobile home must be inspected by a fire marshal or codes officer.

C. Any bedroom for a foster child located in a room 50 percent or more below ground level must be inspected by a fire marshal or codes officer. It must have two means of exit.

D. Unvented gas or oil heaters shall not be permitted.

E. No stove or heater shall be located where it would block escape in case of a fire.

F. A portable A-B-C fire extinguisher shall be provided for the kitchen and cooking areas.

G. Combustible items shall not be located near the furnace area or other sources of heat.

H. Fireplaces, space heaters, steam radiators, and hot surfaces, such as steam pipes, shall be shielded against accidental contact.

I. Every closet door latch shall be one that can be opened from the inside.

J. Any bathroom door lock shall be designed to permit the opening of the locked door from the outside in an emergency.

K. A report shall be made to the agency after the occurrence of a fire that requires the services of a fire department.

L. Emergency procedures shall be planned, written, and posted. They shall include a plan for evacuation, temporary shelter, and meeting place to determine if anyone is missing. Emergency procedures shall be reviewed at least annually by the FFH provider and agency.

M. A UL-listed product of combustion detection unit (smoke or ionization), either battery or electrically operated, shall be installed in the corridor or hallway leading to the sleeping area(s) of the FFH.

Subp. 6. **Coping with emergencies.** The FFH provider shall be prepared to cope with emergencies.

Satisfactory compliance:

A. The FFH provider shall make arrangements, approved by the agency, for substitute care during emergencies.

B. A list of emergency telephone numbers shall be prominently posted, including police, fire, doctor, hospital, ambulance, and emergency social service.

C. The FFH provider shall notify the agency as soon as it has been determined that a foster child has run away or is missing.

Statutory Authority: *MS s 245A.09*

9545.0200 NUTRITION.

Subpart 1. **Diets.** The FFH provider shall consult with a physician about the diet for children with special dietary needs, such as infants under one year of age, children with allergies, children who are over or under weight, children who are hyperactive.

Subp. 2. **Well-balanced meals.** Well-balanced meals shall be served daily.

Reason: Balanced nutrition is basic to the attainment of good health. A child grows and develops rapidly. This growth and development is related to nutrition.

Satisfactory compliance: Each day's menu shall include servings from each of the basic four food groups as indicated in the daily food guide in part 9545.0240.

Statutory Authority: *MS s.245A.09*

9545.0210 DAILY ACTIVITIES.

Subpart 1. **In general.** Every foster child shall be treated as a member of the FFH. The foster child shall share in the privileges and responsibilities of the home as appropriate to the child's age and abilities. Activities shall foster optimum physical, social, mental, and emotional development of children. Activities that enhance the child's appreciation of the child's cultural heritage shall be supported and encouraged.

Subp. 2. **Infants.** Infants:

A. Each infant must be held during bottle feedings until the infant is safely able to hold the bottle.

Reason: An infant's first sense of security is closely related to food. Being held during feeding helps to develop a trust relationship with others. It is possible for a young infant to choke on milk or water from a propped bottle.

B. Each infant must be held, rocked, cuddled, and played with during each day of care.

Reason: Physical closeness to others is indispensable as a first step in social relationships.

C. Infant's attempts to communicate must be responded to.

Reason: Baby sounds are the beginning of speech and language development. Socialization is encouraged when the infant receives a response to babbling.

D. The infant must have ample opportunities for freedom of movement every day.

Reason: The infant needs large-muscle activity in order to develop properly, physically and mentally. The infant learns by exploring the environment.

Satisfactory compliance:

(1) The noncreeping infant shall spend part of each day outside of crib and playpen.

(2) The creeping infant shall have freedom to explore outside of crib or playpen. A crib or playpen shall be used only for sleeping or for short periods of time when needed for safety. During the infant's waking hours, a playpen shall be placed where the infant can see others.

E. The infant must be provided with an environment that stimulates all of the senses.

Reason: The infant develops in response to stimuli; normal development can be retarded by a lack of stimulation.

Satisfactory compliance: Infants should be provided with (commercial, homemade, or natural):

(1) things to look at (e.g., crib mobile);

(2) things to listen to (e.g., rattle, FFH provider's voice);

(3) things to feel (e.g., a soft ball);

(4) things to smell (e.g., newly baked cookies); and

(5) things to taste (e.g., clean objects that are nontoxic and too large to swallow or cause choking).

Subp. 3. **Toddlers, preschoolers, and school-age children.** Toddlers, preschoolers, and school-age children:

A. Each child shall be allowed as much independence as the child can safely handle.

Reason: The child needs to establish self-identity; children learn through exploring and manipulating their environment.

B. Each child shall be provided with limits consistent with the child's age and understanding.

Reason: The child needs to learn rules for the safety of the child and others.

Satisfactory compliance: Each child shall be taught to avoid behavior that would be dangerous to the child or to others.

C. Each child shall be encouraged to communicate verbally.

Reason: Speech and language development occurs through practice and encouragement. Socialization is encouraged when the child receives a response.

D. Each child shall be given physical signs of affection as appropriate for age and maturity.

Reason: The child needs physical closeness although the child may reject it at times because of a growing need for independence. This independence must be respected, but rocking, hugging, and other physical signs of affection must be offered.

E. Each child shall be provided with materials and equipment that will enhance physical, mental, and emotional development.

Reason: Appropriate materials and equipment encourage activities among children.

Satisfactory compliance: The FFH home shall provide commercial, homemade, or natural materials and equipment of sound construction and working, that encourage and stimulate:

(1) large-muscle activities (e.g., large blocks, cardboard cartons);

(2) small-muscle activities (e.g., manipulative toys, craft materials);

(3) creative activities (e.g., dress-up clothes, art supplies);

(4) cognitive activities (e.g., puzzles, books); and

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(5) social activities (e.g., games).

F. Toilet training shall be undertaken only when appropriate to each child's age and stage of development.

Satisfactory compliance:

(1) Toilet training by the FFH provider shall be within the limits of the licensing rules.

(2) No child shall be punished for accidents occurring during toilet training. (See also part 9545.0160)

(3) The agency shall offer consultation and training to providers about toilet training.

G. Each child shall nap or rest as appropriate to the child's age and stage of development.

Reason: Children's needs for naps differ even at similar ages.

Subp. 4. **Adolescents.** Adolescents:

Reason: The view of adolescence on which the following is based is that of adolescence being a segment of continuing human development. Adolescents are persons with specific qualities and characteristics who have a participatory and responsible role to play, tasks to perform, and skills to develop at that particular time of life. The degree or extent to which an adolescent experiences such responsible participation will determine and maximize human development.

Conditions for healthy development should provide young people with opportunities:

A. To participate as citizens, as members of a household, as workers, as responsible members of society.

Reason: Adolescents are growing, developing persons in a particular age group, not preadults, preparents, or preworkers, but human beings participating in the activities of the world around them.

Satisfactory compliance: The agency and the foster child shall discuss house rules with the foster parent(s). The foster child(ren) are expected to live by these house rules.

B. To gain experience in decision making.

Reason: In our complex society, youth must develop the capacity to make decisions in many areas: school interests, work interests, use of discretionary time, the kind of friends they want to cultivate, etc.

Satisfactory compliance: Each child shall be provided practical learning opportunities.

C. To interact with peers and acquire a sense of belonging.

Reason: Adolescents are moving toward wider interdependence with their peers, need to have a sense of belonging to their own age groups, as well as to adults. They need to acquire the ability to handle their sexuality, to develop and maintain friendship, to experience closeness.

Satisfactory compliance: Each child shall have the opportunity to participate in a variety of activities.

D. To reflect on self in relation to others and to discover self by looking outward, as well as inward.

Reason: Adolescents encounter conflicting values in a rapidly changing world and should have the opportunity to thrash out their reactions, consider the pluses and minuses, and try to determine where they themselves stand.

Satisfactory compliance: Each child shall be encouraged to participate in open discussion, with adults exposing, but not imposing, their value systems on the child.

E. To discuss conflicting values and formulate their own value system.

Reason: There is almost no increase in the level of moral maturity beyond that reached during adolescence.

Satisfactory compliance: Each child shall be provided opportunity for significant experiences and careful examination and reflection of those experiences for their moral development.

F. To experiment with their own identity, with relationships to other people, with ideas: to try out various roles without having to commit themselves irrevocably.

Reason: Adolescents should be able to try out various roles without being obligated to pursue a given course.

Satisfactory compliance: Each child shall be allowed opportunities to experiment, within the constraints of law, with self-identity in a nonjudgmental atmosphere.

G. To develop a feeling of accountability in the context of a relationship among equals.

Reason: Genuine participation and genuine responsibility go hand in hand. A basic tenet of our social system is: for every right, there is a corresponding responsibility, resulting in the commitment necessary in a mature society.

Satisfactory compliance: Each child shall be provided opportunities for participation and accountability in a family relationship.

H. To cultivate a capacity to enjoy life.

Reason: Maturity includes enjoyment, being creative, frivolous, doing things on one's own, and learning to interact with all kinds of people.

Satisfactory compliance: Each child should have a family accepting of other person's life styles and values, having flexibility and a sense of humor, and a sense of the joy of living.

Subp. 5. **Religious or cultural heritage.** Special activities related to a child's religious or cultural heritage shall be available to the child.

Subp. 6. **Activities with natural family.** Special activities related to a child's natural family shall be available to the child, based on the agency's plan.

Statutory Authority: *MS s 245A.09*

History: *17 SR 1279*

9545.0220 RECORDS.

Subpart 1. **Individual records for each FFH.** The agency shall establish and maintain an individual record for the foster family home (agency requirement).

Reason: The foster home record serves as the basis of evaluation both of foster home quality and of agency practice. Recommendations to the department about the foster home must be substantiated through the agency's records.

Satisfactory compliance: The agency record shall contain:

A. A copy of the application for licensure signed by the applicant (DPW-138).

B. A Foster Parent Agreement Form signed by both the applicant and the agency (DPW-139).

C. A physician's statement concerning the physical health of persons in the FFH.

D. A current completed Fire Safety Check List (DPW-644) plus a written report from the fire marshal on any special fire hazards (if required by agency).

E. The prelicensing home study.

F. References from persons who can evaluate the applicant(s) as potential foster care providers. If the applicant(s) have been licensed through another agency within the previous five years, the agency shall request a reference from that agency.

G. An annual evaluation of the FFH, done jointly by provider and agency, covering services provided by both FFH and agency. It shall be based on a complete review of parts 9545.0010 to 9545.0260 and on the years placement experiences. Any

disagreement about the evaluation between the FFH and the agency shall also be entered into the record.

H. Documentation for any waiver of licensing rules.

I. Record of training received by the foster parents.

Subp. 2. **Individual records for children in FFH.** Individual case records for children placed in foster care shall be kept separately from the licensing record (agency requirement).

Subp. 3. **Private data.** FFH data classified as private shall be maintained as private. FFH providers shall have access to private data concerning themselves (agency requirement).

Statutory Authority: *MS s 245A.09*

9545.0230 SPECIAL SERVICES HOME; ADDITIONAL REQUIREMENTS.

Subpart 1. **In general.** Reason: Children with special needs require a special understanding. FFH providers who undertake to care for these children must possess more than ordinary abilities. Such children require extraordinary care.

Opportunities for achieving the special knowledge and skills can include observation of children with special needs, meeting with other foster parents who have cared for children with special needs, discussions with specialists and community resource people, and attending conferences.

Subp. 2. **Education and experience requirements.** Prior to licensure for special services, the FFH provider must have structured opportunities for achieving knowledge and skills necessary and pertinent to specific special need or handicap:

A. three years' experience as a licensed FFH plus 12 hours of training related to children with special needs; or

B. one year experience in working with children with special needs, which may include their own children, plus six hours of training related to children with special needs; or

C. 25 hours of training related to children with special needs.

Subp. 3. **Individual program plan.** Within 30 days after placement of a child with special needs in an FFH, a written individualized program plan must be developed by the FFH provider and the agency. This plan shall be evaluated and updated regularly, but no less often than every six months (agency requirement).

Reason: The growth and development of children with special needs or handicaps must be planned and evaluated regularly.

Satisfactory compliance:

A. At least the FFH provider and agency must participate in program planning. The school district shall be invited to participate, and given reasonable notice.

B. Other agencies and community resources shall be called upon as indicated by the particular needs of the individual child.

C. The individual program plan must be available for use by the FFH provider, the agency, and the school district.

D. There shall be a regular evaluation of the child's progress at intervals mutually agreed upon by provider agency. Progress shall be recorded by the agency.

E. The individualized program plan shall contain specific, objective, time-limited goals. These goals shall be dated. The goals shall be updated as needed at the times of evaluation. Goals shall relate to the care and welfare of the foster child.

Subp. 4. **Community resources.** Community resources and services must be made known to and utilized by the FFH, as indicated by the needs of the children.

Subp. 5. **Time off.** A plan for regular time off for providers shall be developed by the agency and the FFH provider (agency requirement).

Subp. 6. **Home environment.** The environment and structure of the home shall be appropriate to the needs of the foster child(ren).

Statutory Authority: *MS s 245A.09*

9545.0240 GROUP FAMILY FOSTER HOMES; ADDITIONAL REQUIREMENTS.

Subpart 1. **Flexibility in type of care.** Flexibility in type of care:

Reason: Not all foster homes fit into neat categories. There are families with many children of their own. There is a need to develop innovative ways of caring for children away from their own families -- such as emergency shelters and teenage peer groups. It is both necessary and desirable to provide flexibility and room for innovation in the field of foster care, while still ensuring the basic needs of children.

Subp. 2. **Written description.** The group family foster home, in conjunction with the agency, shall define, in writing, a description of the ages and kinds of children to be served, as well as the scope of services to be provided by the group family foster home.

Subp. 3. **Written agreement.** The group family foster home and agency shall have a written and signed agreement containing (agency responsibility):

- A. admission and discharge policy for the children;
- B. individualized program plans for the children and designated responsibility for developing and implementing these plans;
- C. the time limits of the agreement;
- D. the responsibilities of the agency and the GFFH;
- E. the rate to be paid the home for its services, including any special payments for clothing, medical expenses, and special services;
- F. the responsibility for arranging for all necessary services and resources in the community;
- G. the arrangements for substitute providers for emergency situations, vacations, illness, and for regular time off; and
- H. the arrangements for providing administrative, consultative, and social services for the GFFH.

Subp. 4. **Adult to child ratio.** There shall be a minimum of one adult in residence for every five children in the group family foster home.

Subp. 5. **Maximum number of children.** The group family foster home shall care for no more than ten children, including their own children.

Subp. 6. **Physical facility.** Physical facility:

- A. There shall be 35 square feet of living space per child, excluding bathrooms, halls, bedrooms, kitchen, and laundry or furnace room.
- B. The dining area must be able to comfortably accommodate, at one time, all the children plus the family.
- C. Every sleeping room accommodating one foster child shall have at least 80 square feet of floor space.
- D. Every sleeping room accommodating more than one foster child shall have at least 60 square feet of floor space per child.
- E. No sleeping room shall accommodate more than four children.
- F. Each child shall have adequate space for clothing and personal possessions.

Subp. 7. **Joint signatures on application.** The application for licensure shall be signed by both the agency and the applicant.

Subp. 8. **Maximum number of unrelated children with special problems.** A group family foster home may not care for more than two unrelated children who are nonambulatory, nonmobile, severely mentally retarded, or profoundly mentally retarded at any one time.

Statutory Authority: *MS s 245A.09*

History: *17 SR 1279*

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9545.0250 DAILY FOOD GUIDE.

Food	Serving Per Day	Average Size Serving By Age*				
		1 - 3 years	3 - 6 years	6 - 9 years	9 - 12 years	12 - 18 years
MILK GROUP:						
Milk	2 - 3 servings	1/2 - 1 cup	1/2 - 1 cup	1 cup	1 cup	1 cup
Cheese and ice cream occasionally						
MEAT GROUP:						
Meat, poultry, fish, and, as alternatives, dried beans or peas or peanut butter	1 - 2 servings	1 - 3 ounces	2 - 4 ounces	4 - 5 ounces	4 - 6 ounces	4 - 6 ounces
Egg	3 - 4/wk	1	1	1	1	1
VEGETABLE & FRUIT GROUP:						
Dark green vegetables and deep yellow vegetables and fruits for Vitamin A	1 serving	2 - 3 tbsp.	2 - 4 tbsp.	1/4 cup	1/2 cup	1/2 cup
Fruit for Vitamin C - citrus, tomato, cabbage	1 serving	1/3 - 2/3 cup	1/3 - 2/3 cup	1/2 cup	1/2 cup	1/2 cup
Other fruits and vegetables	2 servings	1/4 - 1/3 cup	1/4 - 1/3 cup	1/2 cup	1/2 cup	1/2 cup
BREAD AND CEREAL GROUP:						
Bread and cereal, whole grain or enriched	4 servings	1/2 - 1 slice 1/4 cup cereal	1/2 - 1-1/2 slices 1/2 cup cereal	2 - 3 slices 1/2 cup cereal	2 - 3 slices 3/4 cup cereal	2 - 3 slices 1 cup cereal
OTHER						
Butter or margarine		as spread or seasoning		2 tbsp.	2 - 4 tbsp.	

*Size of serving will differ with individual children; some may want smaller amounts and some larger.

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Source: USDA, Consumer & Food Economics Research Division -1963 Minnesota Department of Health.

Statutory Authority: *MS s 245A.09*

9545.0260 FOSTER CARE.

Type of Home Experience	Annual Training	Number Of "Own" Children	Number Of Foster Children	Total Number Of Children
1. Interim and Permanent (3 foster - 5 total)				
Licensed less than 2 years	12 hours	0-2 3 4	3 Absolute 2 limit 1 in this category	5 5 5
Exclusively Permanent or Restricted	No Requirement	5 6	2 1	7 7
2. Interim and Permanent (5 children total)				
Licensed 2 or more years	12 hours	0 1 2 3	5 4 3 2	5 5 5 5
Exclusively Permanent or Restricted	No Requirement	4 5 6	1 2 1	5 7 7
3. Emergency Shelter (7 children total)				
	12 hours 6 hours (Special needs)			7
4. Special Services (Handicapped or Extraordinary Care) (4 Foster - 5 total)				
a) Licensed 3 years + 12 hours related training	12 hours 6 hours (Special needs)	0 1 2 3 4	4 4 3 2 1	4 5 5 5 5
OR				
b) Experience - 1 year with handicapped + 6 hours related training				
OR				
c) 25 hours related training				

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5. Group Family (10 children total)

12 hours
6 hours
(Special
needs)

(No more than 2 children
with severe handicaps at
one time

10

EXCEPTIONS:

- a) Siblings need placement together. Maximum Number: Seven children total.
- b) Home has five or six children of its own under age 18. Maximum Number: Seven children total.
- c) Child needs to be placed again in the same home. Maximum Number: Seven children total.

Statutory Authority: *MS s 245A.09*

9545.0310 [Repealed, 9 SR 2106]

9545.0320 [Repealed, 9 SR 2106]

9545.0330 [Repealed, 9 SR 2106]

9545.0340 [Repealed, 9 SR 2106]

9545.0350 [Repealed, 9 SR 2106]

9545.0360 [Repealed, 9 SR 2106]

9545.0370 [Repealed, 9 SR 2106]

9545.0380 [Repealed, 9 SR 2106]

9545.0390 [Repealed, 9 SR 2106]

9545.0400 [Repealed, 9 SR 2106]

9545.0410 [Repealed, 9 SR 2106]

9545.0420 [Repealed, 9 SR 2106]

9545.0430 [Repealed, 9 SR 2106]

9545.0440 [Repealed, 9 SR 2106]

9545.0450 [Repealed, 9 SR 2106]

9545.0510 [Repealed, 13 SR 173]

9545.0520 [Repealed, 13 SR 173]

9545.0530 [Repealed, 13 SR 173]

9545.0540 [Repealed, 13 SR 173]

9545.0550 [Repealed, 13 SR 173]

9545.0560 [Repealed, 13 SR 173]

9545.0570 [Repealed, 13 SR 173]

9545.0580 [Repealed, 13 SR 173]

9545.0590 [Repealed, 13 SR 173]

9545.0600 [Repealed, 13 SR 173]

9545.0610 [Repealed, 13 SR 173]

9545.0620 [Repealed, 13 SR 173]

9545.0630 [Repealed, 13 SR 173]

9545.0640 [Repealed, 13 SR 173]

9545.0650 [Repealed, 13 SR 173]

9545.0660 [Repealed, 13 SR 173]

9545.0670 [Repealed, 13 SR 173]

9545.0750 [Repealed, 18 SR 1593]

PRIVATE CHILD CARING OR PLACING AGENCIES

9545.0755 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** Minnesota Statutes, section 245A.03, subdivision 1, requires a private agency that receives a child for care, supervision, or placement in foster care or adoption or helps plan the placement of a child in foster care or adoption to be licensed by the commissioner. Additionally, Minnesota Statutes, section 317A.907, subdivision 3, specifies that a corporation formed under Minnesota Statutes, section 317A.907, to secure homes for orphaned, homeless, abandoned, neglected, or mistreated children must comply with rules established by the commissioner to govern its operation. Parts 9545.0755 to 9545.0845 establish the conditions for licensure of private child-placing agencies specified in Minnesota Statutes, section 317A.907, subdivision 3.

Subp. 2. **Applicability.** Parts 9545.0755 to 9545.0845 apply to any private agency as defined in Minnesota Statutes, section 245A.02, subdivision 12, that operates in Minnesota and performs one or more of the activities listed in items A to H.

A. Supervises a licensed foster care provider that cares for a child for whom the commissioner, a county, a private agency, another entity, an Indian tribe, or the child's parent or guardian remains legally responsible.

B. Arranges for or provides short-term licensed foster care while a child is being legally freed for adoption or while an adoptive placement is being arranged.

C. Places a child for adoption under the written agreement specified in Minnesota Statutes, section 259.25, or as legal guardian under Minnesota Statutes, section 260C.325.

D. Compiles a listing from which a birth parent can identify potential adoptive parents for a child for whom adoption is projected.

E. Assists birth parents or prospective adoptive parents with fulfilling the requirements of Minnesota Statutes, sections 260.851 to 260.91, the Interstate Compact on the Placement of Children.

F. Collects health and social history from the birth family of a child for the information of the child's prospective adoptive parents.

G. Studies the suitability of an adoptive applicant's home.

H. Assists birth parents to execute consents to adoption.

Parts 9545.0755 to 9545.0845 also apply to an agency that performs one or more of the activities listed in items A to H in Minnesota but is incorporated under the laws of a state other than Minnesota.

Statutory Authority: *MS s 245A.03; 317A.907*

History: *18 SR 1593; L 1999 c 139 art 4 s 2*

9545.0760 [Repealed, 18 SR 1593]

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9545.0765 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9545.0755 to 9545.0845, the following terms have the meanings given them.

Subp. 2. **Agency.** Unless otherwise specified, "agency" means a private agency governed by parts 9545.0755 to 9545.0845.

Subp. 3. **Applicant.** "Applicant" means an individual, corporation, partnership, voluntary association, controlling individual, or other organization that has applied for licensure under Minnesota Statutes, sections 245A.01 to 245A.16, and the rules of the commissioner.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designee.

Subp. 5. **Controlling individual.** "Controlling individual" has the meaning given in Minnesota Statutes, section 245A.02, subdivision 5a.

Subp. 6. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 7. **License.** "License" has the meaning given in Minnesota Statutes, section 245A.02, subdivision 8.

Subp. 8. **Private agency.** "Private agency" as defined in Minnesota Statutes, section 245A.02, subdivision 12, means an individual, corporation, partnership, voluntary association or other organization, other than a county agency, or a court with jurisdiction, that places persons who cannot remain in their own homes in residential programs, foster care, or adoptive homes.

Subp. 9. **Variance.** "Variance" means permission given by the commissioner in accordance with Minnesota Statutes, section 245A.04, subdivision 9, for a license holder to depart for a specified time from a standard specified in parts 9545.0755 to 9545.0845.

Subp. 10. **Volunteer.** "Volunteer" means an individual who provides time or service to an agency without being compensated by the agency.

Statutory Authority: *MS s 245A.03; 317A.907*

History: *18 SR 1593*

9545.0770 Subpart 1. [Repealed, 18 SR 1593]

Subp. 2. [Repealed, 18 SR 1593; 18 SR 2748]

Subp. 3. [Repealed, 18 SR 1593; 18 SR 2748]

Subp. 4. [Repealed, 18 SR 1593; 18 SR 2748]

Subp. 5. [Repealed, 18 SR 1593; 18 SR 2748]

9545.0775 LICENSURE.

Subpart 1. **License required.** An agency that provides a service or performs an activity described in subpart 2 must be licensed under parts 9545.0755 to 9545.0845.

Subp. 2. **Application for licensure.** Applicants must apply for a license on the forms and in the manner prescribed by the commissioner.

Subp. 3. **License option.** The form in subpart 2 must require an applicant to specify whether the applicant performs or intends to perform activities related both to foster care and adoption, only to foster care, or only to adoption. An applicant to perform adoption-related activities only must indicate how the agency will arrange for the licensed foster care needed while a child is being legally freed for adoption or while an adoptive placement for the child is being arranged.

Subp. 4. **Notice to commissioner.** An agency must send the commissioner written notice at least 30 days before the agency:

A. moves from the location specified on the current application or license;

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B. opens a new office or other setting where records required by parts 9545.0755 to 9545.0845 are kept;

C. proposes to increase its scope to include both foster care and adoption; or

D. closes. The agency's notice of closing must specify the arrangements the agency has made for transfer of records and clients as required in part 9545.0845.

Subp. 5. **Commissioner's right of access.** Each site where an agency maintains offices or records is subject to the commissioner's inspection and right of access specified in Minnesota Statutes, section 245A.04, subdivision 5.

Subp. 6. **Single license for multiple locations.** When an applicant for licensure under parts 9545.0755 to 9545.0845 maintains offices or records at more than one site and there is at least one controlling individual responsible for all the sites, the commissioner shall issue one license.

Subp. 7. **Variations.** An applicant or license holder may request a variance to parts 9545.0755 to 9545.0845 as specified in Minnesota Statutes, section 245A.04, subdivision 9.

Statutory Authority: *MS s 245A.03; 317A.907*

History: *18 SR 1593*

9545.0780 [Repealed, 18 SR 1593]

9545.0785 AGENCY GOVERNANCE AND ADMINISTRATION.

Subpart 1. **Office in Minnesota.** An agency must maintain an office in Minnesota from which the activities carried out under the license issued by the commissioner are conducted.

Subp. 2. **Space requirements.** An agency must allocate office space in such a way as to ensure confidentiality and safekeeping of records and provide privacy for interviews and conferences with clients and prospective clients.

Subp. 3. **Legal organization.** A license holder or applicant must be organized according to a legal form of association or incorporation under Minnesota Statutes or the laws of another state. An agency incorporated under the laws of another state must have:

A. the certificate of authority to transact business in Minnesota required by Minnesota Statutes, chapter 303; and

B. the records and documents required by parts 9545.0755 to 9545.0845 at the registered office required by Minnesota Statutes, chapters 309 and 317A, or at another agency office in Minnesota listed on a license application.

Subp. 4. **Conflict of interest.** An agency must develop written policies governing situations with potential conflict of interest. It is a potential conflict of interest when a provider supervised by an agency is also a board member of the agency or when a board member is also an applicant to adopt. Agencies that provide foster care services must comply with part 9543.0130, subpart 4.

Statutory Authority: *MS s 245A.03; 317A.907*

History: *18 SR 1593*

9545.0790 [Repealed, 18 SR 1593]

9545.0795 AGENCY FINANCES.

Subpart 1. **Funding plan.** When an agency applies for initial or continuing licensure, it must submit a funding plan that projects income and other financial resources needed to operate in compliance with parts 9545.0755 to 9545.0845 for a period of at least one year beyond the date of application. The funding plan must include:

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A. a projected program budget for foster care, adoption-related activities and services, or both, when applicable, that details by source the income and expenses anticipated for the 12-month period covered by the plan;

B. a balance sheet showing the agency's current assets and current liabilities;

and

C. with applications for continuing licensure, the program operating budget for foster care, adoption services, or both, when applicable, for the current fiscal year. The budget must show actual income and expenditures.

The information required by items A to C must be presented in the manner prescribed by the commissioner.

Subp. 2. Explanation of fees. An agency that charges fees must make available to prospective clients written material that:

A. describes services for which a fee is typically charged;

B. explains the conditions under which fees are charged and waived, if applicable;

C. includes a fee schedule or explanation of how a fee amount is determined;

and

D. includes a statement for individuals, as opposed to counties or other agencies, who become clients to sign indicating that they have read or had explained to them and understand the information on fees and services. The signed statement must be added to a client's file.

Subp. 3. Accounting of adoption expenses and fees. An agency must annually submit the accounting of adoption-related expense required by Minnesota Statutes, section 317A.907, subdivision 6, on a form provided and designed by the commissioner to generate the required information.

Statutory Authority: *MS s 245A.03; 317A.907*

History: *18 SR 1593*

9545.0800 [Repealed, 18 SR 1593]

9545.0805 PERSONNEL.

Subpart 1. Supervision by a licensed independent social worker or independent clinical social worker. An independent social worker or independent clinical social worker as defined in Minnesota Statutes, section 148B.21, must supervise an agency's case work. Supervising an agency's case work includes reviewing and approving each written home study the agency completes on prospective foster parents or applicants to adopt. An agency can meet the supervision requirement by complying with item A, B, C, or D.

A. The agency's chief executive officer is a licensed independent social worker or independent clinical social worker and supervises staff members providing case work.

B. The person who does the case work is licensed as an independent social worker or independent clinical social worker.

C. The agency contracts with a licensed independent social worker or independent clinical social worker to supervise staff members' case work.

D. The agency may retain a supervisor with education or experience comparable to the requirements stated in item A, B, or C if one of the exceptions in Minnesota Statutes, section 148B.28, applies.

Subp. 2. Orientation. Within the first five working days of an employee's or volunteer's starting date, an agency must provide orientation that addresses agency staff and volunteer responsibilities for:

A. reporting maltreatment as specified in Minnesota Statutes, section 626.556;

and

B. protecting information on clients as required by Minnesota Statutes, chapter 13.

Subp. 3. **Annual training.** An agency must provide or arrange for the provision of at least 12 hours of training annually for staff members and volunteers who provide services to agency clients. For people in their first year of service to the agency, orientation hours provided under subpart 2 can be applied toward the 12 hours of annual training. Training must reflect the emphasis in Minnesota Statutes, section 260C.215, subdivision 6, on cultural diversity and children with special needs.

Statutory Authority: *MS s 245A.03; 317A.907*

History: *18 SR 1593; L 1999 c 139 art 4 s 2*

9545.0810 [Repealed, 18 SR 1593]

9545.0815 DESCRIPTION OF AGENCY PROGRAM AND SERVICES.

An applicant must submit with its application and provide to prospective clients of agency services a written statement that contains the information in items A to G:

A. purpose and philosophy of the agency's program;

B. general description of children the agency places for adoption or supervises in foster care, with attention to such points as age or special needs that determine whether the agency is able to serve a child;

C. description of services the agency provides to children, birth families, and foster or adoptive families before, during, and after termination of foster care or finalization of an adoption;

D. statement of eligibility requirements or qualifications that the agency requires of adoptive or foster families;

E. description of the process used to study, approve, and select adoptive and foster families, and the approximate amount of time anticipated to complete the selection process;

F. description of orientation and training that will be provided for foster families or prospective adoptive families; and

G. statement that the agency complies with:

(1) the Indian Child Welfare Act, Public Law Number 95-608;

(2) the Minnesota Indian family preservation act, Minnesota Statutes, sections 260.751 to 260.835;

(3) the heritage act, Minnesota Statutes, sections 259.29, 260C.193, subdivision 3, and 260C.212 to 260C.215; and

(4) the interstate compact on the placement of children, Minnesota Statutes, section 260.851.

Statutory Authority: *MS s 245A.03; 317A.907*

History: *18 SR 1593; L 1994 c 631 s 31; L 1999 c 139 art 4 s 2*

9545.0820 [Repealed, 18 SR 1593]

9545.0825 FOSTER CARE PLACEMENT SERVICES.

Subpart 1. **If an agency has authority to place child in foster care.** If an agency has written consent from a child's parents or legal guardian, or a contract with the county, or a court order to place a child in foster care, the agency's responsibilities are the same as those listed for local agencies in part 9560.0540, subparts 2 and 3. The agency must meet the requirements of parts 9545.0010 to 9545.0260 when licensing child foster care homes.

Subp. 2. **Providing foster care services under contract with a county.** When an agency provides child foster care services under contract with a county, the agency must develop and implement a service plan compatible with the case placement plan required of the county by part 9560.0610.

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Subp. 3. **Child's record.** For each child the agency supervises in foster care, the agency must have a record that contains the information required in Minnesota Statutes, section 257.01, and in items A to L:

- A. the child's full name, date and place of birth, sex, and race;
- B. all available information about the birth parents' full names, addresses, telephone numbers, and marital status;
- C. all available information about the names and addresses of the child's siblings;
- D. name of person or agency with legal custody of the child;
- E. name and telephone number of persons to contact in an emergency;
- F. copy of written agreement or order authorizing the county or, if applicable, the agency, to supervise the child's placement in foster care;
- G. when applicable, case plan required of county by part 9560.0610;
- H. agency service plans required by subpart 2;
- I. documentation of child's most recent medical and dental examinations;
- J. documentation of child's educational status;
- K. case closing summary and the agency's plan for the continued provision of services to the child, if any; and
- L. for an Indian child, record of determination of the child's tribe and notice to the tribe as required by Minnesota Statutes, section 257.32.

Statutory Authority: *MS s 245A.03; 317A.907*

History: *18 SR 1593*

9545.0830 [Repealed, 18 SR 1593]

9545.0835 ADOPTION PLACEMENTS.

Subpart 1. **Record of child's background and history.** When an agency accepts a child for adoptive placement or facilitates an adoption between a birth parent and a prospective adoptive parent, the agency is responsible for establishing and maintaining a record that meets the requirements of Minnesota Statutes, sections 257.01 and 259.79.

Subp. 2. **Study of applicants to adopt.** An agency must study applicants to adopt a child in accordance with the procedures and criteria specified in part 9560.0140 for determining suitability of adoptive parent.

Subp. 3. **Adoption-related foster care.** When an agency temporarily places a child in foster care while the child is being legally freed for adoption or while an alternative to a disrupted adoptive placement is being arranged, the foster care provider must be licensed under parts 9545.0010 to 9545.0260.

Statutory Authority: *MS s 245A.03; 317A.907*

History: *18 SR 1593; L 1994 c 631 s 31*

9545.0845 PLAN FOR TRANSFER OF RECORDS.

An applicant for initial or continuing licensure must submit a written plan indicating how the agency will provide for the transfer of records on both open and closed cases if the agency closes. The plan must provide for managing private and confidential information on agency clients, according to Minnesota Statutes, section 259.79. A controlling individual of the agency must sign the plan.

A. Plans for the transfer of open cases and case records must specify arrangements the agency will make to transfer clients to another agency or county for continuation of services and to transfer the case record with the client.

B. Plans for the transfer of closed adoption records must be accompanied by a signed agreement or other documentation indicating that a county or licensed child

placing agency has agreed to accept and maintain the agency's closed case records and to provide follow-up services to affected clients.

Statutory Authority: *MS s 245A.03; 317A.907*

History: *18 SR 1593; L 1994 c 631 s 31*

9545.0900 [Repealed, 20 SR 526]

CHILD CARING INSTITUTIONS

9545.0905 PURPOSE; OUTCOMES.

Subpart 1. **Purpose.** Parts 9545.0905 to 9545.1125 establish minimum standards that residential treatment programs serving children with severe emotional disturbance must meet to qualify for licensure under Minnesota Statutes, chapter 245A, the human services licensing act. Parts 9545.0905 to 9545.1125 also implement and must be read in conjunction with Minnesota Statutes, sections 245.487 to 245.4888, the Minnesota comprehensive children's mental health act.

Subp. 2. **Outcomes.** Compliance with the standards and requirements in parts 9545.0905 to 9545.1125 requires that services:

- A. are provided as specified in an individual treatment plan based on the clinical needs of the child;
- B. are developed with assistance from the child's family or legal representative in deciding what services are needed and how they are provided;
- C. support the child in gaining the skills necessary to return to the community;
- D. support the family in gaining the skills necessary to care for the returning child;
- E. are provided by qualified people under the clinical supervision of a mental health professional; and
- F. meet the quality of services criteria in Minnesota Statutes, section 245.4876, subdivision 1, that are applicable to residential treatment providers.

Subp. 3. **Variance.** A licensee seeking to provide services not in compliance with parts 9545.0905 to 9545.1125 must first obtain a variance under the process in part 9543.1020, subpart 5.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: *20 SR 526*

9545.0910 [Repealed, 20 SR 526]

9545.0915 APPLICABILITY.

Subpart 1. **Applicability.** Parts 9545.0905 to 9545.1125 apply to any individual, corporation, limited liability corporation, partnership, voluntary association, other organization, or controlling individual that operates a residential treatment program for children with severe emotional disturbance.

Parts 9545.0905 to 9545.1125 apply according to part 9545.1045 to:

- A. the shelter services component of programs that provide both residential treatment and shelter services; and
- B. providers of freestanding shelter services that do not provide residential treatment services for children with emotional disturbance but hold a current license under parts 9545.0900 to 9545.1090 (OLD RULE 5) on March 25, 1996.

Subp. 2. **Exclusions.** Parts 9545.0905 to 9545.1125 do not apply to:

- A. programs excluded from licensure under Minnesota Statutes, section 245A.03, subdivision 2;

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B. residential programs that serve children with severe emotional disturbance who do not need residential treatment services as determined by the county screening required in Minnesota Statutes, section 245.4885;

C. an acute care hospital licensed under Minnesota Statutes, chapter 144.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: 20 SR 526

9545.0920 [Repealed, 20 SR 526]

9545.0925 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9545.0905 to 9545.1125, the following terms have the meanings given them.

Subp. 2. **Administrative discharge.** “Administrative discharge” means the discharge of a child before the child reaches its treatment goals.

Subp. 3. **Applicant.** “Applicant” has the meaning given in Minnesota Statutes, section 245A.02, subdivision 3.

Subp. 4. **Case manager.** “Case manager” has the meaning given in Minnesota Statutes, section 245.4871, subdivision 4.

Subp. 5. **Child.** “Child” means a person under 18 years of age.

Subp. 6. **Child with severe emotional disturbance.** “Child with severe emotional disturbance” has the meaning given in Minnesota Statutes, section 245.4871, subdivision 6.

Subp. 7. **Clinical supervision.** “Clinical supervision” has the meaning given in Minnesota Statutes, section 245.4871, subdivision 7.

Subp. 8. **Commissioner.** “Commissioner” has the meaning given in Minnesota Statutes, section 245A.02, subdivision 5.

Subp. 9. **Cultural competence.** “Cultural competence” means the ability to respond to the unique needs of a population whose culture is different from the dominant culture.

Subp. 10. **Department.** “Department” means the Minnesota Department of Human Services.

Subp. 11. **Diagnostic assessment.** “Diagnostic assessment” has the meaning given in Minnesota Statutes, section 245.4871, subdivision 11.

Subp. 12. **Discipline.** “Discipline” means the implementation of reasonable, age-appropriate consequences designed to modify and correct behavior according to a rule or system of rules governing conduct. The rules must be made known to the child, the child’s family, or legal representative and staff.

Subp. 13. **Emotional disturbance.** “Emotional disturbance” has the meaning given in Minnesota Statutes, section 245.4871, subdivision 15.

Subp. 14. **Family.** “Family” has the meaning given in Minnesota Statutes, section 245.4871, subdivision 16, and, in the case of an Indian child, means a relationship recognized by the Minnesota Indian family preservation act, Minnesota Statutes, sections 260.751 to 260.835.

Subp. 15. **Functional assessment.** “Functional assessment” has the meaning given in Minnesota Statutes, section 245.4871, subdivision 18.

Subp. 16. **Incident.** “Incident” means an occurrence or event that interrupts normal procedures or precipitates a crisis.

Subp. 17. **Individual family community support plan.** “Individual family community support plan” has the meaning given in Minnesota Statutes, section 245.4871, subdivision 19.

Subp. 18. **Individual education plan.** "Individual education plan" has the meaning given in part 3525.0200, subpart 6a.

Subp. 19. **Individual treatment plan.** "Individual treatment plan" has the meaning given in Minnesota Statutes, section 245.4871, subdivision 21.

Subp. 20. **Informed consent.** "Informed consent" means written or documented oral informed consent to the use of a medical treatment or administration of a medication given voluntarily by a child and a child's parent or legal representative except in those rule parts where written informed consent or both written and oral informed consent is specifically required. Consent must be based upon the disclosure to the child and the child's parent or legal representative of the information required according to part 9545.1025, subpart 7.

Subp. 21. **Isolation.** "Isolation" means involuntary confinement, either alone or with a staff member, in a room where the child can be continuously observed but is prevented from leaving by devices or objects positioned to hold the door closed.

Subp. 22. **Legal representative.** "Legal representative" means a guardian appointed by the court to decide on services for a child as specified in Minnesota Statutes, section 525.619, a custodian or guardian as defined in Minnesota Statutes, section 260B0.007, subdivision 13, or 260C.007, subdivision 15, or an Indian custodian as defined in Minnesota Statutes, section 260.755, subdivision 10.

Subp. 23. **License.** "License" has the meaning given in Minnesota Statutes, section 245A.02, subdivision 8.

Subp. 24. **License holder.** "License holder" has the meaning given in Minnesota Statutes, section 245A.02, subdivision 9.

Subp. 25. **Medication assistance.** "Medication assistance" means assisting residents to take medication and monitoring the effects of medication but does not include administering injections. For purposes of this definition, medication means a prescribed substance that is used to prevent or treat a condition or disease, to heal, or to relieve pain.

Subp. 26. **Mental health practitioner.** "Mental health practitioner" has the meaning given in Minnesota Statutes, section 245.4871, subdivision 26.

Subp. 27. **Mental health professional.** "Mental health professional" has the meaning given in Minnesota Statutes, section 245.4871, subdivision 27.

Subp. 28. **Physical holding.** "Physical holding" means intervention intended to hold a child immobile or limit a child's movement by using body contact as the only source of restraint.

Subp. 29. **Physical restraint or restraints.** "Physical restraint" or "restraints" means the use of devices to limit a child's movement or hold a child immobile. The term does not apply to restraints used for medical needs such as braces or splints.

Subp. 30. **Prior authorization for emergency use of isolation or restraints.** "Prior authorization for emergency use of isolation or restraints" means a written statement by a physician, psychiatrist, or licensed psychologist who has reviewed a child's medical history, history of injurious behavior, and other assessments and diagnoses. The statement allows the use of isolation or restraint in a situation where the child poses a threat of harm to self or others.

Subp. 31. **Psychotherapy.** "Psychotherapy" has the meaning given in Minnesota Statutes, section 148A.01, subdivision 6.

Subp. 32. **Psychotropic medication.** "Psychotropic medication" means a medication prescribed by a person who may lawfully prescribe, according to a child's diagnosis, to treat mental illness and associated behaviors or to control or alter behavior. The major classes of psychotropic medication are antipsychotic (neuroleptic), antidepressant, antianxiety, antimania, stimulant, and sedative/hypnotic. Other miscellaneous classes of medication are considered to be psychotropic medication when they are specifically prescribed to treat a mental illness or to alter behavior based on a child's diagnosis.

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Subp. 33. **Punishment.** "Punishment" means an act designed to harm or injure which is inflicted upon a child as a result of the child's behavior.

Subp. 34. **Resident district.** "Resident district" has the meaning given in part 3525.0200, subpart 19a.

Subp. 35. **Residential program.** "Residential program" has the meaning given in Minnesota Statutes, section 245A.02, subdivision 14.

Subp. 36. **Residential treatment.** "Residential treatment" has the meaning given in Minnesota Statutes, section 245.4871, subdivision 32.

Subp. 37. **Shelter services.** "Shelter services" means services provided during time-limited placements of 90 days or less, to children who are in a behavioral or situational crisis, need out-of-home placement in a protective environment, and have an immediate need for services such as assessment, evaluation, or placement planning.

Subp. 38. **Special mental health consultant.** "Special mental health consultant" has the meaning given in Minnesota Statutes, section 245.4871, subdivision 33a.

Subp. 39. **Staff supervision or supervisor.** "Staff supervision" means the oversight responsibility to hire, train, assign duties, evaluate, and direct staff in day to day activities. A "supervisor" has staff supervision responsibility.

Subp. 40. **Time-out.** "Time-out" means an intervention in which a staff member trained in time-out procedures removes the child or the child removes self from an ongoing activity to an unlocked room or area which is safe and where the child remains alone or with a staff member until the precipitating behavior abates or stops.

Subp. 41. **Treatment team.** "Treatment team" means a team consisting of the child, the child's parent or legal representative, staff who provide program services, including a mental health professional, case manager, and, if applicable, the child's caretaker, advocate, child psychiatrist, special mental health consultant, or other persons relevant to the child's needs.

Subp. 42. **Updated diagnostic assessment.** "Updated diagnostic assessment" means a written summary by a mental health professional of the child's current mental health status and services needs according to Minnesota Statutes, section 245.4876, subdivision 2.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: *20 SR 526; L 1999 c 139 art 4 s 2*

9545.0930 [Repealed, 20 SR 526]

9545.0935 PROHIBITION AGAINST UNLICENSED SERVICES.

No person, corporation, limited liability corporation, partnership, voluntary association, controlling individual, or other organization can provide residential treatment services to children with severe emotional disturbance unless licensed by the commissioner under parts 9545.0905 to 9545.1125, according to the licensing requirements of parts 9543.1000 to 9543.1060.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: *20 SR 526*

9545.0940 [Repealed, 20 SR 526]

9545.0945 PROGRAM AND SERVICE STANDARDS.

Subpart 1. **Program capability.** An applicant or license holder must offer the following services scheduled at accessible times which are appropriate to the child's age or level of functioning to support achieving the following outcomes:

A. individual and group psychotherapy which is designed to achieve the outcomes and meet the specific requirements of the child's individual treatment plan

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and when possible help the child reintegrate into the family, the community, and a less restrictive setting than residential treatment. The person providing individual and group psychotherapy must at a minimum qualify as a mental health practitioner, who is supervised by a mental health professional;

B. crisis assistance services designed to help children and family members recognize factors that precipitate a psychiatric crisis, anticipate behaviors and symptoms, and know the resources to use when crisis is imminent or occurs. Persons providing crisis assistance services must be at least mental health practitioners and must be supervised by a mental health professional;

C. medication education designed to have the child and family understand:

(1) the role of psychotropic medication in the child's treatment and the effect the medication may have on the child's physical and mental health; and

(2) the physical, emotional, or behavioral changes resulting from the child's use, misuse, or refusal to use psychotropic medications prescribed. The person who provides medication education must be licensed as a registered nurse, pharmacist, or physician;

D. instruction in independent living skills designed to strengthen a child's ability to function in a less restrictive environment than a residential treatment center. The services must support the child in carrying out the tasks of daily living, encourage the development of self-esteem, and promote self-sufficiency. Persons providing independent living skills services must either qualify as mental health practitioners or as child care workers who are supervised by a mental health practitioner;

E. recreation, leisure, and play activities designed to achieve these outcomes:

(1) the child develops recreational skills; and

(2) the child and family learn how to plan and participate in recreation and leisure activities.

The persons providing these services must be at least child care workers under the supervision of a mental health practitioner or a recreational therapist;

F. social and interpersonal skills development designed to achieve these outcomes:

(1) the child develops and maintains friendships; and

(2) the child communicates and interacts with peers and adults.

The person providing these services must be at least a child care worker under the supervision of a mental health practitioner;

G. vocational skills development services designed to prepare the child for the world of work by exploring the importance of such areas as use of time, acting responsibly, and working within the goal of an organization. Persons providing these services must be at least mental health practitioners or must be child care workers supervised by a mental health practitioner. The license holder may make vocational skills development services available to the child through the school district either on the program's campus or at a site provided by the school district. The license holder shall coordinate vocational skill development services with the child's secondary transition plan developed by the school according to part 3525.2950;

H. instruction in parenting skills designed to achieve the outcome of parents using therapeutic parenting techniques that address management of specific behaviors or learning issues directly related to or resulting from the child's emotional disturbance. Persons providing parenting skills services must be supervised by a mental health practitioner; and

I. family support services designed to achieve the outcomes in subitems (1) to (3):

(1) family members gain insight into family dynamics and resolving conflicts;

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(2) family members have broader family support, family goals, and improved family coping skills; and

(3) the child is reintegrated into the family and community.

The license holder must provide these services at times, including evenings and weekends, that are mutually agreed upon by family and program staff. The person providing family support services must be at least a mental health practitioner.

Subp. 2. Cultural competence. The license holder must have services designed to achieve the outcomes in items A to C.

A. The child has opportunities to associate with adult and peer role models with similar cultural and racial backgrounds and participate in positive experiences related to the child's racial or cultural minority group.

B. Program services and treatment services must address cultural differences and special needs of all children. The license holder's development and periodic updating of program services must reflect the advice of representatives of the racial, cultural, or ethnic groups represented by children in treatment. The license holder may use a special mental health consultant to provide or develop program services which respect cultural differences and meet the special needs of cultural or racial groups.

C. Staff must be trained and competent in cultural aspects of mental health treatment for children and their families.

Subp. 3. Interpretive services. The license holder must use interpreters and equipment as necessary to ensure that all children admitted to the facility and children's representatives with whom the facility is working are informed in a way they can understand about treatment plans, choices, and rights. The license holder must not use a child as an interpreter.

Subp. 4. Emergency medical, mental health, and dental services. The license holder must have a system for meeting emergency medical, mental health, and dental needs of the children. The license holder's access system must be capable of getting a telephone or in-person response from a mental health professional, or a physician, within 30 minutes after the emergency is identified.

Subp. 5. Grievance procedure. The license holder must have a written grievance procedure which allows an interested person, a child or the child's parent, or legal representative to formally complain about any aspect of the child's care during the child's stay in the facility. The license holder's written grievance procedure must provide:

A. that the child and the child's parent or legal representative receive a copy of the grievance procedure prior to or upon admission;

B. that, upon request, the child or child's parent or legal representative receive necessary forms and assistance in filing a grievance; and

C. that the license holder must make a written response within one week of the grievance. The written response must explain what action the license holder took in response to the grievance. A license holder's response to a grievance which alleges abuse or neglect must meet the requirements of the maltreatment of minors act, in Minnesota Statutes, section 626.556.

Subp. 6. Staffing pattern and minimum staff/children ratio. The license holder must provide a sufficient number of appropriately trained staff who provide program services to ensure that a child accepted by the facility can have the treatment needs identified in the child's individual treatment plan met while the child stays in the facility. A facility providing treatment in a setting with secure capacity according to part 9545.1035 must meet the staff-to-child ratio of part 9545.1035, subpart 4. A facility licensed according to parts 9545.0905 to 9545.1125 shall not have a ratio of staff who provide program services to children less than the following schedule:

Age of child	Minimum ratio of staff to children during waking hours when children are present
less than six years old	one staff person to three children
six to eight years old	one staff person to four children
nine to 11 years old	one staff person to six children
12 to 18 years old	one staff person to eight children

During sleeping hours a license holder caring for children younger than nine years old must provide at least one staff person for every seven children present. During sleeping hours a license holder caring for children nine years old or older must provide at least one staff person for every 12 children present.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: *20 SR 526*

9545.0950 [Repealed, 20 SR 526]

9545.0955 ADMISSIONS CRITERIA AND PROCESS.

Subpart 1. **Conditions governing admission.** A license holder must admit a child only if the child meets the conditions in items A to F.

A. The child must be under 18 years of age at the time of admission.

B. If public funds are used to pay for the services, the child must be screened by the county prior to admission as required by Minnesota Statutes, section 245.4885, subdivision 1.

C. If public funds are not used to pay for the services, the child must be screened by a mental health professional using a screening process which is equivalent to that required by Minnesota Statutes, section 245.4885, subdivision 1, prior to admission.

D. The prior-to-admission screening in item B or C must determine that the residential treatment proposed is necessary and appropriate for the child's treatment needs, provides a length of stay as short as possible consistent with the child's need for treatment, and could not be effectively provided in the child's home.

E. The child must not be in need of primary chemical abuse treatment or detoxification at the time of admission.

F. The developmental and mental health needs of the child can be met by the license holder's program.

Subp. 2. **Information at time of admission or intake.** At the time of intake or admission, the license holder is responsible for placing the information in items A to K regarding the child in the child's file:

A. date of admission;

B. description of presenting problems and circumstances leading to admission;

C. copy of the child's diagnostic and functional assessments and screening required under subpart 1, item B or C;

D. race or cultural heritage, including tribal affiliation, religion, and other cultural factors, including family relationships;

E. history of previous out-of-home placements and previous treatments;

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F. history and current status of legal custody;

G. family history, including physical and mental health and social history;

H. medical history, including all available medical records authorized for release to the facility for the last three years;

I. a statement signed by the child's parent or legal representative indicating that the child and parent or legal representative understands and has received prior notification before the implementation of the license holder's policies and procedures regarding discipline and the use of time-out, isolation, and physical holding during the child's treatment;

J. a statement signed by the child, if possible, or the child's parent or legal representative affirming that the license holder has advised the child of the availability of the following advocacy services:

(1) office of the Ombudsman for Mental Health and Mental Retardation;

and

(2) other advocacy services which are currently available to the child or the child's parent or legal representative; and

K. a statement signed by the child, if possible, or the child's parent or guardian affirming that the license holder has advised the child and the child's parent or guardian of their rights and provided the child and the child's parent or guardian a copy of the patient's Bill of Rights according to Minnesota Statutes, section 144.652, subdivision 1.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: 20 SR 526

9545.0960 [Repealed, 20 SR 526]

9545.0965 EDUCATION PLANNING.

During the child's admission to the facility, the license holder must facilitate the child's school attendance and enroll the child in the local school district or, if appropriate, the child's home school district. If the child has no individual education plan or requires an assessment, the license holder is responsible for referring the child to the local school district or home school district for an assessment of eligibility for special education services.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: 20 SR 526

9545.0970 [Repealed, 20 SR 526]

9545.0975 DEVELOPING AND REVIEWING INDIVIDUAL TREATMENT PLAN.

Subpart 1. **Developing plan.** Within ten working days of admitting a child, the license holder must develop an individual treatment plan that supports achieving the outcomes in items A to E.

A. The development and content of the plan are consistent with the requirements in Minnesota Statutes, section 245.4871, subdivision 21.

B. The plan is based on the diagnostic and functional assessments required in part 9545.0955 and reflects the child's age or level of development and any other assessments completed by the license holder or provided by other agencies such as the county, a mental health center or other community agencies, and the Minnesota state departments of education, health, and corrections.

C. The plan identifies the skills and behaviors the child will need to be successful at home and in school.

D. The plan focuses on changes projected in the child's level of functioning and specifies or documents:

(1) how the child and the child's family will be involved in the treatment process;

(2) outcomes or goals the child is expected to achieve;

(3) how the license holder will monitor outcomes;

(4) how the treatment team participated in plan development;

(5) who is to receive copies of the plan;

(6) the schedule for accomplishing treatment goals and objectives leading to discharge;

(7) criteria for discharge and projected discharge date;

(8) an assessment of the child's susceptibility to abuse and a statement of the measures to be taken by the license holder to minimize the child's risk of abuse;

(9) where appropriate, the specific number of hours for certain needed treatments or other remedial actions; and

(10) the medically or programmatically indicated reasons for limiting a child's communication and visitation rights.

E. The plan incorporates the child's individual education plan, the case placement plan required of the county by part 9560.0610, and the plan for transition to the community required by Minnesota Statutes, section 245.4882, subdivision 3.

Subp. 2. Quarterly review of individual treatment plan. A license holder must review a child's individual treatment plan every 90 days. The quarterly review must document that:

A. treatment team members participated in the review;

B. the summary of the review addresses the success of the original plan, whether the child requires the same, or less, or more treatment than originally projected, whether any prior authorization for the use of isolation or restraint should be continued, and how the original plan and discharge date should be modified if change is indicated;

C. copies of the summary in item B were distributed to the child, the child's family and legal representatives, and the county case manager within ten working days after the review is completed; and

D. the child was advised of the right to appeal according to Minnesota Statutes, section 245.4887.

Subp. 3. Progress notes. The license holder must record each child's progress at least weekly in the child's file. Notes must be legible, signed, and dated. Notes must address the child's progress toward the goals and objectives identified in the child's individual treatment plan and the child's participation in program services and activities.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: 20 SR 526

9545.0980 [Repealed, 20 SR 526]

9545.0985 CRITERIA FOR CONTINUED STAY, DISCHARGE, AND DISCHARGE PLANNING.

Subpart 1. Continued stay criteria. The license holder must have continued stay criteria required by Minnesota Statutes, section 245.4882, subdivision 4. The criteria must include at least the following conditions:

A. the child is less than 18 years old;

B. continuing residential treatment is necessary and appropriate to meet the treatment needs of the child; and

C. the license holder continues to make available the services needed by the child.

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Subp. 2. Discharge criteria. The license holder must have discharge criteria required by Minnesota Statutes, section 245.4882, subdivision 4. Discharge criteria must include at least the following conditions:

- A. the child is 18 years old;
- B. the child's condition has changed to the extent that residential treatment in the licensed program is no longer appropriate; and
- C. the license holder cannot make available the services the child needs to continue a course of treatment which meets the child's needs.

Subp. 3. Discharge planning criteria. At least 30 days prior to discharge the treatment team must develop a discharge plan consistent with Minnesota Statutes, section 245.4882, subdivisions 3 and 4. Discharge services must be coordinated with the child's individual family community support plan, individual education plan, and family reunification plan, if applicable. For children who are from a racial or cultural minority group, the plan must be developed with advice from a special mental health consultant. The plan must state:

A. the methods, strategies, and resources to be used in assisting the child and the child's family make the transition from residential treatment to less restrictive community-based services. The transition-planning component of the individual treatment plan must recommend:

(1) family community support services and agencies that will be involved with the child and family after the child's discharge from the residential treatment program;

(2) strategies for involving the services identified in subitem (1) with the child and the child's family while the child is in residential treatment; and

(3) strategies for incorporating the transition-planning component of the child's individual education plan into the transition-planning component of the individual treatment plan;

B. the license holder's recommendations for follow-up care in the community;

C. the names of individuals responsible for specific tasks and time lines for completing these tasks; and

D. the recommendations for the continuing care and treatment of a child with severe emotional disturbance or other needs, who is being discharged because the child has reached the child's 18th birthday.

Subp. 4. Notice of discharge. At least 30 days prior to discharging a child, the license holder must prepare a written discharge notice.

A. The license holder must give written notice of the projected discharge date to:

(1) the child;

(2) the child's case manager and parent or legal guardian;

(3) the local education agency in which the child is enrolled; and

(4) the receiving education agency to which the child will be transferred upon discharge.

B. The notice must give the following information:

(1) a copy of the child's individual education plan under chapter 3525, if the child has one;

(2) the information about appeals from Minnesota Statutes, section 245.4887; and

(3) the license holder's offer to meet with the county caseworker or person responsible for the child's care after discharge from the facility to review the discharge plan, including the program director's or license holder's recommendation for follow-up care in the community.

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Subp. 5. Administrative discharge. Prior to making an administrative discharge, the administrator must meet with the treatment team to review the issues involved in the decision. During this review process, which must not exceed five working days, the license holder may arrange a temporary removal of the child to another site. The purpose of the review is to determine whether the license holder, treatment team, and child can develop additional treatment strategies, to resolve the issues leading to the discharge and to permit the child an opportunity to continue treatment services with the license holder. If the review indicates the discharge is warranted, the reasons for it and the alternatives considered or attempted must be documented in the child's file.

Subp. 6. Discharge summary. Within 15 working days after a child's discharge, the license holder must place a written discharge summary in the child's file. The summary must document:

- A. a review of the progress the child made while receiving residential treatment services from the licensed program, the reasons for the initial referral and the child's response to goals and objectives identified in the individual treatment plan;
- B. a statement describing the child's current strengths and needs;
- C. an updated diagnostic assessment;
- D. a copy of the discharge plan; and
- E. the name and address of the caretaker of the child following discharge, the name and address of the case manager, and the names of other agencies that will be providing services for the child and family after discharge.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: *20 SR 526*

9545.0990 [Repealed, 20 SR 526]

9545.0995 STANDARDS GOVERNING USE OF RESTRICTIVE TECHNIQUES AND PROCEDURES.

Subpart 1. Policy. A facility must not use restrictive techniques prohibited under Minnesota Statutes, section 245.826. A facility must:

- A. use positive and least restrictive approaches to changing behavior;
- B. permit and control the use of time-out in accordance with the child's individual treatment plan;
- C. prohibit the use of isolation and physical restraints except under the conditions specified in this part and in Minnesota Statutes, section 144.651, subdivision 31; and

D. prohibit the following actions:

(1) restricting a child's normal access to nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions, school, fresh air, adequate exercise, and necessary clothing;

(2) corporal punishment, such as hitting a child with the hands or the fists or with an object; throwing objects at a child; pinching, shaking, kicking, or biting a child, or requiring a child to march, stand, kneel, or otherwise assume and remain in any fixed position as punishment;

(3) humiliating or shaming a child privately or publicly;

(4) any action defined as maltreatment by Minnesota Statutes, section 626.556;

(5) assigning artificial work that is not therapeutic and a part of the child's individual treatment plan;

(6) disciplining one child for the behavior or action of another, except for the imposition of restrictions on the child's peer group as a part of a recognized treatment program;

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(7) use of restrictive techniques or procedures as punishment, for convenience of staff, to compensate for not having an adequate number of staff, to enforce program rules, or to substitute for program services;

(8) use of physical restraints, except for the transport of a child who is determined by the program director or a mental health professional to present a threat of harm to self or others. No physical restraint may be used which limits the circulation of blood to the extent that the child may be injured. Persons using restraints for transporting a child must be trained in the proper use of restraints for transportation;

(9) restricting the visitation rights of the parents of a child placed in the facility by court order according to Minnesota Statutes, section 260C.201, subdivision 5, beyond the limitations placed on the visitation rights imposed by the order; and

(10) placing restrictions on a child's communications rights beyond the restrictions specified in the child's individual treatment plan.

Subp. 2. Standards governing use of time-out. The standards in items A to H apply to the use of time-out by a license holder.

A. Time-out is implemented only as specified in a child's individual treatment plan, is specific to an identified behavior, and is supported by documentation describing how intervention procedures incorporating positive approaches and less intrusive procedures have been tried.

B. Prior notification was provided to the parent or legal representative for the use of time-out according to part 9545.0955, subpart 2, item I.

C. The purpose and terms of termination of the time-out have been explained to the child.

D. Time-out is terminated as soon as the precipitating behavior has abated or stopped.

E. Staff members must monitor and assess the child at least every five minutes and document on an appropriate form the child's condition at least every 15 minutes. The assessment must determine if the child can return to ongoing activity.

F. If time-out is implemented for more than 15 minutes, the child must have access to bathroom facilities.

G. Time-out procedures are implemented in the child's room or other area commonly used as living space whenever possible rather than in a room set aside specifically for time-out.

H. When time-out is used:

(1) the child must not be prevented from leaving the room by a locked door or other devices or objects positioned to hold the door closed; and

(2) the room must provide a safe environment, be well-lighted, well-ventilated, and clean, and have an observation window or other device to permit direct monitoring of the child.

Subp. 3. Emergency use of isolation or physical holding. A license holder must limit the use of isolation or physical holding to emergency situations involving a likelihood that the child will physically harm the child's self or others.

Subp. 4. Policies on emergency use. The license holder must have and implement policies and procedures that specify how emergency use of isolation or physical holding will be monitored and how the requirements of subparts 5 to 9 will be met.

Subp. 5. Standards governing emergency use of physical holding. A license holder must use physical holding only under the conditions in this subpart. The license holder must have the approval of a mental health professional at the time of the incident if seeking the approval of the mental health professional does not continue the likelihood of harm to the patient or others. The license holder must also have prior authorization of a physician, psychiatrist, or mental health professional in the child's file. Less restrictive measures must be ineffective or not feasible. Staff members using physical holding must be trained in using physical holding. The standards in items A to E must be met when a program uses physical holding with a child.

A. The child must be told at the clinically appropriate time by the person doing the physical holding why the procedure is being used and what is expected of the child for termination of the physical holding.

B. There must be an ongoing assessment of the child's condition which is documented in at least 15 minute intervals and an attempt to terminate the physical holding according to item C.

C. The physical holding must be terminated as soon as the threat of harm to self or others abates or stops.

D. Upon the termination of physical holding the child must be assessed to determine if the child can be returned to an ongoing activity.

E. The child must be treated respectfully throughout the procedure.

Subp. 6. Standards governing emergency use of isolation. Isolation must be used only: with the approval of a mental health professional if possible at the time of the incident; with prior authorization of a physician, psychiatrist, or mental health professional in the child's file; and when less restrictive measures are ineffective or not feasible. The standards in items A to I must be met by a license holder when isolation is used with a child.

A. The child must be told at the clinically appropriate time by the person monitoring the child why the isolation is being used and what is expected of the child for termination of the isolation.

B. The child must be within hearing range at all times and be observed by staff at least every five minutes during isolation.

C. There must be ongoing assessment of the child's condition which is documented in at least 15-minute intervals.

D. The isolation must end as soon as the threat of harm to self or others abates.

E. At the end of isolation the child must be assessed by the person observing the child to determine if the child can be returned to an ongoing activity.

F. *The child must be treated respectfully throughout the procedure.*

G. Staff members must be trained in using the isolation technique.

H. The room used for isolation must be well lighted, well ventilated, clean, have an observation window allowing the direct monitoring of the child in isolation, have fixtures which are tamper proof, with electrical switches located immediately outside the door, and have doors that open out and are unlocked or are locked with keyless locks that have immediate release mechanisms.

I. All dangerous objects must be removed from the child prior to the child's placement in isolation.

Subp. 7. Documentation. When emergency use of physical holding or isolation occurs, the license holder must document:

A. the precipitating behavior;

B. less restrictive measures used unsuccessfully or considered but not used because they were judged to be ineffective or not feasible;

C. the start and ending time of isolation or physical holding;

D. that the child was offered access to bathroom facilities when needed;

E. that efforts were made to terminate the isolation or physical holding at least once every 15 minutes;

F. that a mental health professional was consulted if possible before the isolation or physical holding was used and an approval signed by the mental health professional was placed in the child's file within 24 hours of the approval;

G. the names of the staff members involved in implementing the isolation or physical holding;

H. the description of the isolation or physical holding used;

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I. that the mental health professional and the staff have reviewed the child's individual treatment plan within one week to determine whether revised treatment strategies are necessary to reduce the child's risk of harm to self or others;

J. that the staff attempted to inform the child's parent or legal representative and case manager within one working day of the emergency use of isolation or physical holding;

K. that the prior notification statement required by part 9545.0955, subpart 2, item I, is in the child's file; and

L. any injury and any medical treatment to the child that occurred during the isolation or physical holding.

Subp. 8. **Administrative review.** The program administrator or the administrator's designee must complete an administrative review within one working day after the emergency use of physical holding or isolation. The administrative review must be conducted by someone other than a person actually involved in the incident or the person's immediate supervisor. The record of the administrative review must state whether:

A. documentation required by subpart 7 is recorded;

B. prior authorization is on file and a mental health professional approved the emergency use;

C. standards governing use of physical holding or isolation established by this part were met;

D. the individuals implementing the procedure are properly trained under the requirements in parts 9545.1095 and 9545.1105; and

E. the reviewer has made recommendations to the license holder for action to correct deficiencies, if any, indicated by the review conducted according to this subpart.

Subp. 9. **Committee review.** At least quarterly, the license holder must review patterns of emergency use of physical holding and isolation and use of time-out. The review must be done by a committee comprised of administrative staff, child care staff, and a mental health professional. The review must consider:

A. the administrative reviews required in subpart 8;

B. any patterns or problems indicated by similarities in the time of day, day of the week, and individuals involved with emergency use of isolation or physical holding or use of time-out or any other relevant factors;

C. any injuries resulting from physical holding or isolation;

D. corrective actions judged to be needed to correct deficiencies in the program's implementation of isolation and physical holding; and

E. results of the corrective actions in item D.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: *20 SR 526; L 1999 c 139 art 4 s 2*

9545.1000 [Repealed, 20 SR 526]

9545.1005 DISCIPLINE; RULES OF CONDUCT.

Subpart 1. **Policies and procedures governing discipline.** The objective of discipline is not to punish the child for specific behavior but to teach appropriate skills and help the child learn accountability and self control from the experience of being disciplined. The license holder must have and utilize written policies and procedures for implementing, documenting, and monitoring the use of discipline. These policies and procedures must be made available to parents, referring agencies, and staff. The policies and procedures governing discipline must specify:

A. only age-appropriate techniques will be used;

B. the methods of discipline that staff are to use, including methods for managing stress and reducing impulsive behavior;

C. discipline that will result from specific behaviors;

D. which staff are authorized to use disciplinary actions and the types of actions authorized;

E. how the license holder will ensure that a child's individual treatment plan takes precedence over general disciplinary procedures if there is a conflict between an individual's plan and the procedures;

F. how the license holder's quality assurance plan will provide for documenting and monitoring the use of discipline and evaluating the effectiveness of the discipline;

G. that the plan is approved by a mental health professional and the program director for use by program staff; and

H. that the plan is reviewed and approved annually by a mental health professional and the program director. The review must include results of quality assurance activities required in part 9545.1055.

Subp. 2. Rules of conduct. A license holder must have rules of conduct for children in the program.

A. The rules of conduct must indicate or describe:

(1) what the program considers to be appropriate and inappropriate behaviors;

(2) the consequences that will be applied in recognizing and rewarding appropriate behavior and modifying inappropriate behavior;

(3) the circumstances for the emergency use of restraint and isolation; and

(4) that an individual treatment plan takes precedence over the rules of conduct if there is a conflict.

B. No later than at the time of admission, the license holder must explain and provide a copy of the program's rules of conduct to the child and the child's parent or legal representative. The license holder must obtain a signature from the child, if the child is older than seven years, and the child's parent or legal representative indicating they have received a copy of and understand the rules of conduct. If the child or the child's legal guardian requires an interpreter to understand the rules of conduct, the license holder must make interpreted copies of the rules and an interpreter available.

C. The license holder must post the rules of conduct in a place where they are visible and accessible to the children in the program.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: 20 SR 526

9545.1010 [Repealed, 20 SR 526]

9545.1015 COMPLIANCE WITH MALTREATMENT OF MINORS ACT.

Subpart 1. Notice to children and families. Prior to or at the time of admission, the license holder must inform the child and child's family of the license holder's obligations under Minnesota Statutes, section 626.556, and the policies and procedures in place to meet the obligations.

Subp. 2. Notice to staff. During orientation and annual training and any time a staff person requests the written material, the license holder must distribute to staff members written material that explains staff obligations under Minnesota Statutes, section 626.556, and the program policies and procedures to be followed to meet the obligations.

Subp. 3. Policies and procedures. The license holder must develop policies and procedures to follow if a staff person is suspected of maltreatment. Policies and procedures must be reviewed and revised annually by the program director and license holder. The review and revisions must be based on such factors as whether the

governing statutes have changed in the year since the last review and on the program's quality assurance review of incident reports and reports of maltreatment over the past year.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: 20 SR 526

9545.1020 [Repealed, 20 SR 526]

9545.1025 USE OF PSYCHOTROPIC MEDICATIONS.

Subpart 1. **Conditions governing use of psychotropic medications.** When psychotropic medications are administered to a child in a facility licensed under parts 9545.0905 to 9545.1125, the license holder is responsible for seeing that the conditions in items A to C are met.

A. Use of the medication must be included in the child's individual treatment plan and is based on the prescribing physician's diagnosis and the diagnostic and functional assessments defined in Minnesota Statutes, section 245.4871.

B. The license holder must document the following in the child's individual treatment plan:

(1) a description in observable and measurable terms of the symptoms and behaviors that the psychotropic medication is to alleviate;

(2) data collection methods the license holder will use to monitor and measure changes in the symptoms and behaviors that are to be alleviated by the psychotropic medication; and

(3) the criteria to cause review by the physician for possible dosage increase, and decrease, or medication discontinuation.

C. Psychotropic medication must not be administered as punishment, for staff convenience, as a substitute for a behavioral or therapeutic program, or in quantities that interfere with learning or other goals of the individual treatment plan.

Subp. 2. **Monitoring side effects.** The license holder must monitor for side effects if a child is prescribed psychotropic medication and must have the prescribing physician or a pharmacist list possible side effects. The license holder under the direction of a registered nurse or physician must document and check for side effects at least weekly for the first month after a child begins taking a new psychotropic medication or an increased dose of a currently-used psychotropic medication and at least quarterly thereafter. In addition to appropriate physical or laboratory assessments as determined by the physician, standardized checklists or rating scales such as the Monitoring of Side Effects Scale (MOSES), Systematic Assessment for Treatment Emergent Effects (SAFTEE) or other scales developed for a specific drug or drug class must be used as monitoring tools. The license holder must provide the assessments to the physician for review.

Subp. 3. **Monitoring for tardive dyskinesia.** The license holder must monitor for tardive dyskinesia if a child is prescribed antipsychotic medication or amoxapine. The license holder under the direction of a licensed nurse or physician must document and check for tardive dyskinesia at least once every three months. A child prescribed antipsychotic medication or amoxapine for more than 90 days must be checked for tardive dyskinesia at least 30 and 60 days after discontinuation of the antipsychotic medication or amoxapine. Monitoring must include use of a standardized rating scale and examination procedure such as the Abnormal Involuntary Movement Scale (AIMS) or Dyskinesia Identification System: Condensed User Scale (DISCUS). The license holder must provide the assessments to the physician for review.

Subp. 4. **Standards governing administration of psychotropic medications.** An employee other than a physician, registered nurse, or licensed practical nurse who is responsible for medication assistance must provide a certificate verifying successful completion of a trained medication aide program for unlicensed personnel offered

through a post-secondary institution or shall be trained according to a formalized training program offered by the license holder, which must be taught and supervised by a registered nurse to provide medication assistance. The specific medication administration training provided by a registered nurse to unlicensed personnel must be documented and placed in the unlicensed employees' personnel records. A registered nurse must provide consultation and review of the license holder's administration of medications at least weekly. The consultation shall review the license holder's compliance with subparts 5 and 6.

Subp. 5. Psychotropic medication review. If a child is prescribed a psychotropic medication, the license holder must conduct a psychotropic medication review as frequently as required by the physician, but at least monthly for the first six months and at least quarterly thereafter. The license holder must consider and document the following items at the quarterly review and provide the information to the physician for review:

- A. symptoms and behaviors of concern and any corresponding diagnosis;
- B. data collected since the last review;
- C. level of symptoms and behaviors and whether this level meets the criteria prompting physician review for possible dosage increase or decrease;
- D. any side effects observed and actions taken;
- E. status of other therapies or interventions being used and how they relate to decisions about the child's psychotropic medications;
- F. the status of the child's goals in the individual treatment plan and the effect of psychotropic medication on these goals; and
- G. any factors such as illness or environmental changes which were considered and reviewed.

Subp. 6. Informed consent. The license holder must obtain informed consent before any nonemergency administration of psychotropic medication. To the extent possible, the child shall be informed and involved in the decision-making.

A. Informed consent is required either orally or in writing before the nonemergency administration of any psychotropic medication except for antipsychotic (neuroleptic) medication where informed consent must be in writing. If oral informed consent is obtained for a nonantipsychotic medication, the following items must occur and be documented by the license holder:

- (1) an explanation why written informed consent could not be initially obtained;
- (2) that the oral consent was witnessed and the name of the witness;
- (3) the communication of all items in subpart 7; and
- (4) an explanation that written informed consent material is immediately being sent by the license holder to the child's parent or legal representative, that the oral consent expires in one month, and that the medication must be discontinued one month from the date of the telephone consent if written consent is not received.

B. Informed consent for any psychotropic medication must be renewed in writing within six months of the initiation and at least yearly thereafter.

C. Informed consent must be obtained from an individual authorized to give consent. Individuals authorized to give consent are specified in subitems (1) to (4).

(1) If the child has a legal representative or conservator authorized by a court to give consent for the child, consent is required from the legal representative or conservator.

(2) If subitem (1) does not apply, consent is required from at least one of the child's parents. If the parents are divorced or legally separated, the consent of a parent with legal custody is required, unless the separation or marriage dissolution decree otherwise delegates authority to give consent for the child.

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(3) If the commissioner is the child's legal representative, consent is required from the county representative designated to act as legal representative on the commissioner's behalf.

(4) If the child is an emancipated minor according to Minnesota Statutes, section 144.341, or the child has been married or borne a child, the child may give consent under Minnesota Statutes, section 144.342.

D. Informed consent is not necessary in an emergency situation where the physician determines that the psychotropic medication is needed to prevent serious and immediate physical harm to the individual or others. In the event of the emergency use of psychotropic medication, the license holder must:

(1) inform and document that the individual authorized to give consent was informed orally and in writing within 24 hours or on the first working day after the emergency use of the medication;

(2) document the specific behaviors constituting the emergency, the circumstances of the emergency behaviors, the alternatives considered and attempted, and the results of the use of the emergency psychotropic medication; and

(3) arrange for an interdisciplinary team review of the individual treatment plan within seven days of the emergency to determine what actions, if any, are required in light of the emergency. If a psychotropic medication continues to be required, written informed consent is required within 30 days or a court order must be obtained.

Subp. 7. **Information to be communicated in obtaining consent.** The information in items A to G must be provided both orally and in writing in nontechnical language to the child's parent, legal representative, and, to the extent possible, the child. The information must include:

A. the diagnosis and level of severity of the symptoms and behaviors for which the psychotropic medication is prescribed;

B. the expected benefits of the medication, including the level to which the medication is to change the symptoms and behavior and an indication of the method used to determine the expected benefits;

C. the pharmacological and nonpharmacological treatment options available and the course of the condition with and without the treatment options;

D. specific information about the psychotropic medication to be used including the generic and commonly known brand name, the route of administration, the estimated duration of therapy, and the proposed dose with the possible dosage range or maximum dose;

E. the more frequent as well as less frequent or rare but serious risks and side effects of the psychotropic medication including how the risks and possible side effects will be managed;

F. an explanation that consent may be refused or withdrawn at any time and that the consent is time-limited and automatically expires as described in subpart 6; and

G. the names, addresses, and phone numbers of appropriate professionals to contact should questions or concerns arise.

Subp. 8. **Refusal to consent to administration of psychotropic medication.** If the authorized person refuses consent for a psychotropic medication, the conditions in items A to C apply.

A. The psychotropic medication shall not be administered or, if the refusal involves a renewal of consent, the psychotropic medication for which consent had previously been given shall be discontinued according to a written plan as expeditiously as possible taking into account withdrawal side effects.

B. A court order must be obtained to override the refusal.

C. Refusal to consent to use of a specific psychotropic medication in and of itself is not grounds for discharge. Any decision to discharge a child shall be reached

only after the alternatives to the specific psychotropic medication have been attempted and only after an administrative review of the proposed discharge has occurred.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: 20 SR 526

9545.1030 [Repealed, 20 SR 526]

9545.1035 TREATMENT IN A SETTING WITH SECURE CAPACITY.

Subpart 1. **Definition.** "Treatment in a setting with secure capacity" means a residential mental health intensive treatment program offered to a child whose diagnostic assessment indicates that the persistent pattern of the child's mental health presents a likely threat of harm to self or others which would best be treated in a setting which prevents the child from leaving the program. The setting may be within a building or part of a building secured by locks.

Subp. 2. **Limitations on admissions to a residential mental health program offering treatment in a setting with secure capacity.** Before accepting a child for admission to a residential mental health program offering treatment in a setting with secure capacity, the license holder must determine that the child meets the following criteria:

A. the child's record includes a written statement that a diagnostic assessment conducted according to Minnesota Statutes, section 245.4871, subdivision 11, has established the child's need for residential mental health treatment in a setting with secure capacity; and

B. the child has an individual treatment plan which:

- (1) meets the requirements of part 9545.0975;
- (2) identifies the need for treatment in a setting with secure capacity;
- (3) identifies the relationship of treatment in a setting with secure capacity to the child's overall treatment goals;
- (4) identifies the treatment goals the child should meet to be placed in a less restrictive treatment setting;
- (5) includes a plan for discharge from treatment in a setting with secure capacity to a less restrictive environment; and
- (6) is reviewed weekly by the program director to determine the level of treatment needed, unless the child's individual treatment plan specifically states that the child's prognosis or court imposed conditions merit review of the plan at less frequent intervals. In any case, the interval for the review of the individual treatment plan may not exceed the 90-day review required in part 9545.0975, subpart 2.

Subp. 3. **Prohibited placements.** A facility must not admit a child for treatment in a setting with secure capacity as a disposition resulting from adjudication of an offense under the juvenile code without meeting the diagnostic assessment requirements of subpart 2, item A, nor transfer a child from an unsecured part of a residential facility to a secure capacity part of the same facility as punishment for violating the rules of conduct of the treatment facility.

Subp. 4. **Staff ratio.** During waking hours the part of a facility providing treatment in a setting with secure capacity must provide at least a ratio of one treatment staff member to three children. The staff to child ratio for the treatment in a setting with secure capacity part of the facility does not apply during waking hours when the children are out of that part of the facility attending school. During sleeping hours the part of the facility providing treatment in a setting with secure capacity must provide at least two treatment staff persons to nine children. At least one of the two staff persons required during sleeping hours must be awake and present in that part of the facility. If the required second staff member is not awake and present in the secure capacity setting, the program must assure that the second staff person is in the immediate vicinity and may be readily contacted either visually, by telephone, or by radio to come

to the immediate assistance of the staff person in the secure capacity setting part of the facility.

Subp. 5. **Additional staff training.** In addition to the training required in part 9545.1105, staff providing treatment in a setting with a secure capacity must have at least eight hours of additional training annually in subjects which will improve staff's ability to deal with children who present a risk of harm to self or others.

Subp. 6. **Notice to commissioner and compliance with codes.** A facility must, prior to offering mental health treatment in a setting with secure capacity, notify the commissioner of its intent to do so and comply with any additional health, fire, or building code requirements which the commissioner, state fire marshal, or the Department of Health may require.

Subp. 7. **Limitations on the use of rooms for isolation.** The license holder must ensure that the requirements of part 9545.0995 regarding isolation are met if a child is locked in a room in the part of the facility offering mental health treatment in a setting with a secure capacity.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: 20 SR 526

9545.1040 [Repealed, 20 SR 526]

9545.1045 SHELTER SERVICES.

Subpart 1. **Applicability of subparts 2 to 10.** The requirements in this part apply to shelter services provided by a residential treatment program licensed under parts 9545.0905 to 9545.1125. The number of beds that a license holder designates for shelter services must be specified in the application for licensure and on the program license.

Subp. 2. **Description of services.** An application for licensure under parts 9545.0905 to 9545.1125 that includes shelter services must provide a written description of services which meet the requirements of part 9545.0945, subparts 1, items E and F, and 2 to 6. The description must state how the applicant will provide program services, address cultural needs, collaborate with community services, and work with families to meet children's needs, except under circumstances where contact with the family is prohibited by the court or contraindicated by the child's condition and documented in the child's record.

Subp. 3. **Initial assessment.** When a shelter services program admits a child, the license holder must:

A. meet the requirements governing admission in part 9545.0955, subpart 1, items A and E;

B. assess the child's vulnerability to maltreatment and develop a plan to reduce the child's risk of maltreatment while in the shelter; and

C. assess the child's situation, condition, and immediate needs as a basis for developing the immediate needs plan required in subpart 5. The assessment in this item is in lieu of the information taken at the time of admission required under part 9545.0955, subpart 2.

Subp. 4. **Physical examination.** Within 24 hours of admitting a child to shelter services, the license holder must arrange for a qualified professional as specified in items A to D to conduct a basic health screening to determine whether the child needs a physical examination by a licensed physician or dental examination by a dentist. If the need is determined, the license holder must notify the child's case manager of the need to make an appointment with a licensed physician or dentist to complete the required examination within three working days of admission. A qualified professional is:

A. a certified pediatric nurse practitioner;

B. a licensed nurse trained to do child and teen checkups;

C. a certified family nurse practitioner; or

D. a registered nurse experienced in the care of children in a shelter facility under the direction of a physician.

Subp. 5. Immediate needs plan. Within 24 hours of admitting a child, the license holder must develop a plan for meeting the child's immediate needs. The immediate needs plan in this subpart may be used in lieu of the individual treatment plan in part 9545.0975, subpart 1. The plan must:

A. identify what is immediately needed to help stabilize or ameliorate the child's situation, behavior, or condition based on the assessment in this subpart and subpart 4;

B. specify short-term objectives and methods for meeting the needs identified in item A; and

C. indicate shelter services program responsibilities for meeting needs identified in the placement plan developed by the county.

Subp. 6. Diagnostic assessment. If the license holder has reason to believe that a child has or may have severe emotional disturbance, the license holder must, within 72 hours of recognition of the need for the assessment or screening, refer the child to the county for a diagnostic assessment as required in Minnesota Statutes, sections 245.4876, subdivision 2, and 245.4871, subdivision 11.

Subp. 7. Follow-up contact. If the county does not respond to the referral in subpart 6 within three working days, the license holder must make a second request of the county.

Subp. 8. Individual stabilization plan. Within five working days after a child is admitted, the license holder must complete an individual stabilization plan for the child. The stabilization plan must be based on the license holder's assessment of the child's needs and must include a schedule for meeting the needs and the name of the person or agency responsible for meeting the needs.

Subp. 9. Discharge recommendations. The discharge requirements of this subpart may be used in lieu of discharge requirements contained in part 9545.0985 for a child who is receiving shelter care services under this part.

A. The license holder must prepare discharge recommendations for a child residing in shelter more than ten days. The discharge recommendations must address the services, supports, and referrals necessary to return the child to the family when possible or to another setting as an alternative to the family. In addition to the discharge summary required under part 9545.0985, subpart 6, the license holder must forward all medical, behavior, and incident notes regarding the child to the child's subsequent caregiver or county case manager.

B. If a child is in a shelter facility less than ten days, the license holder must prepare a discharge summary which, at a minimum, meets the requirement of part 9545.0985, subpart 6, item E.

Subp. 10. Limitations on length of stay. The license holder must apply for a variance according to part 9545.0905, subpart 3, to retain a child in shelter care beyond 90 days. If a child must remain in the shelter longer than 30 days, the treatment team must review the necessity of the child remaining in the facility and consider alternative placement plans. The license holder must document the reason for not including a member of the treatment team in the review process. The determination of the treatment team must be placed in the child's file and a copy sent to the entity placing the child in the program.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: 20 SR 526

9545.1050 [Repealed, 20 SR 526]

9545.1055 QUALITY ASSURANCE.

The license holder must develop a quality assurance plan based on program goals and objectives, and the goals and objectives for client outcomes. The plan must provide for monitoring and evaluating:

- A. the use of all treatment modalities;
- B. incidents or accidents involving children or personnel;
- C. emergency use of isolation and physical holding;
- D. patterns of grievances raised by children and families; and
- E. problems with administration of medications.

The quality assurance plan must use a client satisfaction survey that obtains responses from the children, their family members, case managers, referring agencies, and court staff. The plan must state how often the license holder will gather the information and the actions to be taken in response to the information.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: 20 SR 526

9545.1060 [Repealed, 20 SR 526]**9545.1065 PERSONNEL POLICIES AND PROCEDURES.**

Subpart 1. Policy requirements. The license holder must have written personnel policies that are available to all employees. The personnel policies must:

- A. comply with federal, state, and local laws and regulations;
- B. assure that the employee's terms and conditions of employment are not affected by a good faith communication between an employee and the Minnesota Department of Health, the Minnesota Department of Human Services, or other agencies investigating complaints regarding a child's rights, treatment, alleged maltreatment, health, or safety concerns;
- C. contain job descriptions that specify the following:
 - (1) position title;
 - (2) qualifications;
 - (3) tasks and responsibilities;
 - (4) degree of authority to execute job responsibilities; and
 - (5) standards of job performance related to specified job responsibilities;
- D. provide for annual job performance appraisals, based on the standards of job performance in the job description;
- E. specify the behaviors that constitute grounds for disciplinary action, suspension, or dismissal, and the policies about employee mental health and chemical use problems;
- F. prohibit sexual involvement with clients according to Minnesota Statutes, chapter 148A;
- G. prohibit maltreatment of minors as specified under Minnesota Statutes, section 626.556;
- H. include a code of ethical conduct for all employees and volunteers which states the license holder's expectations for the ethical behavior of all employees and volunteers;
- I. set forth a staff grievance procedure; and
- J. specify a program of orientation for all new staff based on a written plan that provides for regular training which is related to the specific job functions for which the employee was hired, the program's orientation policies and procedures, and the needs of the children to be served.

Subp. 2. **Recruitment.** The license holder must have a written plan for recruiting and employing staff members who are knowledgeable regarding the issues of the racial, cultural, and ethnic groups, and sex of the population served by the program.

Subp. 3. **Personnel records.** The license holder must maintain personnel records on all staff. The personnel records for each person must have the information in items A and B:

A. the most recent notice issued by the commissioner under part 9543.3060, subpart 5. If the current notice is more than two years old, the personnel file must also include documentation that the license holder has made a timely application for a background study as required by Minnesota Statutes, section 245A.04, subdivision 3; and

B. documentation that the staff person's education, training, licensure, and experience is commensurate with the position for which the program employs or contracts with the person.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: *20 SR 526*

9545.1070 [Repealed, 20 SR 526]

9545.1075 CLINICAL SUPERVISION BY A MENTAL HEALTH PROFESSIONAL.

Subpart 1. **Mental health professional consultation.** The license holder must ensure that the residential program employs or contracts with a mental health professional to provide consultation relating to the planning, development, implementation, and evaluation of program services.

Subp. 2. **Supervision of staff.** A mental health professional must provide at least weekly face-to-face clinical supervision to staff persons providing program services to a child as follows: to mental health practitioners for program services in part 9545.0945, subpart 1, items A to D, F, G, and I; to a recreational therapist if the therapist supervises the program service in part 9545.0945, subpart 1, item E; to a registered nurse if needed for program services in part 9545.0945, subpart 1, item C; and to child care workers for program services in part 9545.0945, subpart 1, item H. The mental health professional:

A. must provide clinical supervision of staff either individually or as a group;

B. must document the clinical supervision of staff;

C. must advise the program director about the planning, development, and implementation of staff development and evaluation; and

D. may provide consultation in lieu of clinical supervision to other mental health professionals under contract or employed by the program to provide program services to a child.

Subp. 3. **Supervision of treatment.** A mental health professional must:

A. supervise the diagnostic assessment of each child in the program and the development of each child's individual treatment plan;

B. document involvement in the treatment planning process by signing the individual treatment plan;

C. supervise the implementation of the individual treatment plan and the ongoing documentation and evaluation of each child's progress, including the quarterly progress review; and

D. document on a weekly basis a review of all the program services provided for the child in the preceding week.

The license holder must ensure that a mental health professional can be reached for consultation about a mental health emergency, at least by phone, within 30 minutes.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: *20 SR 526*

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9545.1080 [Repealed, 20 SR 526]

9545.1085 STAFF QUALIFICATIONS.

Subpart 1. **General staff qualifications.** Staff that provide, supervise, or directly administer program services must:

- A. be at least 21 years old;
 - B. have at least a high school diploma or a general education degree (GED);
- and
- C. provide documentation of cultural competence training.

Staff and contract consultants holding positions that require licensure, certification, or registration by Minnesota must provide evidence of current licensure, certification, or registration.

Subp. 2. **Administrator.** The license holder must designate an individual as administrator. The administrator must have at least a bachelor's degree in the behavioral sciences, health administration, public administration, or a related field such as special education or education administration. The administrator must be responsible for ongoing operation of the program, and maintenance and upkeep of the facility.

Subp. 3. **Program director.** The license holder must designate an individual as program director. The program must have at least one program director for every 50 children receiving program services. The positions of program director and administrator may be filled by the same person if the person meets the qualifications in items A and B. The program director must have the qualifications described in items A and B:

- A. a master's degree in the behavioral sciences or related field with at least two years of work experience providing services to children with severe emotional disturbance or have a bachelor's degree in the behavioral sciences or a related field with a minimum of four years of work experience providing services to children with severe emotional disturbance; and

- B. one year of experience or training in program administration and supervision of staff.

Persons who do not meet the qualifications in this part, but were employed on January 1, 1994, as administrators and program directors in programs licensed under parts 9545.0900 to 9545.1090, will be considered qualified for these positions until July 1, 2001.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: *20 SR 526*

9545.1090 [Repealed, 20 SR 526]

9545.1095 STAFF ORIENTATION.

Subpart 1. **Initial orientation training for staff who provide program services.** A staff member who provides program services must complete orientation training related to the specific job functions for which the person was hired and the needs of the children the person is serving. During the first 45 calendar days of employment, and before assuming sole responsibility for care of children, staff who provide program services must complete training on:

- A. the maltreatment of minors act, Minnesota Statutes, section 626.556, and the license holder's policies and procedures related to this statute;

- B. client rights;

- C. emergency procedures;

- D. policies and procedures concerning approved physical holding and isolation techniques, de-escalation techniques, physical and nonphysical intervention techniques;

- E. rules of conduct and policies and procedures related to discipline of children served;

F. psychiatric emergencies and crisis services; and

G. problems and needs of children with severe emotional disturbance and their families.

No staff person may participate in the use of physical holding, isolation, or other restrictive procedures with a child prior to completing approved training in item D.

Subp. 2. **Orientation training for staff who do not provide program services.** Facility staff who do not provide program services must receive orientation training in subpart 1, items A to C and G.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: *20 SR 526*

9545.1105 INDIVIDUAL STAFF DEVELOPMENT.

Subpart 1. **Individual staff development and evaluation plan.** The license holder must ensure that an annual individual staff development and evaluation plan is developed and implemented for each person who provides, supervises, or directly administers program services. The plan must:

A. be developed within 90 days after the person begins employment and at least annually thereafter;

B. meet the staff development needs specified in the person's annual employee evaluation; and

C. address training relevant to specific age, developmental, cultural, and mental health needs of the children the person serves.

Subp. 2. **Amount of annual training.** The license holder shall ensure that all staff who provide, supervise, or directly administer program services complete the amount of training specified in this part.

A. A staff member who works an average of half-time or more in a year shall receive at least 24 hours of training per year.

B. A staff member who works an average of less than half-time in a year shall complete at least 16 hours of training per year.

C. A staff member who is licensed as required by part 9545.1085, subpart 1, shall complete the training required to maintain the staff member's license.

D. The orientation required in part 9545.1095 may be counted as annual training.

Subp. 3. **Content of quarterly training.** The license holder must ensure that all staff providing program services review at least three of the following at least quarterly:

A. de-escalation techniques;

B. physical and nonphysical intervention policies and procedures and techniques to address aggressive behaviors that place a child in imminent danger to self or others;

C. assignment of persons to specific tasks and responsibilities in an emergency situation;

D. instructions on using alarm systems and emergency equipment;

E. when and how to notify appropriate persons outside the facility; and

F. evacuation routes and procedures.

Subp. 4. **Content of annual training.** The license holder must ensure that all staff and volunteers of the facility annually review the maltreatment of minors act, Minnesota Statutes, section 626.556, and all policies and procedures related to the act. The license holder must also ensure that 75 percent of the required hours of annual training address the following subjects:

A. treatment modalities for children with severe emotional disturbance;

B. treatment modalities for children with severe emotional disturbance with special needs;

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- C. cultural and ethnic diversities and culturally specific treatment;
- D. individual needs of children and their families;
- E. psychotropic medications and their side effects;
- F. assessment and individual treatment planning;
- G. symptoms of children's diseases;
- H. family systems;
- I. children's psychological, emotional, intellectual, and social development;
- J. suicide prevention;
- K. facility security; and
- L. crisis de-escalation.

Subp. 5. **First aid training required.** A license holder must ensure that staff who provide program services have documentation of current American Red Cross Standard First Aid certification.

Subp. 6. **Cardiopulmonary resuscitation (CPR) training required.** A license holder must ensure that child care staff who provide program services have a current American Red Cross Community CPR certificate.

Subp. 7. **Orientation and training record.** The license holder must ensure that staff orientation under part 9545.1095 and training under this part are documented. The record must include the date orientation or training was completed, the topics covered, the name of the presenter, the number of hours spent on each topic, and the signature of the staff receiving the training.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: 20 SR 526

9545.1115 PHYSICAL PLANT.

Subpart 1. **Compliance with board and lodging requirements.** For the physical plant, food preparation, and nutrition requirements for facilities licensed under parts 9545.0905 to 9545.1125, the license holder must:

- A. comply with parts 4625.0100 to 4625.2300 regarding physical plant conditions and practices;
- B. comply with chapter 4626 regarding food handling practices for food service;
- C. ensure that meal plans are reviewed and approved by a qualified dietitian at least annually. Additionally, the license holder shall evaluate and meet the dietary needs identified in a child's functional assessment. A program that accepts a child who has a medically prescribed therapeutic diet must document that the diet is provided as ordered by the physician; and
- D. provide foods and beverages that are palatable, of adequate quantity and variety, attractively served at appropriate temperatures, and prepared by methods which conserve nutritional value. All meals provided must be planned, prepared, and served by persons who have received instruction in food-handling techniques and practices.

Statutory Authority: *MS s 31.101; 31.11; 144.05; 144.08; 144.12; 157.011; 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: 20 SR 526; 23 SR 519

9545.1125 EMERGENCY PREPAREDNESS.

Subpart 1. **Written plan required.** A facility must have a written plan which specifies actions and procedures for responding to fire, serious illness, severe weather, missing persons, and other emergencies. The program administrator must review the plan with staff and residents. The plan shall be developed with the advice of the local fire and rescue authority and other emergency response authorities. The plan shall

specify responsibilities assumed by the license holder for assisting residents who require emergency care or special assistance to residents in emergencies.

Subp. 2. **First aid kit required.** Every facility shall have on the premises a first aid kit approved in writing by a physician for use for residents and staff. The kit shall be kept in a place readily available to all staff responsible for the health or well-being of residents.

Statutory Authority: *MS s 245.484; 245.4882; 245.696; 245.802; 245A.03; 245A.09; 245A.095*

History: *20 SR 526*

MATERNITY SHELTERS

9545.1200 STATUTORY AUTHORITY.

Minnesota Statutes, section 624, establishes the authority of the commissioner of human services to set rules governing the operation of maternity shelters. The commissioner of human services hereby promulgates the following rules to establish standards for maternity shelters.

Statutory Authority: *MS s 245A.09*

History: *L 1984 c 654 art 5 s 58*

9545.1210 DEFINITION: MATERNITY SHELTER.

“Maternity shelter,” as used in these standards, means any home or institution that provides residential care for three or more pregnant women.

Statutory Authority: *MS s 245A.09*

9545.1220 PURPOSE AND FUNCTION OF SHELTERS.

Each maternity shelter shall clearly define its purpose and function. The function and services of the shelter shall be related to the need of the unmarried mother and her child, to needs of the community as a whole, and to the other health and social service resources.

Statutory Authority: *MS s 245A.09*

9545.1230 ORGANIZATION OF SHELTERS.

The maternity shelter shall be incorporated in accordance with the laws of the state of Minnesota.

There shall be a board of directors responsible for policies and for the financing of the shelter. The board should be composed of persons representative of the community served.

There shall be written policies and procedures relating to board structure and organization. The policies and procedures shall be subject to constant reevaluation in the light of changing needs.

Statutory Authority: *MS s 245A.09*

9545.1240 FINANCING AND ACCOUNTING OF SHELTERS.

The maternity shelter shall have a plan of financing that gives assurance of sufficient funds to enable it to carry out its defined purposes and provide proper care of the unmarried mothers. A new maternity shelter shall have sufficient funds assured to carry it through the first year of operation.

All financial accounts shall be audited by a certified public accountant from outside the maternity shelter staff or board at least once a year; and the report shall be

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made part of the shelter's records subject to review by the commissioner of human services.

Statutory Authority: *MS s 245A.09*

History: *L 1984 c 654 art 5 s 58*

9545.1250 SHELTER PERSONNEL.

All employees shall be persons of good character, good health, and emotional stability, with appropriate education and experience to carry out the duties assigned to them.

There shall be a sufficient number of staff members to provide adequately for social services, education, physical and mental health, group activities and discussion, and religious needs of the girls and women in care. These people may be permanent staff members or may serve in an auxiliary capacity.

There shall be written personnel policies and job descriptions approved by the board of directors.

A salary range for each type of position shall be established in writing and shall be adequate to attract and hold efficient personnel, equivalent to prevailing rates of pay in similar positions in the community, and commensurate with the duties and responsibilities of the position.

Personnel policy shall provide specifically for vacations, sick leave, holidays, and maximum work week. The work week should not exceed 40 hours. There should be a minimum of two weeks vacation, 12 days sick leave, and seven holidays per year.

Each staff member shall have a physical examination, including chest X-ray, before beginning work and annually thereafter. Report on such examination for each employee shall be kept on file.

Individual personnel records should be kept for each employee, to include evaluations of job performance.

Statutory Authority: *MS s 245A.09*

History: *17 SR 1279*

9545.1260 SHELTER STAFF.

Subpart 1. **Executive director.** The executive director shall be a person of appropriate training and experience, proven executive ability, knowledge of the work to be administered, and an understanding of the unwed mother and her needs. The executive director should have a college degree with professional training and experience in social work or its equivalent and experience in working with people, to be able to carry out duties and work with committees and other community groups.

Subp. 2. **Social services.** The maternity shelter shall make provision for social services either by employing qualified social workers on the maternity shelter staff or by arrangement with an authorized social work agency. Psychiatric and psychological services should be available as needed.

Subp. 3. **Group-living staff.** Group-living staff shall be persons of unquestionable moral and emotional fitness, with adequate education and experience to equip them for their duties. Each person in the shelter should have an understanding of unmarried mothers and their needs.

Subp. 4. **Clerical staff.** Each maternity shelter shall have adequate clerical services to keep correspondence, records, bookkeeping, and files current and in good order.

Subp. 5. **Other staff.** Domestic and maintenance staff shall be employed to carry on the everyday housekeeping and maintenance functions in sufficient numbers to care for the upkeep of the maternity shelter.

Statutory Authority: *MS s 245A.09*

History: *17 SR 1279*

9545.1270 BUILDINGS AND GROUNDS.

Subpart 1. **Location.** The maternity shelter shall be so located as to provide easy access to hospitals, fire protection services, and other community facilities.

Subp. 2. **Health and safety.** All buildings shall conform to local or state building codes and shall be approved by the state fire marshal or local fire bureau.

The maternity shelter shall comply with local or state sanitary and safety requirements relating to water supply, plumbing, cleanliness, heating and ventilation, laundry, and garbage and waste disposal.

Subp. 3. **Living arrangement.** The maternity shelter shall be planned and furnished to create an atmosphere of cheerfulness and contentment.

There shall be provision for a reasonable degree of privacy as well as for appropriate group-living experiences.

The area of sleeping rooms shall be not less than an average of 500 cubic feet per person. Four occupants per room should be considered a maximum.

The living room, dining room, and other group activity areas shall be large enough to provide for comfortable and cheerful group living.

Subp. 4. **Grounds.** There should be sufficient well-kept grounds for recreation and outdoor activities.

Statutory Authority: *MS s 245A.09*

9545.1280 SOCIAL SERVICES.

Subpart 1. **Admission policies.** The basis for eligibility for admission is the ability to use the services available.

Shelters under religious auspices, or those set up to serve a particular group, should define their admission policies clearly. In general, policy should state that no application will be rejected because of age, race, color, religion, legal residence, marital status, prior pregnancy, or economic status.

Policy about time of admission should be flexible to allow for individual needs. Eligibility should not depend on the plan for the child or on willingness to remain in the maternity shelter for any specified period of time.

If the maternity shelter cannot provide appropriate living arrangements for care of an unmarried mother at the time when such care is needed, policy should provide for referral to other community resources that can better meet the woman's needs.

If possible, at time of admission, provision should be made by the shelter for payment of expenses of living arrangements and medical care for the unmarried mother and for boarding care and other expenses for the child. Nevertheless, services should not be withheld solely because of inability to pay.

Subp. 2. **Casework services.** Casework services shall be available to each unmarried mother admitted to a maternity shelter program, either through its own professional staff or through an approved social agency in the community.

Casework service shall be offered to each unwed mother, and she should be referred for such service as soon as possible.

The initial casework interview shall be held within ten days after referral.

Casework interviews shall be regularly scheduled, with reasonable frequency based on individual needs. Intervals between casework interviews shall not exceed two weeks.

Casework service shall include help in adjustment to pregnancy, to separation from natural environment, and to group living. Casework service should include psychological and psychiatric help as needed to facilitate diagnosis and treatment.

The caseworker shall be responsible for providing help in formulating a long-term plan for the mother and baby.

Every unwed mother shall be given the choice of keeping or relinquishing her child and of deciding whether or not she sees her child. Help with this decision is part of the casework process.

The casework agency, at the request of the mother, shall arrange for referral to a licensed child-placing agency for any baby needing adoptive placement or other foster care. The maternity shelter staff shall not place children for adoption or foster care.

Subp. 3. Group-work services. Individual casework service should be supplemented by group discussions to help girls and women to understand themselves and to make sound plans for the future. They should be led by a qualified social worker who has familiarity with modern social work concepts about the problems and treatment of unwed mothers.

Subp. 4. Staffing. Provision should be made for regularly scheduled conferences involving the caseworker, the group worker, and resident personnel in discussions on the total planning for each girl and woman in care. Other persons of therapeutic importance in a given case may also be included in these discussions, such as psychiatric consultant, clergy, teacher, parent, relative, etc.

Subp. 5. Case recording. A confidential record shall be maintained for each resident, including identifying information, a brief social history, and a record of casework planning and services needed. The record may also include psychological reports and medical recommendations.

Statutory Authority: *MS s 245A.09*

History: *17 SR 1279*

9545.1290 MEDICAL AND HEALTH SERVICES.

Subpart 1. Physical examination. Initial examination at the time of intake shall include:

A. a complete medical history, including a history of previous pregnancies, general health, and significant health history of the family; and

B. a complete physical examination, including:

(1) estimation of the progress of this pregnancy, with determination of pelvic measurements and significant abdominal findings;

(2) weight, temperature, pulse, respiration, and blood pressure;

(3) urinalysis, hemoglobin determination, and blood RH;

(4) serological test for syphilis and cervical and urethral smears for gonorrhea (to be sent to state Department of Health); and

(5) Mantoux test or chest X-ray.

Subp. 2. Deliveries and postpartum care. The maternity shelter shall enter into a written agreement with a licensed hospital in the community to provide facilities for obstetrical deliveries and postpartum care.

Subp. 3. Natal care. The maternity shelter shall make provisions for adequate prenatal and postnatal care for both the unmarried mother and her child.

During the first seven months of pregnancy, the unmarried mother should be seen by the physician not less than every four weeks, every two weeks from then until the last month, and then every week until delivery.

At each visit a urinalysis should be done, blood pressure recorded, and the patient weighed.

A hemoglobin determination should be done, preferably each month, or at least once each trimester.

A final and complete postnatal examination shall be made by the physician before discharge.

Subp. 4. **Specialists.** If possible, the care of the unwed mother must be supervised by a specialist in obstetrics, and the care of the child must be supervised by a specialist in pediatrics. Adequate consultation by other specialists should be readily available.

Subp. 5. **Dispensing medications.** Medications shall be dispensed only on orders of the attending physician.

Statutory Authority: *MS s 245A.09*

9545.1300 EDUCATION.

Subpart 1. **Formal education.** Opportunities shall be provided for continuing education for girls whose education has been interrupted by pregnancy. Arrangements shall be made with the local department of education to provide qualified teachers and to ensure continuance of school and proper credit for work completed in the maternity shelter. The school program should offer a wide variety of subjects, in order that each girl can study courses for which her home school can give credit. Every effort should be made to ensure confidentiality both in requesting transcripts and in transferring credit.

Subp. 2. **Informal education.** Instruction in health, prenatal care, delivery, and postpartum care shall be given to all residents.

A wide variety of activities should be provided to meet varying interests, abilities, needs, and new experiences and to provide an opportunity to find new ways of adjusting to life situations.

Informal discussions, in small groups having mutual interests and problems, should be led by a person trained in social group work when possible.

A varied recreation program should be developed to teach acceptable means of using leisure time as an outlet for emotions, self-expression, and the give and take of social relations.

Statutory Authority: *MS s 245A.09*

9545.1310 RELIGION.

The religious program shall give consideration to:

A. the place of religion in one's total life experience, with its traditional role in crisis situations;

B. the importance of religion in building and maintaining moral standards;

C. the value of religion in acquiring a positive self-image; and

D. the likelihood of resentment and hostility toward religion on the part of some individuals, particularly when it is identified with authority.

The maternity shelter shall provide opportunities for each resident to follow, as she may wish, the practices of her religion. In an instance in which the shelter is maintained by a particular church group, this may be accomplished by having a resident chaplain responsible for religious activities. In other instances, arrangements may be made for carefully selected clergy in the area to provide these services.

Pastoral counseling should become a part of the total helping process, and the clergy should be considered a part of the helping team.

Statutory Authority: *MS s 245A.09*

History: *17 SR 1279*

9545.1320 RESIDENTIAL PROGRAM.

Subpart 1. **License requirement.** Maternity shelters must be licensed under parts 9543.1000 to 9543.1060.

Subp. 2. **Program objectives.** The residential program shall have the following objectives:

A. To provide a setting that will facilitate use of professional services designed:

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(1) to meet emotional, medical, spiritual, educational, and recreational needs during a pregnancy; and

(2) to prepare the residents for a more mature, emotionally satisfying, and socially acceptable way of living.

B. To provide a positive experience of living with other girls that can alleviate guilt, decrease hostility, increase self-esteem and self-understanding, and provide an opportunity for companionship and for participation and self-expression in group activities.

C. To provide healthful and supportive relationships:

(1) through a process of daily association with staff processing qualities worthy of emulation;

(2) through association with adults who are well-adjusted in their own lives; and

(3) through daily living experiences that can foster the personality growth of individuals.

D. To provide an environment that will ensure comfortable shelter, appropriate food, privacy, security, relaxation, and freedom from pressures, with simultaneous opportunity for optimum self-direction, self-responsibility, and self-determination.

(1) A daily schedule and policies of conduct that make group living pleasant for all should be in writing and available to the resident on admission. Both should be flexible and adaptable to individual needs.

(2) Residents should have a part in planning activities of the group and some choice in participating. There should also be opportunities for group discussions and group decisions on problems of group living.

(3) Work should be considered a part of the therapeutic program, and work assignments should be a part of the plan for the girl's physical, mental, and emotional health and happiness.

Proper supervision should be provided to make the work a learning experience in the skill and in carrying responsibility.

The wishes and ability of each resident shall be taken into account in assignments, as well as her need for leisure and privacy.

Disagreeable tasks shall not be used as punishment.

Work assignments shall be so planned that they will not interfere with other aspects of the treatment program.

(4) Any practice not in conformity with the spirit of these objectives (censorship of mail, prohibition against a girl's use of her own room during free time, undue restriction of freedom to leave the grounds or to receive visitors, etc.) violates the requirements of this section.

(5) Each maternity shelter shall define the methods and procedures to be used by staff in implementing these objectives.

Statutory Authority: *MS s 245A.09*

History: *18 SR 2748*

9545.1330 [Repealed, 18 SR 2748]

GROUP HOMES

9545.1400 STATUTORY AUTHORITY.

The authority of the Department of Human Services, Licensing Division, to prescribe and publish minimum standards for the approval and licensing of group homes is contained under Minnesota Statutes, chapter 245A. Standards prescribed, and contained herein, shall be in force until revoked or revised by authority of the department.

The commissioner of human services is delegated responsibility by the state legislature to see that the minimum requirements as herein prescribed are met and maintained by local social services agencies, licensed child-placing agencies, licensed children's institutions, foster family group homes, and independent operators of group homes.

Statutory Authority: *MS s 245A.09*

History: *L 1984 c 654 art 5 s 58; 13 SR 1448; L 1994 c 631 s 31*

9545.1410 PURPOSE OF GROUP HOMES.

In our day, we are greatly concerned about all children in society and their need for proper care. We have the responsibility to see that proper resources are established and maintained. With our growing child and youth population and expansion of needs, we find that there are gaps between the service needed and the variety of resources available to provide the service.

In recent years, in an attempt to meet diverse needs, new resources for care have been established. One of these new resources is the group home. Group homes provide a type of care that is not available through traditional foster families or institutions. Group homes are not meant to replace either of these types of care but present a unique opportunity to combine different aspects of treatment from both resources. Group homes can provide adult guidance and professional services to the child placed out of the child's own home and yet keep the child in community living. The facility is community based, and the program is community oriented.

The group home represents a resource that has tremendous flexibility in giving care to children of all ages with varying needs. Group home care should be used on a selective basis as a treatment of choice. The group home should not be considered a panacea of care for children. It is a distinct resource in its own right that is part of the whole broad spectrum of resources available to children.

Statutory Authority: *MS s 245A.09*

History: *17 SR 1279*

9545.1420 DEFINITIONS.

Subpart 1. **Agency.** "Agency" means the party responsible for providing social service, administration, and the direction and control of the program. This party can be a local social services agency, licensed child-placing agency, licensed children's institution, or independent operator.

Subp. 2. **Children.** "Children" means persons under the age of 18 years of age or persons over 16 years of age if for reasons of mental retardation they still require the protection needed by persons under 16 years of age (Minnesota Statutes, section 245A.02, subdivision 4).

Subp. 3. **Group home.** "Group home" means a specialized facility that provides care on a 24-hour-a-day basis for a selected group of not more than ten children. The facility can be owned, rented, or leased by a local social services agency, licensed child-placing agency, licensed children's institution, or independent operator, or subsidized by any of the above. The specialized care will be a planned treatment program under the direction and control of an agency, institution, or independent operator. Natural children of the group home parents under 21 years of age, if present in the home, are included in the total number of children living in the home.

Subp. 4. **Group home parent.** "Group home parent" means a person who carries out the continuing daily living program and provides care to the children. This may be a member of the agency staff or a person subsidized for the care he or she provides. It may be a married couple, a single person, or single persons working on a shift basis.

Statutory Authority: *MS s 245A.09*

History: *13 SR 1448; L 1994 c 631 s 31*

9545.1430 ORGANIZATION AND ADMINISTRATION.

Subpart 1. **Philosophy, purpose, and function of home.** The philosophy, purpose, and function of the group home shall be clearly defined in writing and maintained as part of the group home file in the agency.

Subp. 2. **Written description.** The agency shall similarly define, in writing, and file a statement of the geographic area to be served, ages and kind of children to be accepted for care, and the specific extent, limitations, and scope of service for which the group home is established.

Subp. 3. **Written agreement.** The agency shall have on file a written agreement between itself and the group home parents. The agreement shall contain the following items:

- A. admissions and discharge policy for the residents;
- B. program plans for residents;
- C. terms of the agreement as they affect length of time to be in effect and what conditions necessitate the formulation of a new agreement;
- D. the roles, responsibility, and authority of the agency and its personnel and group home parents;
- E. the per diem or monthly care rate paid to the group home parents; and
- F. the maximum number of children to be cared for in the group home.

Subp. 4. **Finance plan.** The agency shall have a sound plan of financing that will give assurance of sufficient funds to enable it to carry out its defined purposes and to provide proper care for children.

Subp. 5. [Repealed, 18 SR 2748]

Subp. 6. **Coordination with community services.** The agency shall coordinate its services and program with appropriate persons, agencies, and organizations in the community. This shall include schools, vocational training centers, mental health centers, job placements, day activity centers, parent organizations, and churches.

Subp. 7. **Needs of children.** Clothing, personal allowance, spending money, and medical expenses for the children in the group home shall be worked out by the agencies involved.

Subp. 8. **Discrimination prohibited.** All licensed individuals, agencies, or organizations shall operate on a nondiscriminatory basis, according equal treatment and access to their services to all persons.

Subp. 9. [Repealed, 18 SR 2748]

Statutory Authority: *MS s 245A.09*

History: *L 1984 c 654 art 5 s 58; 18 SR 2748*

9545.1440 PERSONNEL.

Subpart 1. **Director.** The director of the agency will be the chief administrator of the group home. The chief administrator may direct the total operation of the group home or may delegate this duty.

Subp. 2. **Employee qualifications.** All employees shall be persons of good character, good physical and emotional health, and appropriate age and maturity and shall possess sufficient ability and education to carry out adequately the duties assigned to them.

Subp. 3. **Adequate staff.** There shall be sufficient staff to carry out the group home program.

Subp. 4. **Social service staff.** The agency shall provide qualified social service staff for the group home either from within its own structure or through contractual arrangements.

It is recommended that not more than two persons provide continuing social service to any group home. (Recommended.)

Subp. 5. **Group home parents.** Each group home shall have full-time group home parents. If a married couple is employed in this position, at least one of them shall be on a full-time basis. A group home parent shall be on duty at all times.

Subp. 6. **Substitute parents.** Adequate arrangements shall be made for substitute group parents to serve in emergency situations, vacation, illness, and when the regular group parents have their time off.

It is recommended that the full-time group home parents receive two weeks vacation per year and that they be allowed one full day off per week. (Recommended.)

Subp. 7. **Medical and dental staff.** The agency shall provide medical and dental staff for the care of the group home residents either from within its own structure or through contractual arrangements.

Subp. 8. **Additional staff to carry out the group home program.** Additional staff to carry out the group home program:

A. **Psychiatric consultation:** to provide consultation on a case basis as well as overall treatment goals for the group.

B. **Psychological consultation:** to provide testing for assessment purposes at the time of admission as well as to measure gains throughout the stay or at the time of dismissal. The psychologist may also be used to set up and carry out a research project to evaluate the program and its impact on the children.

C. **Service personnel:** a cook, a housekeeper, or maintenance personnel may be hired to perform specific duties. This could relieve the group home parents of these functions and allow them more time with the children in carrying out the program.

D. **Volunteer services:** to augment and assist other personnel in carrying out the program. Volunteers shall be aware of, and interested in, the needs of children. They shall be oriented to the program, staff, and children of the group home.

E. **Trained group worker:** to carry out direct group treatment services, consult about overall group programs, and provide training in group process to the group home parents. (Recommended.)

Subp. 9. [Repealed, 18 SR 2748]

Subp. 10. [Repealed, 18 SR 2748]

Subp. 11. **Staff-to-children ratio.** It is recommended that the staff ratio in a group home be one staff member for every five children. (Recommended.)

Statutory Authority: *MS s 245A.09*

History: *18 SR 2748*

9545.1450 PROGRAM.

Subpart 1. **In general.** The program shall be a composite of the services offered in the group home, community, and agency supervising and directing the operation of the group home. (Recommended.)

The program shall be based on the purpose of the group home, with plans for the individual children as well as the total group.

Subp. 2. **Individual program plans.** A program plan for each child shall be formulated by the agency in conjunction with the group home staff, community resources, and auxiliary services at the time of intake. This plan shall be reevaluated at least every six months, with changes implemented according to the needs of the child.

Subp. 3. **School for children.** All school age children shall be referred to the local school district for educational planning and placement. "Local school district" means the district in which the group home is located.

It is recommended that this referral to the local school take place prior to placement in the group home to ensure that the child is eligible for service and that the local school has an appropriate program.

Subp. 4. **Goal of group living.** Group living shall be used in planful and purposeful ways to help the children develop constructive relationships to adults and to other

children and constructive patterns of handling time, money, and care of belongings and property.

Subp. 5. **Community experiences.** Community living experiences shall be used in conjunction with plans for education and training, recreational and social pursuits, job placements, and attendance at religious services.

Subp. 6. **Social service.** Social service shall be a clearly defined and identifiable phase of the total care, treatment, and training program. Social service shall be provided on both an individual and a group basis. It is recommended that social service be extended to the families of the residents whenever feasible and in accordance with the planning of the child. (Recommended.)

Subp. 7. **Recreation.** Leisure time activities shall be planned to allow for constructive activities that enhance social and physical skills. Time shall also be available for completion of academic assignments and to allow for individual pursuits.

Subp. 8. **Health examinations.** All children shall have medical and dental examinations yearly, or more often if necessary.

It is recommended that each child be given a medical and dental examination prior to admittance into the group home.

Subp. 9. **Religious practice.** Each child shall have the opportunity to practice the child's religious preference.

Statutory Authority: *MS s 245A.09*

History: *17 SR 1279*

9545.1460 RECORDS.

Subpart 1. **Group home records.** The supervising agency shall maintain a record on each group home. The record shall contain a copy of each of the following items:

- A. the philosophy, purpose, and function of the group home;
- B. the statement of the geographic area to be served, ages and kind of children to be accepted for care, and the specific extent, limitations, and scope of service for which the group home is established;
- C. the agreement between the agency and the group home parents;
- D. the intake policy and procedure;
- E. the arrangements for the provision of social services;
- F. the arrangements for the provision of medical and dental services;
- G. personnel policies;
- H. criteria for selection of group home parents. (The criteria outlined in parts 9545.0030 to 9545.0080 for foster parents may be used in the development of the criteria for the selection of group home parents. Recommended.);
- I. names of group home parents and substitute group home parents;
- J. the state fire marshal report; and
- K. a floor plan of the group home, the designated room dimensions.

Subp. 2. **Financial records.** The financial record of the group home shall be maintained in the agency.

Subp. 3. **Individual records.** The agency shall maintain a record on each individual resident in the group home. The record shall contain a copy of each of the following items:

- A. admission information;
- B. objectives of individual planning;
- C. reports on progress toward the accomplishment of these objectives; and
- D. dismissal summary.

Subp. 4. **Medical records.** The group home parents shall maintain medical records on each child.

Subp. 5. **Children's progress reports.** The agency shall send the referring agency a record of the child's progress at least every six months.

Subp. 6. [Repealed, 18 SR 2748]

Subp. 7. **Confidentiality.** Information on record pertaining to an individual or the family shall be held confidential and released only to authorized persons or agencies.

Statutory Authority: *MS s 245A.09*

History: *17 SR 1279; 18 SR 2748*

9545.1470 PHYSICAL FACILITY.

Subpart 1. **Location.** The location of the group home shall be related to the program it offers. It shall be accessible to religious, school, training, and recreation facilities and other appropriate community resources.

It is recommended that the home be located in a residential area and be undifferentiated from other residences. It is helpful to locate in a neighborhood where there are other children and the neighborhood accepts children and their behavior. (Recommended.)

Subp. 2. **Grounds.** The grounds shall provide adequate outdoor space for recreational pursuits.

Subp. 3. **Compliance with codes.** The group home shall meet the regulations of the local health authorities as well as local zoning and building codes. Consultation with the state Department of Health is available if desired.

The group home shall meet the requirements set forth by the state fire marshal. The state fire marshal shall inspect all facilities.

Subp. 4. **Building.** Building:

A. There shall be living and recreation space of 35 square feet of floor space per child. This may include living room, dining room, and recreation room but excludes bathrooms, halls, laundry room, bedrooms, furnace room, and kitchen.

B. The dining area shall be large enough to comfortably accommodate all the children, the group home parents, and guests at a meal. The room shall be cheerful, well ventilated, and convenient to the kitchen.

C. Every sleeping room for the accommodation of one child shall contain 80 square feet of floor space, with a minimum horizontal dimension of eight feet.

D. Every sleeping room for the accommodation of more than one child shall contain 60 square feet of floor space per child, with a minimum horizontal dimension of eight feet. Each child shall have an individual bed. Individual beds shall be at least three feet apart.

E. No bedroom shall accommodate more than four children.

It is recommended that there be no more than two children per bedroom. It may also be helpful to have single occupancy rooms. (Recommended.)

F. Each resident shall have a set of dresser drawers to accommodate personal articles and clothing.

G. Each resident shall have an individual storage closet or locker for day-to-day clothing, and other storage space for clothing not currently used.

H. There shall be one toilet for every five children, one lavatory with hot and cold water for every five children, and one tub or shower for every five children. The toilet facilities shall be maintained in a sanitary condition equal to the local health regulations. All group homes that house children of both sexes shall have separate toilet and bath facilities for each sex.

I. The heating plant shall be of a size and capacity to maintain a temperature of 70 degrees Fahrenheit in all rooms.

J. Provisions shall be made for laundry facilities adequate in space and equipment to meet the needs of the children, the group home parents, and the home.

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K. A flashlight and a first aid kit shall be available in every group home for emergency use.

L. All medications for the children in the group home, as well as household poisons, shall be kept in a safe and secure place.

Statutory Authority: *MS s 245A.09*

History: *18 SR 2748*

9545.1480 PROCEDURE FOR LICENSING.

Subpart 1. [Repealed, 18 SR 2748]

Subp. 2. [Repealed, 18 SR 2748]

Subp. 3. [Repealed, 18 SR 2748]

Subp. 4. [Repealed, 18 SR 2748]

Subp. 5. [Repealed, 18 SR 2748]

Subp. 6. [Repealed; 18 SR 2748]

Subp. 7. [Repealed, 18 SR 2748]

Subp. 8. [Repealed, 18 SR 2748]

Subp. 9. **License required.** Group homes must be licensed under parts 9543.1000 to 9543.1060.

Statutory Authority: *MS s 245A.09*

History: *L 1984 c 654 art 5 s 58; 18 SR 2748*

9545.1490 [Repealed, 18 SR 2748]

9545.1500 [Repealed, 18 SR 2748]

RESIDENTIAL AND NONRESIDENTIAL PROGRAMS AND AGENCIES

9545.2000 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 9545.2000 to 9545.2040 have the meanings given to them in this part.

Subp. 2. **Agency.** "Agency" means any individual, organization, association, or corporation which for gain or otherwise regularly provides needed social or counseling services for persons living in their own homes, or receives persons unable to remain in their own homes and places them in residential or foster care, or places persons in adoptive homes. Agency includes semi-independent living services (SILS) licensed under parts 9525.0500 to 9525.0660. Agency does not include a local welfare agency or agencies sponsored by community mental health boards pursuant to Minnesota Statutes, section 245.66.

Subp. 3. **Base fee.** "Base fee" means the portion of the licensing fee that constitutes the minimum charge to an operator regardless of the licensed capacity or number of persons served in the residential or nonresidential program or agency.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

Subp. 5. **Nonresidential program.** "Nonresidential program" as defined in Minnesota Statutes, section 245A.02, subdivision 10, means any facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. Nonresidential program includes outpatient treatment programs for chemically dependent persons licensed under parts 9530.5000 to 9530.6500.

Subp. 6. **Department.** "Department" means the Minnesota Department of Human Services.

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Subp. 7. **License.** "License" means a certificate issued by the commissioner authorizing the operator to give specified services for a specified period of time in accordance with the terms of the license, Minnesota Statutes, chapter 245A and section 252.28, subdivision 2, and the rules of the commissioner. License includes a provisional license issued to an operator who is temporarily unable to comply with all of the requirements for a license.

Subp. 8. **Licensed capacity.** "Licensed capacity" means the maximum number of persons permitted under the terms of a license to receive care at any one time in a residential or nonresidential program or agency.

Subp. 9. **Licensed capacity fee.** "Licensed capacity fee" means the portion of the licensing fee charged to an operator based on the licensed capacity of the residential or nonresidential program or agency.

Subp. 10. **Licensing fee.** "Licensing fee" means the fee charged to an operator by the department for issuing or renewing a license.

Subp. 11. **Licensing fee formula.** "Licensing fee formula" means the procedure used by the department to determine the licensing fee.

Subp. 12. **Operator.** "Operator" means the individual, corporation, partnership, voluntary association, or other public or private organization legally responsible for the operation of a residential or nonresidential program or agency.

Subp. 13. **Regularly or regular basis.** "Regularly" or "regular basis" means a cumulative total of more than 30 days within any 12-month period.

Subp. 14. **Residential program.** "Residential program" as defined in Minnesota Statutes, section 245A.02, subdivision 14, means any facility, public or private, which provides one or more persons with a 24-hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home. Residential program does not include state hospitals or other state-operated residential facilities.

Subp. 15. **Waiver.** "Waiver" means written permission by the commissioner for an operator to depart from the provisions of part 9545.2020.

Statutory Authority: *MS s 245A.09; 245A.10*

History: *10 SR 592; 13 SR 1448*

9545.2010 APPLICABILITY.

Parts 9545.2000 to 9545.2040 establish procedures for the department to determine and collect fees for issuing and renewing licenses for residential and nonresidential programs and agencies. Parts 9545.2000 to 9545.2040 apply to operators of all residential and nonresidential programs and agencies required to be licensed under Minnesota Statutes, chapter 245A, and section 252.28, subdivision 2, except family foster care homes licensed under parts 9545.0010 to 9545.0260 and family day care homes licensed under parts 9545.0315 to 9545.0445, which are exempt from the licensing fees established in parts 9545.2000 to 9545.2040 under Minnesota Statutes, section 245A.10.

Statutory Authority: *MS s 245A.09*

History: *10 SR 592; 13 SR 1448*

9545.2020 LICENSING FEE FORMULA.

Subpart 1. **General formula.** The department shall charge the following annual fees for issuing and renewing licenses:

A. A base fee of \$25, increasing to \$35 beginning July 1, 1987, \$45 beginning July 1, 1989, and \$55 beginning July 1, 1991.

B. A licensed capacity fee of \$5 multiplied by the licensed capacity of each residential or nonresidential program or agency. The \$5 fee shall increase to \$6 beginning July 1, 1987, \$7 beginning July 1, 1989, and \$8 beginning July 1, 1991.

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C. The base fee plus the licensed capacity fee is the licensing fee to be charged to each operator at the time of application for issuance or renewal of a license.

Subp. 2. Exceptions. The following are exceptions to the fees established in subpart 1:

A. The licensing fee for group day care centers licensed under parts 9545.0510 to 9545.0670 shall be one-half of the base fee in subpart 1, item A, plus a licensed capacity fee of \$1.50 multiplied by the licensed capacity of each day care center. The \$1.50 fee shall increase to \$2 beginning July 1, 1987, \$2.50 beginning July 1, 1989, and \$3 beginning July 1, 1991.

B. The licensing fee for child-caring and child-placing agencies licensed under parts 9545.0755 to 9545.0845 shall be the base fee in subpart 1, item A, plus 50 cents for each adoption decree granted by a court in the previous year for a child placed in an adoptive home by the agency and 50 cents for each foster home supervised by the agency. The 50-cent fees shall increase to 60 cents beginning July 1, 1987, 70 cents beginning July 1, 1989, and 80 cents beginning July 1, 1991.

C. The licensing fee for outpatient treatment programs for chemically dependent persons licensed under parts 9530.5000 to 9530.6500 shall be the base fee in subpart 1, item A, plus 50 cents for each person served in the program in the previous year. The 50-cent fee shall increase to 60 cents beginning July 1, 1987, 70 cents beginning July 1, 1989, and 80 cents beginning July 1, 1991.

Statutory Authority: *MS s 245A.09; 245A.10*

History: *10 SR 592; 13 SR 1448; 18 SR 1593*

9545.2030 LICENSING FEE PAYMENT.

Subpart 1. Payment procedure. The licensing fee payment must accompany an operator's application for issuance or renewal of a license. The licensing fee shall be payable to the treasurer of the state of Minnesota and is nonrefundable.

Subp. 2. Proration of fees. The annual licensing fees established in part 9545.2020 shall be prorated for residential or nonresidential programs or agencies licensed for a period of time other than one year according to the number of months for which the license is issued or renewed.

Subp. 3. Noncompliance. An application for a license or license renewal is not complete and no license shall be issued until the licensing fee is paid. If an operator requests a waiver under part 9545.2040, the application for a license or license renewal is not complete and no license shall be issued until the commissioner has acted on the request and the licensing fee approved by the commissioner has been paid.

Statutory Authority: *MS s 245A.09; 245A.10*

History: *10 SR 592; 13 SR 1448*

9545.2040 WAIVER.

Subpart 1. Written request for waiver. An operator may request a waiver from the licensing fee formula established in part 9545.2020. The request for a waiver must be submitted to the department in writing and must accompany an operator's application for issuance or renewal of a license and the licensing fee determined under parts 9545.2020 and 9545.2030, subpart 2. The request must include the following information:

A. the section or sections of part 9545.2020 with which the operator cannot comply;

B. the amount of the licensing fee requested to be waived;

C. the reasons why compliance with the specified section or sections would cause financial hardship; and

D. documentation supporting the information in item C.

Subp. 2. Standard for granting waiver. The commissioner may waive part or all of the licensing fee. A waiver may be granted only if the operator has shown that financial

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hardship to the operator or program or agency would occur from strict compliance with part 9545.2020.

Subp. 3. Notice of decision. The commissioner shall grant or deny a request for a waiver and mail a written decision to the operator. The written decision must accompany the commissioner's decision to approve or deny the license application. If the commissioner denies a request, the written decision must inform the operator of the reason or reasons for the denial. If the commissioner grants the request, the licensing fee submitted with the request shall be returned to the operator with instructions for submitting the fee approved by the commissioner.

Statutory Authority: *MS s 245A.09; 245A.10*

History: *10 SR 592; 13 SR 1448*