

**CHAPTER 9555**  
**DEPARTMENT OF HUMAN SERVICES**  
**SOCIAL SERVICES FOR ADULTS**

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**ADULT FOSTER CARE SERVICES AND LICENSURE OF ADULT FOSTER HOMES**

**9555.5050 REPEALER AND EFFECTIVE DATES.**

Subpart 1. **Repealer.** Minnesota Rules, parts 9555.6100, 9555.6200, 9555.6300, and 9555.6400 are repealed August 3, 1987, except as parts 9555.6100 to 9555.6400 apply to operators of adult foster homes providing care and approved by the county board under part 9555.6400 on the date of adoption of parts 9555.6105 to 9555.6265. As to the operators of those adult foster homes, parts 9555.6100, 9555.6200, 9555.6300, and 9555.6400 are repealed July 27, 1988.

Subp. 2. **Effective date.** Minnesota Rules, parts 9555.5105 to 9555.6265 take effect August 3, 1987, except for the operators of those adult foster homes providing care and approved by a county welfare board under part 9555.6400 on that date. As to the operators of those adult foster homes, parts 9555.6105 to 9555.6265 take effect January 27, 1988, or on the day after an operator's current period of approval under part 9555.6400 expires, whichever is later.

**Statutory Authority:** *MS s 245.782 subds 2,6,14; 245.783 subd 1; 245.802 subd 1; 256.01 subd 4 cl (3); 256E.03 subd 2 paras (c),(d); 256E.05 subd 1; 256E.08 subd 1 cl (1),(2),(3),(4),(6); 393.07 subd 2*

**History:** 12 SR 148

**9555.5100** [Repealed, 12 SR 148]

**9555.5105 DEFINITIONS.**

Subpart 1. **Scope.** As used in parts 9555.5105 to 9555.6265 the following terms have the meanings given them.

Subp. 2. **Adult.** "Adult" means a person at least 18 years of age.

Subp. 3. **Adult foster care.** "Adult foster care" means the provision of food, lodging, protection, supervision, and household services to a functionally impaired

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adult in a residence and may also include the provision of personal care, household and living skills assistance or training, medication assistance under part 9555.6225, subpart 8, and assistance safeguarding cash resources under part 9555.6265.

**Subp. 4. Adult foster care services.** "Adult foster care services" means those community social services in parts 9550.0010 to 9550.0092 that are provided to residents or prospective residents of adult foster homes.

**Subp. 5. Adult foster home.** "Adult foster home" means a residence operated by an operator who, for financial gain or otherwise, provides 24 hour foster care to no more than four functionally impaired residents.

**Subp. 6. Applicant.** "Applicant" means the operator seeking a license to operate an adult foster home.

**Subp. 7. Building official.** "Building official" means a person appointed in accordance with Minnesota Statutes, section 16B.65, to administer the state building code or the building official's authorized representative.

**Subp. 8. Caregiver.** "Caregiver" means an adult who meets the qualifications in part 9555.6125, subpart 4, and gives care to a resident in an adult foster home.

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

**Subp. 10. County board.** "County board" means the county board of commissioners in each county. When a human services board has been established under Minnesota Statutes, sections 402.02 to 402.10, it shall be considered to be the county board.

**Subp. 11. County of financial responsibility.** "County of financial responsibility" means the county responsible for paying for foster care services for a resident under Minnesota Statutes, section 256E.08, subdivision 7.

**Subp. 12. Department.** "Department" means the Minnesota Department of Human Services.

**Subp. 13. Fire marshal.** "Fire marshal" means the person designated by Minnesota Statutes, section 299F.011, to administer and enforce the Minnesota Uniform Fire Code or the fire marshal's authorized representative.

**Subp. 14. Functionally impaired.** "Functionally impaired" means a person who has:

A. substantial difficulty carrying out one or more of the essential major activities of daily living, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working; or

B. a disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

**Subp. 15. Health authority.** "Health authority" means the designated representative of the board of health as defined in Minnesota Statutes, section 145A.02, subdivision 5, to enforce public health codes.

**Subp. 16. Household member.** "Household member" means any person living in the adult foster home more than 30 consecutive calendar days in any 12 month period who is not a resident.

**Subp. 17. Household services.** "Household services" means activities taught to or performed by a caregiver for a resident such as cooking, cleaning, budgeting, and other household care or maintenance tasks.

**Subp. 18. Individual service plan.** "Individual service plan" means the written plan agreed upon and signed by the county of financial responsibility and the resident or resident's legal representative for the provision of social services under part 9550.0090. For persons with mental retardation or a related condition, it means the plan agreed upon and signed under part 9525.0075.

**Subp. 19. Individual resident placement agreement.** "Individual resident placement agreement" means the written document specifying the terms for provision of foster care to an adult that is developed under part 9555.5705 for persons receiving services under part 9525.0075 or 9550.0090 or under part 9555.6167 for persons not receiving community social services or services for persons with mental retardation or a related condition. The individual resident placement agreement must:

A. describe the reason for placement;

B. describe what the operator must provide in the areas of lodging, food, protection, household or living skills training or assistance, personal care assistance, assistance safeguarding cash resources, transportation, residence accessibility modifications, medication assistance, and supervision;

C. describe who is financially responsible for the payment of the foster care provided by the operator;

D. describe any other community, health and social services that the operator will assist in providing;

E. coordinate with the contents of the individual habilitation plan developed under parts 9525.0015 to 9525.0165 for persons with mental retardation or a related condition; and

F. coordinate with the individual service plan developed under part 9525.0075 or 9550.0090.

**Subp. 20. Legal representative.** "Legal representative" means a person appointed by the court as a guardian or conservator of an adult under Minnesota Statutes, sections 525.539 to 525.6198 or chapter 252A.

**Subp. 21. License.** "License" means a certificate issued by the commissioner authorizing the operator to give specified services for a specified period in accordance with parts 9555.6105 to 9555.6265 and Minnesota Statutes, sections 245.781 to 245.812 and 252.28, subdivision 2. License includes a provisional license issued to an operator who is temporarily unable to comply with the requirements for a license.

**Subp. 22. Licensed capacity.** "Licensed capacity" means the maximum number of functionally impaired adults who may receive foster care in the adult foster home at any one time.

**Subp. 23. Living skills assistance.** "Living skills assistance" means activities taught or performed to assist the resident to use services, transportation, recreation, and social opportunities available in the community.

**Subp. 24. Local agency.** "Local agency" means the county or multi county social service agency governed by the county board or multi county human services board of the county in which the adult foster home is located. If the local agency is also providing foster care services to the resident, then the local agency is also the service agency defined in subpart 34.

**Subp. 25. Medication.** "Medication" means a prescription substance taken internally, applied externally, or injected to prevent or treat a condition or disease, heal, or relieve pain.

**Subp. 26. Minnesota Uniform Fire Code.** "Minnesota Uniform Fire Code" means those codes and regulations adopted by the fire marshal under Minnesota Statutes, section 299F.011 and parts 7510.0200 to 7510.3000.

**Subp. 27. Operator.** "Operator" means the individual, partnership, corporation, or governmental unit licensed by the department and legally responsible for the operation of an adult foster home.

**Subp. 28. Personal care.** "Personal care" means assistance by a caregiver with or teaching of skills related to activities of daily living such as eating, grooming, bathing, and laundering clothes.

**Subp. 29. Protection.** "Protection" means compliance with the Vulnerable Adults Act.

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Subp. 30. **Related.** "Related" means any of the following relationships by marriage, blood, or adoption: spouse, parent, grandparent, brother, sister, step-parent, stepsister, stepbrother, uncle, aunt, grandchild, child, niece, and nephew.

Subp. 31. **Residence.** "Residence" means the single dwelling unit in which foster care is provided with complete, independent living facilities for one or more persons. As defined in section 405 of the Minnesota State Building Code, the residence has permanent provisions for living, sleeping, cooking, eating, and sanitation.

Subp. 32. **Resident.** "Resident" means a functionally impaired adult residing in an adult foster home and receiving foster care.

Subp. 33. **Roomer.** "Roomer" means a household member who is not related to the operator and is not a resident or caregiver.

Subp. 34. **Service agency.** "Service agency" means the public or private agency designated by the county of financial responsibility with the responsibility to provide the foster care services in parts 9555.5105 to 9555.5705.

Subp. 35. **Social worker.** "Social worker" means a person designated by the local agency or service agency of the county of financial responsibility with credentials meeting the minimum requirements under the Minnesota Merit System classification for social worker or a county personnel system equivalent under Minnesota Statutes, section 375.56-71; Laws of Minnesota 1965, chapter 855; and Laws of Minnesota 1974, chapter 435, article 3, who is responsible for coordinating a prospective resident's initial assessment and placement in part 9555.5605 the development of the individual resident placement agreement for those persons with an individual service plan.

Subp. 36. **State Building Code.** "State Building Code" means those codes and regulations adopted by the commissioner of administration under chapter 1300 and Minnesota Statutes, section 16B.59.

Subp. 37. **Supervision.** "Supervision" means:

A. oversight by a caregiver as specified in the individual resident placement agreement and daily awareness of a resident's needs and activities; and

B. the presence of a caregiver in the residence during normal sleeping hours.

Subp. 38. **Variance.** "Variance" means written permission by the commissioner for an applicant or operator to depart from the provisions of parts 9555.6105 to 9555.6265 if equivalent alternative measures are provided to ensure the health, safety, and rights of a resident.

Subp. 39. **Vulnerable Adults Act.** "Vulnerable Adults Act" means Minnesota Statutes, section 626.557.

**Statutory Authority:** *MS s 245.782 subs 2,6,14; 245.783 subd 1; 245.802 subd 1; 256.01 subd 4 cl (3); 256E.03 subd 2 paras (c),(d); 256E.05 subd 1; 256E.08 subd 1 cl (1),(2),(3),(4),(6); 393.07 subd 2*

**History:** *12 SR 148; L 1987 c 309 s 24*

**9555.5200** [Repealed, 12 SR 148]

### **9555.5205 APPLICABILITY.**

Parts 9555.5105 to 9555.5705 govern the administration and provision of adult foster care services to residents or prospective residents of adult foster homes by the county board.

**Statutory Authority:** *MS s 256.01 subd 4 cl (3); 256E.03 subd 2 paras (c),(d); 256E.05 subd 1; 256E.08 subd 1 cl (1),(2),(3),(4),(6); 393.07 subd 2*

**History:** *12 SR 148*

**9555.5300** [Repealed, 12 SR 148]

**9555.5305 PURPOSE.**

The purpose of parts 9555.5105 to 9555.5705 is to ensure that a resident or prospective resident of an adult foster home receives an assessment of need for adult foster care, is notified about adult foster care services that are available, and consultation, assistance, and information are provided to applicants or operators of adult foster homes.

**Statutory Authority:** *MS s 256.01 subd 4 cl (3); 256E.03 subd 2 paras (c),(d); 256E.05 subd 1; 256E.08 subd 1 cl (1),(2),(3),(4),(6); 393.07 subd 2*

**History:** *12 SR 148*

**9555.5400** [Repealed, 12 SR 148]

**9555.5405 FOSTER HOME DEVELOPMENT.**

The local agency shall implement an annual adult foster home recruitment plan specifying a method and timetable for recruiting operators to meet the county's adult foster care needs if adult foster care services to residents or prospective residents of adult foster homes are specified by the county board in the community social services plan developed under parts 9550.0010 to 9550.0092.

**Statutory Authority:** *MS s 256.01 subd 4 cl (3); 256E.03 subd 2 paras (c),(d); 256E.05 subd 1; 256E.08 subd 1 cl (1),(2),(3),(4),(6); 393.07 subd 2*

**History:** *12 SR 148*

**9555.5415 LICENSING ASSISTANCE.**

**Subpart 1. Assistance.** The local agency shall tell persons seeking information about adult foster home licensure of the standards in parts 9555.6105 to 9555.6265. The local agency shall offer consultation, assistance, and information in accordance with parts 9555.6105 to 9555.6265. The local agency shall:

A. supply the applicant with the department application form, a copy of parts 9555.5105 and 9555.6105 to 9555.6265, and the department forms needed to determine compliance with parts 9555.5105 and 9555.6105 to 9555.6265;

B. stamp and date a signed and completed department application form on the date of receipt;

C. accept and process applications for licensure and recommend licensure or negative licensing actions to the department;

D. conduct the inspection of the residence and study of the applicant in accordance with parts 9555.5105 and 9555.6105 to 9555.6265; and

E. notify the local zoning administrator in the jurisdiction in which the residence is located at least 30 days prior to the initial issuance date of a license. The date the local zoning administrator was notified must be noted on the application form.

**Subp. 2. Unlicensed residences.** When the local agency has reasonable cause to believe a residence required to be licensed under parts 9555.6105 to 9555.6265 is operating without a license, the local agency must verify the home's license status following the procedures in items A and B.

A. The local agency shall verify the home's license status within five working days. If the operator is not licensed to operate an adult foster home, the local agency shall contact the person providing adult foster care in the residence and tell the person of the licensing requirements in Minnesota Statutes, sections 245.781 to 245.812 and parts 9555.5105 and 9555.6105 to 9555.6265.

B. If no application is made to obtain a license within 30 days after the operator is told of the licensure requirements, the city or county attorney for the local agency with jurisdiction to bring misdemeanor charges shall be notified by the local agency. The operator of a residence required to be licensed under parts 9555.5105 and 9555.6105 to 9555.6265 that is operating without a license is subject to misdemeanor prosecution and injunction under Minnesota Statutes, section 245.803.

C. A complaint concerning violations of parts 9555.6105 to 9555.6265 shall be investigated by the local agency within 14 working days of receipt, except complaints concerning abuse or neglect, which shall be investigated in accordance with parts 9555.7100 to 9555.7700. Substantiated complaints about an operator licensed under parts 9555.5105 and 9555.6105 to 9555.6265 shall be recorded in the record on the residence in part 9555.5515.

**Statutory Authority:** *MS s 256.01 subd 4 cl (3); 256E.03 subd 2 paras (c),(d); 256E.05 subd 1; 256E.08 subd 1 cl (1),(2),(3),(4),(6); 393.07 subd 2*

**History:** 12 SR 148

### **9555.5505 LOCAL AGENCY ORIENTATION AND TRAINING ROLE.**

**Subpart 1. Local agency role.** The local agency shall ensure that:

A. the operator and caregivers comply with the orientation and training requirements in part 9555.6185; and

B. the orientation and training in part 9555.6185 is available within the county or within 50 miles of the adult foster home at times convenient to foster home operators.

**Subp. 2. Orientation.** The local agency shall provide three hours of orientation to a foster home operator and caregivers prior to the placement of the first resident following initial licensure. The orientation training must include training on requirements of the Vulnerable Adults Act contained in Minnesota Statutes, section 626.557; parts 9555.8000 to 9555.8500; and the general provisions of parts 9555.5105, and 9555.6105 to 9555.6265.

**Subp. 3. Information.** The local agency shall identify sources of training that meet the standards in part 9555.6185 and notify the operator of a licensed residence in the county at least once a year of the training opportunities available.

**Statutory Authority:** *MS s 256.01 subd 4 cl (3); 256E.03 subd 2 paras (c),(d); 256E.05 subd 1; 256E.08 subd 1 cl (1),(2),(3),(4),(6); 393.07 subd 2*

**History:** 12 SR 148

### **9555.5515 RECORD ON THE RESIDENCE.**

A record for the residence licensed as an adult foster home shall be maintained by the commissioner and contain:

A. a copy of the completed licensing application form signed by the applicant and the representative of the commissioner, as specified in part 9555.6115, subpart 1;

B. the physician's reports on caregivers and household members specified in part 9555.6125 if the operator is an individual;

C. the initial and subsequent inspection report from the fire marshal specified in part 9555.6125 and the subsequent home safety checklists;

D. any written inspection reports from a health authority or building official;

E. the commissioner's initial and any renewal licensing studies and inspections;

F. any comments of the operator or provider about the licensing studies and inspections;

G. written references from at least three persons who know about the applicant's potential to operate an adult foster home. If the applicant has been licensed through another jurisdiction, the local agency shall also request and keep a reference from the licensing authority in that jurisdiction;

H. a list of residents currently in the residence;

I. a list of residents who have been in the residence in the past five years;

J. documentation of any variances to parts 9555.6105 to 9555.6265;

K. arrest, conviction, and criminal history records on the operator, caregivers, and household members;

L. if the operator is a partnership, corporation, or governmental unit, the information required in part 9555.6125, subpart 3, item C, subitems (1), (2), (3), (6), and (7);

M. a copy of the commissioner approved, written adult foster home program required in part 9555.6235;

N. a record of any substantiated complaints of abuse and neglect as defined in Minnesota Statutes, section 626.557 and any corrective action taken under parts 9555.7100 to 9555.7700; and

O. a copy of the facility abuse prevention plan required under the Vulnerable Adults Act.

**Statutory Authority:** *MS s 256.01 subd 4 cl (3); 256E.03 subd 2 paras (c),(d); 256E.05 subd 1; 256E.08 subd 1 cl (1),(2),(3),(4),(6); 393.07 subd 2*

**History:** *12 SR 148*

### 9555.5605 ASSESSMENT.

**Subpart 1. Assessment.** A social worker from the local agency or service agency of the county of financial responsibility shall ensure that a person seeking adult foster home placement has an assessment to determine the person's need for adult foster care.

A. An adult who has or may have a diagnosis of mental retardation or a related condition shall be assessed under part 9525.0065.

B. An adult requesting adult foster care services under parts 9550.0010 to 9550.0092 shall be assessed under item D and part 9550.0090.

C. An assessment performed under Minnesota Statutes, section 256B.091 shall satisfy the provisions of item D.

D. An assessment coordinated by a social worker and review of any information gathered from professionals must be made of the adult's:

- (1) ability to manage activities of daily living;
- (2) physical health, including impairments of mobility, sight, hearing, and speech;
- (3) intellectual functioning and mental health, including impairments of judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life;
- (4) need for supervision;
- (5) need for protection;
- (6) need for assistance in safeguarding cash resources;
- (7) need for medication assistance;
- (8) employability and vocational skills;
- (9) need for family and community involvement; and
- (10) need for community, social, or health services.

**Subp. 2. Mobility access assessment.** Before placement, or after placement if the local agency has reasonable cause to believe a mobility access, seizure, or disability problem has developed, the social worker shall determine, in consultation with the prospective resident and the resident's representative and any other person knowledgeable about the resident's needs, whether accessibility aides or modifications to the residence are needed. The need for accessibility aides or modifications to the residence shall be determined for persons with regular seizures or physical disabilities using an accessibility checklist approved by the commissioner in consultation with persons knowledgeable about the accessibility and mobility needs of the resident and persons knowledgeable about accessibility modifications to residential occupancies. A person confined to a wheelchair must be housed on a level with an exit directly to grade.

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**Subp. 3. Placement standards.** A person shall be appropriate for adult foster home placement if the person:

A. is an adult;

B. is functionally impaired;

C. has requested, or the adult's legal representative has requested, foster care placement;

D. has demonstrated a need for foster care based on the assessment in subpart 1;

E. does not require continuous medical care or treatment in a facility licensed for acute care under chapter 4640; and

F. has been approved for placement under parts 9525.0015 to 9525.0145, if the adult has mental retardation or a related condition.

**Subp. 4. Placement and consumer choice.** A person who is appropriate for adult foster home placement, and the person's legal representative must be allowed to choose among between the homes that the social worker determines would meet the person's foster care needs.

**Subp. 5. Matching.** When referring the adult seeking foster care to a licensed adult foster home, the social worker shall match the licensing study information and the capacity of the adult foster home program developed by the operator under part 9555.6235 with the assessed needs of the functionally impaired adult determined under part 9555.5605, subparts 1 and 2.

**Subp. 6. Preplacement visit.** The social worker shall arrange for the functionally impaired adult to visit the prospective adult foster home before placement, except in cases of emergency placement or placement for less than 30 consecutive days. Before placement, the following shall be discussed with the operator:

A. the needs of the functionally impaired adult as determined by the assessment in part 9555.5605, subparts 1 and 2;

B. the foster care that must be provided by the operator to the adult seeking placement;

C. the adult's need for additional community health and social services and the operator's responsibility in assisting with provision of or access to those services; and

D. the financial arrangements to pay for the adult foster care.

**Statutory Authority:** *MS s 256.01 subd 4 cl (3); 256E.03 subd 2 paras (c),(d); 256E.05 subd 1; 256E.08 subd 1 cl (1),(2),(3),(4),(6); 393.07 subd 2*

**History:** 12 SR 148

### 9555.5705 PROVISION OF ADULT FOSTER CARE SERVICES TO RESIDENTS OF ADULT FOSTER HOMES.

**Subpart 1. Adult foster care service.** When the county board elects to provide adult foster care services under parts 9550.0010 to 9550.0092, the county board shall offer adult foster care services to the residents or prospective residents of an adult foster home. Adult foster care services may be provided directly by the county of financial responsibility, or by the service agency under a written agreement with the county of financial responsibility, or by another agency under contract to the county of financial responsibility.

**Subp. 2. Development of individual resident placement agreement.** If the resident or prospective resident requests and receives adult foster care services, then the service agency shall develop, and the resident, resident's legal representative, and the operator shall agree on and sign an individual resident placement agreement as defined in part 9555.5105, subpart 19. The agreement must be signed within 30 days of placement and be coordinated with the adult's individual service plan as defined in part 9555.5105, subpart 18. The service agency shall give a copy of the individual service plan to the operator. If the resident is



appropriate for adult foster home placement and does not require adult foster care services under parts 9550.0010 to 9550.0092, the individual resident placement agreement shall be developed by the operator, resident, and resident's legal representative under part 9555.6167.

Subp. 3. **Placement review for residents with an individual service plan.** The service agency assigned to a resident in an adult foster home with an individual service plan must:

A. visit the resident and operator within 30 days of placement to confirm the appropriateness of the placement;

B. provide consultation services to the operator in meeting the resident's assessed needs;

C. provide a telephone number where caregivers and the resident or resident's legal representative may call for emergency social service assistance 24 hours a day; and

D. assist in developing the individual abuse prevention plan for the resident under parts 9555.7100 to 9555.7700.

**Statutory Authority:** *MS s 256.01 subd 4 cl (3); 256E.03 subd 2 paras (c),(d); 256E.05 subd 1; 256E.08 subd 1 cl (1),(2),(3),(4),(6); 393.07 subd 2*

**History:** *12 SR 148*

**9555.6100** [Repealed, 12 SR 148]

#### **9555.6105 APPLICABILITY AND PURPOSE.**

Parts 9555.5105 and 9555.6105 to 9555.6265, as authorized by Minnesota Statutes, sections 245.781 to 245.812, govern the licensure of the operator of an adult foster home. The purpose of parts 9555.5105 and 9555.6105 to 9555.6265 is to establish procedures and standards for licensure and operation of an adult foster home so minimum levels of care are provided and the health, safety, and rights of residents are assured.

**Statutory Authority:** *MS s 245.782 subs 2,6,14; 245.783 subd 1; 245.802 subd 1*

**History:** *12 SR 148*

#### **9555.6115 LICENSE APPLICATION PROCESS.**

A license to operate an adult foster home must be obtained from the department under items A to E.

A. Application for a license must be made on the application form issued by the department and must be made in the county where the adult foster home is located.

B. The applicant must be the individual or the authorized representative of the partnership, corporation, or government unit that will be the operator of the adult foster home.

C. Separate licenses are required for residences located at separate addresses, even if the residences are to be operated by the same operator.

D. An application for licensure is complete when the commissioner determines that the department forms and documentation needed for licensure, the inspection, zoning, evaluation, and investigative reports, documentation and information required to verify compliance with parts 9555.5105 and 9555.6105 to 9555.6265 have been submitted by the applicant. The commissioner shall stamp and date a signed and completed department application form on the date of receipt.

**Statutory Authority:** *MS s 245.782 subs 2,6,14; 245.783 subd 1; 245.802 subd 1*

**History:** *12 SR 148*

**9555.6125 LICENSING STUDY.**

**Subpart 1. Access to residence.** The applicant shall give the commissioner access to the residence to determine compliance with parts 9555.5105 and 9555.6105 to 9555.6265. Access shall include the residence to be occupied as an adult foster home; any adjoining land or buildings owned or operated by the applicant or operator in conjunction with the provision of adult foster care and designated for use by a resident; noninterference in interviewing caregivers, roomers, or household members; and the right to view and photocopy the records and documents specified in parts 9555.6235 and 9555.6245. The commissioner shall have access to the residence at any time during the period of licensure to determine whether the operator is in compliance with parts 9555.5105 and 9555.6105 to 9555.6265.

**Subp. 2. Inspections.** The residence must be inspected by a fire marshal within 12 months before initial licensure to verify that the residence is a dwelling unit within a residential occupancy as defined in section 9.117 of the Minnesota Uniform Fire Code and that the residence complies with the fire safety standards for that residential occupancy contained in the Minnesota Uniform Fire Code. A home safety checklist, approved by the commissioner, must be completed by the operator and the commissioner before licensure each year a fire marshal inspection is not made. The residence shall be inspected according to the licensed capacity specified on the initial application form. If the commissioner has reasonable cause to believe that a potentially hazardous condition may be present or the licensed capacity is increased to four residents, the commissioner shall request a subsequent inspection and written report by a fire marshal to verify the absence of hazard. Any condition cited by a fire marshal, building official, or health authority as hazardous or creating an immediate danger of fire or threat to health and safety must be corrected before a license is issued or renewed by the department.

**Subp. 3. Study of applicant.** A study of the applicant shall be conducted by the commissioner under items A to D.

**A.** The applicant shall provide the commissioner with a completed, signed form as required by Minnesota Statutes, section 245.783, subdivision 3, for the disclosure of arrest, conviction, and criminal history records for each caregiver, household member over the age of 13, and each owner, partner, board member, and employee who will be involved in the operation of the adult foster home. The form must disclose the person's full name and all previous or additional names, date of birth, the specific nature of information to be disclosed, who will receive the information, and who will disclose it. The commissioner shall seek the assistance of the Minnesota Bureau of Criminal Apprehension, the county attorney, and sheriff or chief of police in the locality where the person resides in determining the person's arrest, conviction, or criminal history record. If the person has not resided in the state for five years, the form shall also be sent to a national criminal history repository. In the case of a household member who is nine years of age but under the age of 14, the commissioner shall ascertain from the local court of jurisdiction whether the juvenile has been adjudicated as a delinquent for any of the acts specified in subpart 4, items D and E.

**B.** The applicant who is an individual shall provide social history information to the commissioner about each household member. "Social history information" means information on education; employment; financial condition; military service; marital history; strengths and weaknesses of household relationships; mental illness; chemical dependency; hospitalizations; involuntary terminations of parental rights; the use of mental retardation services; felony, gross misdemeanor or misdemeanor convictions, arrests or admissions; and substantiated reports of neglect or abuse.

**C.** If the applicant is an authorized representative of a partnership, corporation, or governmental unit, the applicant shall make available and maintain the following information:

- (1) the names and addresses of the owners and board members;
- (2) the name, address, and physical health report of the employees who are involved in the operation of the adult foster home;
- (3) an organization chart;
- (4) personnel policies;
- (5) the personnel records of persons in subitem (2) and verification that they comply with the qualifications in subpart 4;
- (6) job descriptions of persons in subitem (2); and
- (7) the staffing pattern to be used in the adult foster home.

D. The applicant shall provide the commissioner with the names of three persons not related to the applicant who can supply information about the applicant's ability to operate an adult foster home.

**Subp. 4. Qualifications.** Operators, caregivers, and household members must meet the qualifications in items A to H.

A. Operators and caregivers must be adults.

B. Household members and caregivers must be free of reportable communicable disease as named in parts 4605.7000 to 4605.7800. With the exception of caregivers providing less than 30 days of care per year, the household member and caregiver must provide the commissioner with a physician's statement showing the absence of reportable communicable disease and any physical condition that would prevent the caregiver from being able to provide foster care to a resident. The physician's report must be based on an examination of the individual within the 12 months before application for licensure. Caregivers shall provide the commissioner with a physician's report at least once every five years after initial licensure.

C. Operators, caregivers, and household members must agree to disclose the arrest, conviction, and criminal history information specified in subpart 3.

D. Operators, caregivers, and household members must not have a conviction of, adjudication of delinquency for, have admitted to, or there be substantial evidence as determined by the local agency or department indicating abuse or neglect as those terms are defined in Minnesota Statutes, sections 626.556 and 626.557 or assault as defined in Minnesota Statutes, sections 609.221 to 609.235, 609.322 to 609.342, 609.343, 609.344, or 609.345.

E. Operators, caregivers, and household members must not be awaiting trial for or have a conviction of, adjudication of delinquency for, or admission of any crime listed in Minnesota Statutes, sections 152.09, 152.096, 152.097, 609.185 to 609.345, 609.365, 609.377, 609.378, 609.52, 609.521, 609.525, 609.53, 609.54, 609.551, 609.561 to 609.563, 609.582, 609.59, 609.625, 609.63, 609.687, 609.71, 609.713, 609.821, 617.23, 617.246, other than those listed in item D, or the same or similar crime listed in the laws of another state or of the United States or of another country.

F. Caregivers must not have had parental rights terminated under Minnesota Statutes, section 260.221, paragraph (b), within the past five years.

G. Operators and caregivers must not have a diagnosis of mental retardation or a related condition and be receiving services under parts 9525.0015 to 9525.0145.

H. Caregivers and household members must not have a mental illness or condition as diagnosed by a psychiatrist or licensed psychologist that has documented behaviors that the commissioner determines would jeopardize the health, rights, or safety of residents. Past history of a mental illness or condition may be considered. "Mental illness" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), Ninth Revision (1980), code range 290.0 to 302.99 or

306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-III), Third Edition (1980), Axes I, II, or III, and that seriously limits a person's functional capacities relative to primary aspects of daily living such as personal relations, living arrangements, work, and recreation. These publications are incorporated by reference and are not subject to frequent change. They are available in the State Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155.

I. Caregivers and household members must not abuse prescription drugs or use controlled substances as named in Minnesota Statutes, chapter 152, or alcohol, to the extent that the use or abuse has or may have a negative effect on the health, rights, or safety of residents.

Subp. 5. **Evaluation for cause.** The commissioner may require, before licensure or at any time during the licensed term of the adult foster home, a physical, mental health, chemical dependency, or criminal history evaluation of the operator, caregiver, or household member if the commissioner has reasonable cause to believe that any of the qualifications or requirements in items A to I have not been met or that the operator or any caregiver cannot care for a resident. Evaluations must be conducted by a professional qualified by license, certification, education, or training to perform the specific evaluation.

Subp. 6. **Zoning.** At least 30 days before the initial license issuance date, the commissioner shall notify the local zoning administrator in the jurisdiction where the residence is located of the license application.

Subp. 7. **Period of licensure; nontransfer.** A license shall be issued by the commissioner for up to one year when the applicant complies with parts 9555.6105 to 9555.6265. A license is not transferable to another operator or residence.

Subp. 8. **Provisional license.** An applicant for initial licensure may be granted a provisional license by the commissioner for up to one year if the laws and rules cannot be complied with immediately, and if the deviations from parts 9555.6105 to 9555.6265 do not threaten the health, rights, or safety of a resident. All deviations must be corrected within the time specified by the commissioner but not exceeding one year. Failure to correct deviations within the stated time shall be cause for revocation of a license or a fine or both.

Subp. 9. **Variance procedure.** An applicant or operator may request a variance from compliance with parts 9555.5105 and 9555.6105 to 9555.6265. A request for a variance must comply with and be handled according to the following procedures:

A. An applicant or operator must submit a written request for a variance to the commissioner. The request must include:

(1) the sections or parts 9555.6105 to 9555.6275 with which the applicant or operator cannot comply;

(2) the reasons why the applicant or operator needs to depart from the specified sections;

(3) the period for which the applicant or operator requests a variance; and

(4) the specific equivalent alternative measures that the applicant or operator will provide so the health, rights, and safety of residents are ensured if the variance is granted.

B. An applicant or operator must submit to the commissioner written approval from a fire marshal of the alternative measures identified to ensure the safety of residents when a variance of part 9555.6125, subpart 2, is requested.

C. An applicant or operator must submit to the commissioner written approval from a health authority of the alternative measures identified to ensure the health of residents when a variance of parts 9555.6225 and 9555.6215 is requested.

Subp. 10. **Variance standard.** A variance may be granted if:

- A. the variance is submitted in accordance with subpart 9;
- B. the commissioner does not have reasonable cause to believe the health, rights, or safety of the residents will be threatened;
- C. the variance would not be contrary to a standard required by Minnesota Statutes; and
- D. a request for variance to subpart 4, item E, has clear and convincing evidence presented by the operator, caregiver, or household member that no threat or harm whatsoever will result to the residents due to the granting of the variance. The commissioner shall consider the nature of the crime committed and amount of time which has elapsed without a repeat of the crime.

Subp. 11. **License terms.** A license, whether regular or provisional, must show:

- A. the licensed capacity of the adult foster home;
- B. the expiration date of the license and address of the residence;
- C. the name and address of the operator;
- D. that the operator is licensed under parts 9555.5105 and 9555.6105 to 9555.6265; and
- E. the provisional status of the license, if applicable.

Subp. 12. **Change in license terms.** The following shall apply to changes in the terms of licensure:

A. The license issued must not be transferred to another operator, building, or address unless the provisions in item B are followed first.

B. The operator must notify the commissioner and the studies in part 9555.6125 must be completed:

- (1) before the operator moves the residence to another building or address;
- (2) when there is an addition of any adult or child who is or will be a roomer, resident, household member, or caregiver;
- (3) when the operator makes structural changes to the residence that require a building permit from the local jurisdiction; or
- (4) before the operator changes, sells, or transfers ownership or responsibility for the operation of the residence.

Subp. 13. **License renewal.** Before the expiration of a license, the commissioner must conduct a study of the operator and an inspection of the residence to determine compliance with parts 9555.5105 and 9555.6105 to 9555.6265 at least once every 12 months to determine whether a new license shall be issued.

**Statutory Authority:** *MS s 245.782 subds 2,6,14; 245.783 subd 1; 245.802 subd 1*

**History:** *12 SR 148*

### 9555.6145 NEGATIVE LICENSING ACTIONS.

Subpart 1. **Definition.** For the purposes of this part, "negative licensing action" means denial of application for licensure, revocation, probation, suspension, or immediate suspension of an existing license.

Subp. 2. **Procedures.** In accordance with Minnesota Statutes, section 245.801, failure to comply with parts 9555.5105 and 9555.6105 to 9555.6265 or the terms of licensure is grounds for a negative licensing action. If the local agency recommends a negative licensing action, the local agency shall notify the department and the department shall determine if the standards in parts 9555.5105 and 9555.6105 to 9555.6265 or the terms of licensure have been violated. If the grounds are sufficient, the commissioner shall follow the procedures in Minnesota Statutes, section 245.801, and notify the applicant or operator by certified

mail, unless personal service is required by subpart 7. The notice of negative licensing action must be addressed to the name and location shown on the application or license and contain a statement of, and the reasons for, the proposed negative licensing action. The notice of negative licensing action must inform the applicant or operator of the right to appeal the decision. The applicant or operator shall have an opportunity for a hearing under Minnesota Statutes, sections 14.57 to 14.69.

**Subp. 3. Denial.** If the commissioner denies an application for licensure, the applicant must tell the commissioner of the applicant's appeal of the decision within 20 days after receipt of the notice of denial.

**Subp. 4. Revocation, probation, or suspension.** If the commissioner revokes a license, makes a license probationary, or suspends a license, the operator must tell the commissioner of the operator's appeal of the decision within ten days after receipt of the notice of revocation, probation, or suspension.

**Subp. 5. Immediate suspension.** If the commissioner finds that the health, safety, or rights of the residents in care are in imminent danger, the commissioner shall immediately suspend the license and notify the local agency to remove the residents. The operator shall be notified by personal service and must tell the commissioner of the operator's appeal of the decision within five days after receipt of the notice of immediate suspension. The appeal does not stay the decision of the commissioner to immediately suspend the license.

**Subp. 6. Correction orders and fines.** If the commissioner finds that the operator does not comply with parts 9555.5105 and 9555.6105 to 9555.6265, the commissioner shall issue a correction order under Minnesota Statutes, section 245.805, and the operator may be subject to a fine for each uncorrected deficiency.

**Subp. 7. Notice of negative licensing action.** At the time the commissioner notifies the operator of a proposed negative licensing action, the commissioner shall notify residents and residents' legal representatives of the proposed negative licensing action and of the operator's right to appeal. The notification procedures in Minnesota Statutes, section 626.557, subdivision 10, paragraph (a), shall be followed in situations alleging abuse or neglect of residents.

**Subp. 8. Reapplication after revocation.** An operator whose license has been revoked shall not be granted a new license for five years following revocation and must reapply for licensure to determine current compliance with parts 9555.5105 and 9555.6105 to 9555.6265.

**Statutory Authority:** *MS s 245.782 subds 2,6,14; 245.783 subd 1; 245.802 subd 1*

**History:** *12 SR 148; L 1988 c 384 art 2 s 1*

### **9555.6165 CAPACITY.**

**Subpart 1. Licensed capacity.** A maximum of four residents may live in the adult foster home at one time.

**Subp. 2. Capacity of roomers and residents.** The total number of roomers and residents in the adult foster home at one time shall not exceed four.

**Statutory Authority:** *MS s 245.782 subds 2,6,14; 245.783 subd 1; 245.802 subd 1*

**History:** *12 SR 148*

### **9555.6167 INDIVIDUAL RESIDENT PLACEMENT AGREEMENT.**

The operator shall ensure that an individual resident placement agreement as defined in part 9555.5105, subpart 19, is developed, signed, and on file for the resident who is not receiving community social services under parts 9550.0010 to 9550.0092, and who does not have an individual service plan developed under part 9525.0075 or 9550.0090.

**Statutory Authority:** *MS s 245.782 subs 2,6,14; 245.783 subd 1; 245.802 subd 1*

**History:** *12 SR 148*

### 9555.6175 COOPERATE AND REPORT TO AGENCIES.

**Subpart 1. Cooperating with service agency.** The operator shall cooperate with the service agency in carrying out the provisions of the individual service plan for each resident who has one and in developing the individual resident placement agreement.

**Subp. 2. Abuse and neglect reporting.** Caregivers shall immediately report any suspected abuse or neglect of a resident to the commissioner, local agency, local police, or county sheriff as required by the Vulnerable Adults Act.

**Subp. 3. Reporting to local agency.** The operator shall ensure that the local agency is told:

A. within five calendar days of any change in the regular membership of the household or caregiver's employment status;

B. within 24 hours after the occurrence of a fire that causes damage to the residence or requires the services of a fire department or the onset of any changes or repairs to the residence that require a building permit;

C. immediately after the occurrence of any serious injury or death of a resident. "Serious injury" means an injury that requires treatment by a physician;

D. within 24 hours of a change in health status of a caregiver that could affect the ability of the caregiver to care for a resident;

E. immediately upon diagnosis by a physician or health authority of a reportable communicable disease, as specified in parts 4605.7000 to 4605.7800, of any resident, caregiver, or household member;

F. at least 30 days before the involuntary discharge of a resident who does not have an individual service plan; and

G. within seven days after the transfer or voluntary discharge of a resident who does not have an individual service plan.

**Subp. 4. Reporting to service agency.** The operator shall ensure that the service agency is told:

A. within five days if a resident shows a need for additional community health or social services; and

B. at least 30 days before the involuntary discharge of a resident. When a resident wants to voluntarily leave the adult foster home, the operator must notify the service agency within three days. In this instance, the resident's legal representative, if any, shall also be notified by the service agency.

**Statutory Authority:** *MS s 245.782 subs 2,6,14; 245.783 subd 1; 245.802 subd 1*

**History:** *12 SR 148*

### 9555.6185 FOSTER CARE TRAINING.

**Subpart 1. Orientation.** Operators and caregivers must complete the orientation provided by the local agency in part 9555.5505 prior to placement of the first resident following initial licensure.

**Subp. 2. Training requirements.** In addition to the orientation training, caregivers must complete the training designed to meet the needs of the residents in care in any of the subject areas and in the amount specified in subpart 4. The operator must ensure that a record of training completed is maintained.

A. Caregivers with zero to five years of licensure or experience as an adult foster home caregiver must complete 12 hours training a year.

B. Caregivers with six or more years of licensure or experience as an adult foster home caregiver must complete six hours training a year.

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C. Caregivers who provide services according to a contract between the operator and the department or service must comply with any additional training requirements stated in the terms of the contract.

Subp. 3. **Exceptions.** The following persons are exempt from the training requirements in this part:

A. caregivers providing not more than 30 cumulative days of foster care in a 12 month period; and

B. caregivers providing foster care eight hours or less a week.

Subp. 4. **Training subjects.** Training subjects shall be selected from the following areas:

A. communication skills;

B. roles and relationships in foster care;

C. community services for adults;

D. constructive problem solving;

E. cultural differences;

F. basic first aid and cardiopulmonary resuscitation (CPR);

G. home safety;

H. self-esteem;

I. medication assistance;

J. human sexuality;

K. death, dying, separation, and grieving;

L. aging process;

M. recreation and leisure time;

N. nutrition;

O. mental health;

P. mental retardation;

Q. physical disabilities;

R. chemical dependency;

S. abuse and neglect;

T. stress management;

U. assertiveness;

V. eating disorders;

W. behavior problem solving;

X. money management;

Y. data privacy;

Z. living skills training; and

AA. other areas that the local agency documents as relevant to adult foster care.

**Statutory Authority:** *MS s 245.782 subds 2,6,14; 245.783 subd 1; 245.802 subd 1*

**History:** *12 SR 148*

### **9555.6195 PROHIBITIONS AGAINST ABUSE, NEGLECT, AND DISCRIMINATION.**

Subpart 1. **Protection from neglect and abuse.** The operator shall ensure that residents are protected from abuse and neglect through compliance with the Vulnerable Adults Act and parts 9555.8000 to 9555.8500.

Subp. 2. **Nondiscrimination.** Under Minnesota Statutes, section 363.03, subdivision 3, the operator must comply with the nondiscrimination provisions applicable to public accommodations.



**Statutory Authority:** *MS s 245.782 subds 2,6,14; 245.783 subd 1; 245.802 subd 1*

**History:** 12 SR 148

9555.6200 [Repealed, 12 SR 148]

**9555.6205 PHYSICAL ENVIRONMENT.**

**Subpart 1. Residential occupancy.** The residence must meet the definition of a dwelling unit in a residential occupancy and be free of any plumbing, electrical, ventilation, mechanical or structural hazard that would threaten the health or safety of a resident.

**Subp. 2. Living room access.** Each resident must have use of and free access to the living room.

**Subp. 3. Dining area.** Each residence shall have a dining area furnished for group eating that is simultaneously accessible to residents and household members.

**Subp. 4. Resident bedrooms.** Residents must mutually consent, in writing, to share a bedroom with another resident. No more than two residents may share one bedroom.

A. Resident bedrooms must meet the following criteria:

(1) A single occupancy bedroom must have at least 80 square feet of floor space with a 7-1/2 foot ceiling. A double occupancy room must have at least 120 square feet of floor space with a 7-1/2 foot ceiling.

(2) Bedrooms must be separated from halls, corridors, and other habitable rooms by floor to ceiling walls containing no openings except doorways and must not serve as a corridor to another room used in daily living.

(3) A resident's personal possessions and items for the resident's own use are the only items permitted to be stored in a resident's bedroom.

(4) When possible, a resident shall be allowed to have items of furniture that he or she personally owns in the bedroom, unless doing so would interfere with safety precautions, violate a building or fire code, or another resident's use of the bedroom.

B. Each resident shall be provided with the following furnishings:

(1) A separate, adult size single bed or larger with a clean mattress in good repair.

(2) Clean bedding appropriate for the season for each resident.

(3) An individual dresser and closet for storage of personal possessions and clothing.

(4) A mirror for grooming.

**Statutory Authority:** *MS s 245.782 subds 2,6,14; 245.783 subd 1; 245.802 subd 1*

**History:** 12 SR 148

**9555.6215 WATER AND FOOD.**

**Subpart 1. Water.** Water from privately owned wells must be tested annually by a Minnesota Health Department certified laboratory for coliform bacteria and nitrate nitrogens to verify safety. Retesting and corrective measures may be required by the health authority if results exceed state water standards in chapter 4720.

**Subp. 2. Food.** Food served must meet any special dietary needs of a resident as prescribed by the resident's physician or dietitian. Three nutritionally balanced meals a day must be served or made available to residents, and nutritious snacks must be available between meals.

**Subp. 3. Food safety.** Food must be obtained, handled, and properly stored to prevent contamination, spoilage, or a threat to the health of a resident.

**Statutory Authority:** *MS s 245.782 subds 2,6,14; 245.783 subd 1; 245.802 subd 1*

**History:** *12 SR 148*

### 9555.6225 SANITATION AND HEALTH.

**Subpart 1. Sanitation and cleanliness.** The residence must be clean, as specified in part 4625.0100, subpart 2, and free from accumulations of dirt, rubbish, peeling paint, vermin, or insects.

**Subp. 2. Toxic substances.** Chemicals, detergents, and other toxic substances must not be stored with food products.

**Subp. 3. Physical examination of resident.** The operator must ensure that each resident is examined by a physician no more than 30 days before or within three days after placement in the adult foster home to ensure that the resident is free of the reportable communicable diseases named in parts 4605.7000 to 4605.7800. Transfer records from a health care facility licensed by the Department of Health may be substituted for this requirement.

**Subp. 4. First aid supplies.** The operator shall ensure that the residence is equipped with accessible first aid supplies including bandages, sterile compresses, scissors, an ice bag or cold pack, an oral or surface thermometer, mild liquid soap, adhesive tape, and first aid manual.

**Subp. 5. Emergencies.** The operator shall be prepared for emergencies and ensure that:

A. a non coin operated telephone and an operable flashlight is located within the residence;

B. the phone numbers of each resident's representative, physician, and dentist are readily available;

C. phone numbers of the local fire department, police department, and an emergency transportation service are posted by the telephone;

D. prior arrangements are made for a substitute caregiver who meets the qualifications in part 9555.6125, subpart 4, to provide care during emergencies;

E. each resident is informed of a designated area within the residence where the resident shall go for cover during severe storms or tornadoes;

F. fire drills are conducted at least once every three months;

G. a written fire escape plan and a log of quarterly fire drills is on file in the residence; and

H. the fire escape plan is approved by the fire marshal and specifies emergency phone numbers, a place to meet outdoors for roll call, smoke detector and fire extinguisher locations, plans for quarterly fire and tornado drill sessions, and escape routes to the outside from the levels used by residents. In buildings with three or more dwelling units, enclosed exit stairs must be indicated. There must be an emergency escape plan for each resident.

**Subp. 6. Individual personal articles.** Individual clean bed linens, towels, and wash cloths must be available for each resident.

**Subp. 7. Pets.** Pets housed within the residence shall be maintained in good health. The operator shall ensure that the resident and the resident's representative is notified before admission of the presence of pets in the residence.

**Subp. 8. Resident's medication.** Caregivers may administer medication to a resident who is not capable of self administering medication only if the operator ensures that the procedures in items A to G are followed.

A. The operator shall get a written statement from the resident's physician stating the name of the medication prescribed and whether the resident is capable of taking the medication without assistance.

B. The operator shall get written permission from the resident or the resident's legal representative to administer the medication.

C. A resident who is not capable of self administering the medication may be administered the medication by a caregiver in accordance with the written instructions from the resident's physician if the written permission has been obtained from the resident or the resident's legal representative. A prescription label is sufficient to constitute written instructions from a physician.

D. Each resident receiving medication assistance must have a medication record containing:

- (1) the information on the prescription label;
- (2) the consequences if the medication is not taken as directed;
- (3) the adverse reactions to the medication that must be reported to the resident's physician;
- (4) instruction from the resident's physician indicating when the resident's physician must be notified if the medication is not taken as prescribed;
- (5) notation of when a medication is started, changed, or discontinued; and
- (6) notation of any reports made to the resident's physician whenever the resident does not take medication as prescribed or there are any adverse medication reactions.

E. A caregiver must report to the resident's physician and legal representative:

- (1) any adverse medication reaction as specified in item D, subitem (3); and
- (2) the resident's refusal or failure to take medication as prescribed and in accordance with the physician's instructions in item D, subitem (4).

F. A caregiver must immediately report to the local agency whenever the resident's physician is notified because medication is not taken as prescribed and the physician determines that the refusal or failure to take medication as prescribed creates an immediate threat to the resident's health or safety or the health or safety of other residents or household members.

G. A caregiver shall not give injectable medication unless:

- (1) the caregiver is a registered nurse or licensed practical nurse with a current Minnesota license, is authorized to do so in writing by the resident's physician, and is covered by professional liability insurance; or
- (2) there is an agreement signed by the caregiver, the resident's physician, the resident, and the resident's legal representative specifying what injections may be given, when, how, and that the physician shall retain responsibility for the caregiver's giving the injections. A copy of the agreement must be placed in the resident's personal record.

Subp. 9. **Storage of medication.** Schedule II controlled substances in the residence that are named in Minnesota Statutes, section 152.02, subdivision 3, must be stored in a locked storage area permitting access only by residents and caregivers authorized to administer the medication as named in subpart 8.

Subp. 10. **Weapons.** Weapons and ammunition must be stored separately in locked areas that are inaccessible to residents and prevent contents from being visible to residents. "Weapons" means firearms and other instruments or devices designed for and capable of producing bodily harm.

**Statutory Authority:** *MS s 245.782 subds 2,6,14; 245.783 subd 1; 245.802 subd 1*

**History:** *12 SR 148*

### 9555.6235 ADULT FOSTER HOME PROGRAM.

The operator shall develop and implement a commissioner approved written plan that allows residents to share in the privileges and responsibilities of the adult foster home and includes the information in items A to C.

A. The type of functionally impaired adults to be served.

B. The foster care that will be available to residents within the adult foster home including the provision of:

- (1) lodging;
- (2) food;
- (3) protection;
- (4) personal care;
- (5) household and living skills assistance or training;
- (6) opportunities to participate in community, recreation and religious activities, and events of the resident's choosing;
- (7) opportunities for the resident to have contact with family and friends;
- (8) assistance safeguarding cash resources, such as banking, reporting the resident's earnings to appropriate agencies, keeping records of financial information (checks issued and received), and accounting for the resident's funds controlled by the operator;
- (9) supervision;
- (10) transportation;
- (11) assistance with the provision of other community, social, or health services as named in the resident's individual service plan, if any; and
- (12) medication assistance.

C. A program abuse prevention plan with specific measures to be taken to minimize the risk of abuse to residents under part 9555.8200.

**Statutory Authority:** *MS s 245.782 subds 2,6,14; 245.783 subd 1; 245.802 subd 1*

**History:** *12 SR 148*

### **9555.6245 PERSONAL RECORD OF RESIDENT IN FOSTER CARE.**

**Subpart 1. General provisions.** The operator shall ensure that an individual record is maintained in the adult foster home on each resident.

**Subp. 2. Demographic information.** The record must include the resident's name, birthdate, sex, race, marital status, next of kin, Social Security number, medical assistance number, name, address, and phone number of an emergency contact or the resident's legal representative, admission date, place or address from which the resident was admitted, date of leaving the residence, and place or address to which the resident has moved.

**Subp. 3. Medical information.** The record must contain the following medical information:

A. the name, address, and phone number of the resident's physician, dentist, clinic, and other sources of medical care;

B. a health history and information on any health risks, allergies, currently prescribed medication, and documentation of the physical examination or transfer record required in part 9555.6225, subpart 3;

C. any emergency treatment needed or provided while the resident resides in the adult foster home; and

D. the medication record required under part 9555.6225, subpart 8.

**Subp. 4. Cash resource information.** The record must include an accounting of any personal funds and charges against those funds if the operator or a caregiver gives cash resource assistance to a resident.

**Subp. 5. Incident reports.** The record must contain all incident reports. Incident reports must be written when a resident requires emergency care, when a police report of an incident involving a resident has been made, or when a

complaint has been filed under the Vulnerable Adults Act. Incident reports must be entered into the resident's personal record by the operator within eight hours after knowledge of the occurrence.

**Subp. 6. Individual abuse prevention plan.** The record must contain an individual abuse prevention plan for a resident developed in compliance with part 9555.8300.

**Subp. 7. Individual service plan.** The record must contain the service agency's initial and current individual service plan for a resident.

**Subp. 8. Individual resident placement agreement.** The record must contain the initial individual resident placement agreement for a resident and the annual update of the agreement.

**Subp. 9. Individual mobility check list.** The record must contain an individual mobility check list for a resident as specified in part 9555.5605, subpart 2.

**Subp. 10. Transfer or discharge.** When a resident is transferred or discharged for any reason a note must be made in the resident's record showing the date of discharge, forwarding address, and reason for discharge or transfer.

**Subp. 11. Record storage.** The personal record on a resident must be stored by the operator for four years after the resident has been discharged from the residence.

**Statutory Authority:** *MS s 245.782 subds 2,6,14; 245.783 subd 1; 245.802 subd 1*

**History:** *12 SR 148*

#### 9555.6255 RESIDENT'S RIGHTS.

**Subpart 1. Information about rights.** The operator shall ensure that a resident and a resident's legal representative are given, at admission:

A. an explanation and copy of the resident's rights specified in subparts 2 to 7;

B. a written summary of the Vulnerable Adults Act prepared by the department; and

C. the name, address, and telephone number of the local agency to which a resident or a resident's legal representative may submit an oral or written complaint.

**Subp. 2. Right to use telephone.** A resident has the right to daily, private access to and use of a non coin operated telephone for local calls and long distance calls made collect or paid for by the resident.

**Subp. 3. Right to receive and send mail.** A resident has the right to receive and send uncensored, unopened mail.

**Subp. 4. Right to privacy.** A resident has the right to personal privacy and privacy for visits from others, and the respect of individuality and cultural identity. Privacy must be respected by operators, caregivers, household members, and volunteers by knocking on the door of a resident's bedroom and seeking consent before entering, except in an emergency, and during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance as noted in the resident's individual record.

**Subp. 5. Right to use personal property.** A resident has the right to keep and use personal clothing and possessions as space permits, unless to do so would infringe on the health, safety, or rights of other residents or household members.

**Subp. 6. Right to associate.** A resident has the right to meet with or refuse to meet with visitors and participate in activities of commercial, religious, political, and community groups without interference if the activities do not infringe on the rights of other residents or household members.

**Subp. 7. Married residents.** Married residents have the right to privacy for visits by their spouses, and, if both spouses are residents of the adult foster home, they have the right to share a bedroom and bed.

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**Statutory Authority:** *MS s 245.782 subds 2,6,14; 245.783 subd 1; 245.802 subd 1*

**History:** *12 SR 148*

### **9555.6265 SAFEGUARDS FOR CASH RESOURCES ENTRUSTED TO OPERATOR.**

**Subpart 1. Determination.** If the social worker determines that a resident needs and wants assistance safeguarding cash resources, any cash resources entrusted to the operator must be handled in accordance with this part.

**Subp. 2. Procedures for handling cash resources.** If a resident entrusts cash resources to the operator, the procedures in items A to F must be used.

A. The resident and the resident's legal representative shall be given a receipt by the operator. Receipts must be signed by the resident or the resident's legal representative.

B. The operator shall not be entrusted with cash resources in excess of \$300 plus resources sufficient to meet one month's cost of care.

C. The resident or resident's legal representative shall have access to the written records involving the resident's funds.

D. The operator shall provide the resident or resident's legal representative with a written quarterly accounting of financial transactions made on behalf of the resident.

E. Upon the death or transfer of a resident, any cash resources of the resident must be surrendered to the resident or the resident's legal representative, or given to the executor or administrator of the estate in exchange for an itemized receipt.

**Statutory Authority:** *MS s 245.782 subds 2,6,14; 245.783 subd 1; 245.802 subd 1*

**History:** *12 SR 148*

**9555.6300** [Repealed, 12 SR 148]

**9555.6400** [Repealed, 12 SR 148]

### **ADULT DAY CARE CENTER LICENSURE**

#### **9555.9600 DEFINITIONS.**

**Subpart 1. Scope.** The terms used in parts 9555.9600 to 9555.9730 have the meanings given them in this part.

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

**Subp. 3. Adult day care.** "Adult day care" means a program of services provided to functionally impaired adults for a period of less than 24 hours during the day. Adult day care is intended to maintain functionally impaired adults in the community and to prevent or delay institutionalization.

**Subp. 4. Adult day care center or center.** "Adult day care center" or "center" means a facility that provides adult day care to functionally impaired adults on a regular basis for periods of less than 24 hours a day in a setting other than a participant's home or the residence of the facility operator.

**Subp. 5. Ambulatory.** "Ambulatory" means having the ability to walk independently and negotiate barriers such as ramps, doors, stairs, and corridors without assistance.

**Subp. 6. Applicant.** "Applicant" means an operator or authorized representative of an operator seeking a license to operate an adult day care center under parts 9555.9600 to 9555.9730.

**Subp. 7. Building official.** "Building official" means a person appointed in accordance with Minnesota Statutes, section 16B.65, to administer the State Building Code or the building official's authorized representative.

**Subp. 8. Capable of taking appropriate action for self-preservation under emergency conditions.** "Capable of taking appropriate action for self-preservation under emergency conditions" is the designation applied in parts 9555.9600 to 9555.9730 to an adult who meets the criteria in items A and B.

A. The person is ambulatory or mobile; and

B. The person has the combined physical and mental capability to:

(1) recognize a danger, signal, or alarm requiring evacuation from the center;

(2) initiate and complete the evacuation without requiring more than sporadic assistance from another person, such as help in opening a door or getting into a wheelchair;

(3) select an alternative means of escape or take other appropriate action if the primary escape route is blocked; and

(4) remain at a designated location outside the center until further instruction is given.

**Subp. 9. Caregiver.** "Caregiver" means a person, usually a family member, whose support helps a participant to live independently or semi-independently in the community and to participate in adult day care. For the purpose of parts 9555.9600 to 9555.9730, "caregiver" does not denote legal or financial responsibility for the participant.

**Subp. 10. Center director.** "Center director" means the person responsible for managing the daily affairs of the center.

**Subp. 11. Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's authorized representative.

**Subp. 12. Department.** "Department" means the Minnesota Department of Human Services.

**Subp. 13. Fire marshal.** "Fire marshal" means the person designated by Minnesota Statutes, section 299F.011, to administer and enforce the Minnesota Uniform Fire Code, or the fire marshal's authorized representative.

**Subp. 14. Functionally impaired adult.** "Functionally impaired adult" means an adult having a condition that includes (1) having substantial difficulty in carrying out one or more of the essential major activities of daily living, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; or (2) having a disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life; and (3) requiring support to maintain independence in the community.

**Subp. 15. Agent of a board of health.** "Agent of a board of health" as authorized under Minnesota Statutes, section 145A.04, means the designated representative of the state or local board of health as defined in Minnesota Statutes, section 145A.02, subdivision 2, to enforce state and local health codes.

**Subp. 16. License.** "License" means a certificate issued by the commissioner authorizing the operator to provide specified services for a specified period of time in accordance with the terms of the license, with Minnesota Statutes, sections 245.781 to 245.812 and 252.28, subdivision 2, and with parts 9555.9600 to 9555.9730. "License" includes a provisional license issued to an operator who is temporarily unable to comply with all the requirements for issuance of a license.

**Subp. 17. Licensed capacity.** "Licensed capacity" means the maximum total number of participants the center is permitted to serve on the premises at any one time under the terms of the license.

**Subp. 18. Medication assistance.** "Medication assistance" means assisting participants to take medication and monitoring the effects of medication but does

not include administering injections. Medication includes a prescription substance ingested, injected, or applied externally to prevent or treat a condition or disease, heal, or relieve pain.

**Subp. 19. Minnesota Uniform Fire Code.** "Minnesota Uniform Fire Code" means those codes and regulations adopted by the state fire marshal in accordance with Minnesota Statutes, section 299F.011, and contained in parts 7510.0200 to 7510.3000.

**Subp. 20. Mobile.** "Mobile" means being nonambulatory but having the ability to move from place to place with the aid of such devices as crutches, walkers, wheelchairs, and wheeled platforms.

**Subp. 21. Multifunctional organization.** "Multifunctional organization" means an organization such as a nursing home that operates a center licensed under parts 9555.9600 to 9555.9730 as well as one or more other programs or facilities simultaneously and within the same administrative structure.

**Subp. 22. Operator.** "Operator" means the individual, corporation, partnership, voluntary association, or other public or private organization legally responsible for the operation of a center.

**Subp. 23. Participant.** "Participant" means a person who has been admitted to and is receiving services from a center licensed under parts 9555.9600 to 9555.9730.

**Subp. 24. Physician.** "Physician" means a person licensed to provide services within the scope of the profession as defined in Minnesota Statutes, chapter 147.

**Subp. 25. Registered dietitian.** "Registered dietitian" means a dietitian registered with the National Commission on Dietetic Registration.

**Subp. 26. Registered nurse.** "Registered nurse" means a person registered by the Minnesota State Board of Nursing to practice professional nursing.

**Subp. 27. Registered physical therapist.** "Registered physical therapist" means a person registered by the Minnesota State Board of Medical Examiners to practice physical therapy.

**Subp. 28. Regularly or on a regular basis.** "Regularly" or "on a regular basis" means the provision of day care services to one or more persons for a cumulative total of more than 30 days within any 12-month period. Provision of services for any part of a calendar day shall constitute provision of service for the entire calendar day.

**Subp. 29. State Building Code.** "State Building Code" means those codes and regulations adopted by the commissioner of the Department of Administration in accordance with Minnesota Statutes, section 16B.59, and contained in chapter 1300.

**Subp. 30. Structured exercise program.** "Structured exercise program" means an identifiable group activity of specific, planned physical exertion designed for participants with similar physiologic and physical needs, meant to maintain or improve range of motion and endurance, general cardiovascular capability, muscle tone, and metabolic levels.

**Subp. 31. Variance.** "Variance" means written permission from the commissioner allowing an applicant or operator to depart from specific provisions of parts 9555.9600 to 9555.9730.

**Statutory Authority:** *MS s 245.781 to 245.812*

**History:** *11 SR 2165; L 1987 c 309 s 24*

### **9555.9610 ADULT DAY CARE CENTER LICENSURE.**

**Subpart 1. Purpose.** The purpose of parts 9555.9600 to 9555.9730 as authorized by Minnesota Statutes, sections 245.781 to 245.812, is to establish procedures and standards for licensing adult day care centers to assure the health, safety, and rights of adult day care participants.



**Subp. 2. Applicability.** Parts 9555.9600 to 9555.9730 govern the licensing of adult day care centers.

An identifiable unit in a nursing home, hospital, or boarding care home licensed by the commissioner of health that regularly provides day care for six or more functionally impaired adults at any given time who are not residents or patients of the nursing home, hospital, or boarding care home must be licensed as an adult day care center.

**Subp. 3. Exemptions from licensure.** The following facilities or situations in which adult day care is provided are exempt from licensure as adult day care centers:

A. a day care facility subject to licensure or approval by the department for the provision of outpatient treatment programs for chemically dependent persons or training and habilitation services for persons with mental retardation or a related condition, or services to persons with mental illness;

B. facilities that provide day care to adults and are excluded from licensure under Minnesota Statutes, section 245.791, including:

(1) day care provided by a relative to a person or persons with whom the relative has any of the following relationships by marriage, blood, or adoption: parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, child, niece, nephew;

(2) day care provided for a cumulative total of less than 30 days in any 12 month period;

(3) day care provided for persons from a single family for any length of time by a person who is not a relative;

(4) an identifiable unit of a nursing home, hospital, or boarding care home licensed by the commissioner of health that regularly provides day care for five or fewer functionally impaired adults at any given time who are not residents or patients of the nursing home, hospital, or boarding care home;

(5) a day care program serving any number of adults who are not functionally impaired;

(6) a sheltered workshop or work activity day program, certified by the state board of education;

(7) a day care facility under the direct control and supervision of a local education agency or a state agency other than the commissioner; and

(8) day care provided for less than three hours daily for any person while the person's relatives are in the same building, or can be present in the same building within 30 minutes.

**Subp. 4. Licensure of existing centers.** An adult day care center that is in operation prior to July 1, 1987, must submit a completed application for licensure to the commissioner by October 1, 1987.

**Statutory Authority:** *MS s 245.781 to 245.812*

**History:** *11 SR 2165*

### 9555.9620 LICENSING PROCESS.

**Subpart 1. Application for license.** An adult day care center must obtain a license to operate from the department.

A. Application for a license must be made on the form issued by the department.

B. The applicant must be the individual or the authorized representative of the corporation, partnership, voluntary association, or other public or private organization legally responsible for the operation of the center.

C. Separate licenses are required for centers located at separate addresses even if the centers are to be operated by the same operator.

D. The commissioner shall supply the applicant with:

- (1) the department application form;
- (2) information on how to obtain a copy of parts 9555.9600 to 9555.9730 and the statutes and rules referenced in parts 9555.9600 to 9555.9730; and
- (3) the department forms needed to verify compliance with parts 9555.9600 to 9555.9730.

**Subp. 2. Completed application.** An application for licensure is complete on the date the commissioner determines that a complete application has been received. A complete application includes:

- A. a completed application form;
- B. the licensing fee required by parts 9545.2000 to 9545.2040; and
- C. documentation that:

- (1) the facility in which the center is to operate complies with the state building, fire, and health codes as specified in parts 9555.9600 to 9555.9730 and with any applicable local codes and ordinances; or

- (2) variances from compliance with the codes and ordinances in subitem (1) have been granted by the state or local unit of government with jurisdiction to enforce the code or ordinance.

To obtain the necessary documentation, the applicant shall have a fire marshal, building official, and agent of a board of health as authorized under Minnesota Statutes, section 145A.04, inspect the facility and make a written report of the results of the inspection. Any deficiencies cited that threaten health and safety must be corrected and the correction verified by the inspecting official before a license is issued by the department.

D. a description of the floor plan of the center, including:

- (1) the size and location of each room, doorway, and hallway;
- (2) the planned use for each space;
- (3) the space available as the private space required in part 9555.9730, subpart 5; and
- (4) the area of the center that is designated for emergency shelter as required in 9555.9720, subpart 9, item D.

**Subp. 3. Licensing study.** The commissioner shall conduct a study of the center as set forth in items A and B before issuing or renewing a license:

A. The applicant shall provide the commissioner access to the premises any time during the center's hours of operation to enable the commissioner to evaluate the center's compliance with parts 9555.9600 to 9555.9730. Access shall include the right to review and photocopy records required by parts 9555.9600 to 9555.9730. If the commissioner's study of the premises gives the commissioner reasonable cause to believe that a potentially hazardous condition exists, the commissioner shall require an inspection by an authorized agent, building official, or fire marshal, depending on the nature of the hazardous condition and the jurisdiction for enforcing standards related to that condition. The results of the inspection and of any corrective action required shall be reported to the commissioner by the inspector.

B. A study of the applicant and of all center staff must be made under Minnesota Statutes, section 245.783, subdivision 3.

- (1) A check of arrest, conviction, or criminal history records must be conducted on each applicant and staff member. Each applicant and staff member shall complete and sign a form disclosing the person's full name, date of birth, the specific nature of the information to be obtained, who will receive the information, and who will disclose it. The commissioner shall seek the assistance of the Minnesota Bureau of Criminal Apprehension, the county attor-

ney, and the sheriff or the chief of police in the locality where the person resides in determining the person's arrest, conviction, or criminal history record.

(2) The commissioner may require, at any time during the term of licensure, a criminal history check of the operator or of an employee if the commissioner has reasonable cause to believe that any one or any combination of the conditions specified in subpart 7, item A, has not been met.

**Subp. 4. Period of licensure; not transferable.** An initial license shall be issued by the department for up to one year when the commissioner determines there is substantial compliance with parts 9555.9600 to 9555.9730. A renewal of the initial license can be issued for up to two years if there is substantial compliance with the provisions of parts 9555.9600 to 9555.9730. A license is not transferable to another operator or location.

**Subp. 5. License renewal, inspection, and study.** The commissioner must reinspect the center and study the operator to determine continued compliance with parts 9555.9600 to 9555.9730 at least once prior to license renewal for as long as the operator maintains a license for the center.

**Subp. 6. Provisional license.** An applicant for initial licensure may be granted a provisional license for up to one year if all laws and rules cannot be complied with immediately and if the deviations from parts 9555.9600 to 9555.9730 do not threaten the health, safety, or rights of the participants. Deviations must be corrected by the applicant within the time, not to exceed one year, specified by the commissioner. Failure to correct deviations within the stated time shall be cause for license revocation, suspension, probation, fines, or injunction against continued operation.

**Subp. 7. License denial or suspension.** The commissioner shall not issue a license or shall suspend a license when one or any combination of conditions described in items A and B applies.

A. The applicant or operator or a staff member employed by the applicant or operator:

(1) refuses to provide the completed form required in subpart 3; or

(2) has been convicted of a crime or has admitted to an act or there are reasonable grounds to believe has committed an act relating to the abuse or neglect of vulnerable adults as defined in Minnesota Statutes, section 626.557, subdivision 2, clauses (d) and (e), and subdivision 3, and does not show evidence of sufficient rehabilitation and present fitness to care for vulnerable adults. The factors set forth in Minnesota Statutes, section 364.03, subdivisions 2 and 3, shall be considered in determining whether the act or conviction relates to the abuse or neglect of vulnerable adults and whether the person has shown evidence of sufficient rehabilitation and fitness; or

(3) has been convicted of a crime which directly relates to the occupation of providing care to vulnerable adults as defined in Minnesota Statutes, section 626.557, and does not show evidence of sufficient rehabilitation and present fitness to care for vulnerable adults. The factors set forth in Minnesota Statutes, section 364.03, subdivisions 2 and 3, shall be considered in determining whether the conviction relates to the occupation of providing care to vulnerable adults and whether the person has shown evidence of sufficient rehabilitation and fitness.

B. The center does not comply with the building, fire, and health codes specified in parts 9555.9600 to 9555.9730 and the deficiencies cited threaten the health, safety, or rights of participants.

**Subp. 8. Posting the license.** The operator shall post the license in the center in a prominent place open to view.

**Subp. 9. License terms.** The license, whether regular or provisional, must indicate:

A. the licensed capacity of the center;

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- B. the expiration date of the license;
- C. the location of the center;
- D. the name and address of the operator; and
- E. the parts of Minnesota Rules under which the center is licensed.

**Subp. 10. Change in license terms.** Items A and B shall apply to changes in the terms of licensure.

A. The license issued must not be transferred to another operator, building, or address.

B. The operator shall notify the commissioner and the necessary studies in part 9555.9620 must be completed:

- (1) when the operator makes structural changes to the center that require a building permit from the municipality or local jurisdiction;
- (2) before the operator moves the center to another building or address;
- (3) before the operator increases the licensed capacity of the center;

or

(4) before the operator changes, sells, or transfers ownership and responsibility for the operation of the center.

**Subp. 11. Variance procedure.** An applicant or operator may request a variance from compliance with parts 9555.9600 to 9555.9730 at any time. A request for a variance must comply with the procedures in items A and B.

A. The applicant or operator must submit a written request for a variance to the commissioner. The request must include the following information:

- (1) the section or sections of parts 9555.9600 to 9555.9730 with which the operator or applicant cannot comply;
- (2) the reasons why the operator or applicant needs to depart from the specified sections;
- (3) the period of time for which the applicant or operator requests a variance; and
- (4) the specific equivalent measures that the applicant or operator will take to ensure the health, safety, and rights of the participants if the variance is granted.

B. The applicant or operator must submit to the commissioner written approval of the alternative measures identified to ensure the health and safety of the participants from:

- (1) a fire marshal, for any variance from part 9555.9730 that relates to the Minnesota Uniform Fire Code;
- (2) a building official, for any variance from part 9555.9730 that relates to the State Building Code; and
- (3) an authorized agent, for any variance from part 9555.9710.

**Subp. 12. Variance standard.** The commissioner may grant the request of the applicant or operator for a variance if:

- A. the variance request is submitted in accordance with subpart 11;
- B. granting the variance will not threaten the health, safety, and rights of the participants; and
- C. the variance would not be contrary to a standard required by Minnesota statutes.

**Subp. 13. Notice.** Upon receipt of a variance request and supporting documents, the commissioner shall review the variance request and notify the applicant or operator in writing within 30 days whether the variance request has been granted or denied. If the variance request is denied, the notice must state the reasons for denial.

**Statutory Authority:** *MS s 245.781 to 245.812*

**History:** *11 SR 2165; L 1987 c 309 s 24*

### 9555.9630 NEGATIVE LICENSING ACTIONS.

**Subpart 1. Negative licensing actions.** A negative licensing action includes denial of application for licensure, revocation, probation, suspension, or immediate suspension of an existing license.

**Subp. 2. Procedures.** Failure to comply with parts 9555.9600 to 9555.9730 or the terms of licensure is grounds for a negative licensing action. If the commissioner has reasonable grounds to believe that the standards in parts 9555.9600 to 9555.9730 or the terms of licensure have been violated, the commissioner shall notify the applicant or operator by certified mail unless personal service is required by subpart 5. The notice must be addressed to the name and location shown on the application or license, and it must state the proposed action and the reasons for it. The notice must inform the applicant or operator of the right to appeal the decision within the specified time period. The applicant or operator shall have an opportunity for a hearing in accordance with Minnesota Statutes, sections 14.57 to 14.69.

**Subp. 3. Denial.** If the commissioner denies an application for licensure, the applicant must be notified of the right to appeal the decision. The applicant's appeal must be made in writing within 20 working days of receipt of notice.

**Subp. 4. Suspension; revocation; probation.** If the commissioner suspends or revokes a license or makes a license probationary, the operator must be notified of the right to appeal the decision. The operator's appeal must be made in writing within ten working days of receipt of notice.

**Subp. 5. Immediate suspension.** If the commissioner has reasonable grounds to believe that the health, safety, or rights of the participants are in imminent danger, the commissioner shall immediately suspend an operator's license. The operator shall be notified of the suspension by personal service and notified of the right to appeal the decision within five days. An appeal does not stay the decision of the commissioner to immediately suspend the license.

**Subp. 6. Correction orders and fines.** If the commissioner finds that the operator is not complying with the provisions of parts 9555.9600 to 9555.9730, the commissioner shall issue a correction order and the operator may be subject to a fine for each uncorrected deficiency.

**Subp. 7. Notice of negative action.** At the time the commissioner notifies the operator of a proposed negative licensing action, the commissioner shall notify participants and participants' caregivers of the proposed negative licensing action and the operator's right to appeal. The notification procedures in Minnesota Statutes, section 626.557, subdivision 10, paragraph (a) shall be followed in situations alleging abuse or neglect of participants.

**Subp. 8. Reapplication after revocation or nonrenewal.** An operator whose license has been revoked or not renewed because of noncompliance with applicable laws or rules may not be granted a new license for five years following revocation or nonrenewal. When the commissioner initiates a negative licensing action against an operator, the operator shall not voluntarily withdraw his or her license without providing written assurance that the operator is voluntarily accepting revocation and will not reapply for two years.

**Statutory Authority:** *MS s 245.781 to 245.812*

**History:** *11 SR 2165; L 1988 c 384 art 2 s 1*

### 9555.9640 POLICY AND PROGRAM INFORMATION REQUIREMENTS.

A center shall have available for review and shall distribute to participants and their caregivers upon admission written information about the points in items A to N:

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- A. the scope of the programs, services, and care offered by the center;
- B. a description of the population to be served by the center;
- C. a description of individual conditions which the center is not prepared to accept, such as a communicable disease requiring isolation, a history of violence to self or others, unmanageable incontinence or uncontrollable wandering;
- D. the participants' rights developed in accordance with part 9555.9670 and additionally:

(1) a procedure for presenting grievances, including the name, address, and telephone number of the licensing division of the department, to which a participant or participant's caregiver may submit an oral or written complaint;

(2) a copy or written summary of Minnesota Statutes, section 626.557, the Vulnerable Adults Act;

- E. the center's policy on and arrangements for providing transportation;
- F. the center's policy on providing meals and snacks;
- G. the center's fees, billing arrangements, and plans for payment;
- H. the center's policy governing the presence of pets in the center;
- I. the center's policy on smoking in the center;
- J. types of insurance coverage carried by the center;
- K. a statement of the center's compliance with Minnesota Statutes, section 626.557, and rules adopted under that section;
- L. a statement that center admission and employment practices and policies comply with Minnesota Statutes, chapter 363, the Minnesota Human Rights Act;

M. the terms and conditions of the center's licensure by the department, including a description of the population the center is licensed to serve under part 9555.9730; and

N. the telephone number of the department's licensing division.

The information in items A to N must be provided in writing to the commissioner upon request and must be available for inspection by the commissioner at the center.

**Statutory Authority:** *MS s 245.781 to 245.812*

**History:** *11 SR 2165*

### 9555.9650 PERSONNEL RECORDS.

A center shall maintain the personnel files in items A and B.

- A. A personnel file for each employee that includes:
  - (1) the employee's job description;
  - (2) documentation that the employee has completed and signed the form required in part 9555.9620, subpart 3;
  - (3) an employment application or resume indicating that the employee meets the requirements in part 9555.9680, subpart 2;
  - (4) documentation that the employee has completed the orientation to the center required in part 9555.9690, subpart 3;
  - (5) documentation of an annual performance evaluation;
  - (6) documentation of completion of the annual in service training required in part 9555.9690, subpart 4; and
  - (7) documentation, when applicable, that the employee has completed the cardiopulmonary resuscitation and airway obstruction treatment training required in part 9555.9690, subpart 2, item C.

B. A personnel file for each consultant whose services the center pur-

chases either by contracting directly with the individual or by contracting for the person's services with another organization. The file shall include:

(1) a copy of a signed contract or letter of appointment specifying conditions and terms of employment; and

(2) documentation that the person under contract meets any licensure, registration, or certification requirements required to perform the services specified in the contract.

**Statutory Authority:** *MS s 245.781 to 245.812*

**History:** *11 SR 2165*

#### **9555.9660 PARTICIPANT RECORDS.**

**Subpart 1. Participant's written record.** A center shall develop and maintain a written record for each participant. Access to participants' records shall be governed by subpart 2. Each participant's written record shall include:

A. an application form signed by the participant or the participant's caregiver that includes:

(1) the participant's name, address, date of birth, sex, date of admission or readmission, living arrangement, telephone number, and source of referral;

(2) the name and telephone number of the person to call in case of an emergency involving the participant and the name and number of another person to call if that person cannot be reached; and

(3) the name and telephone number of the participant's physician or medical provider;

B. a medical report dated within the three months prior to or 30 calendar days after the participant's admission to the center, signed by a physician or signed by a physician's assistant or registered nurse and cosigned by a physician, that includes:

(1) a report on a physical examination, updated annually;

(2) a medical history of the participant;

(3) indication of dietary restrictions and medication regimen, including the need for medication assistance, that apply to the participant;

(4) a release signed by the physician indicating whether the participant may engage in a structured exercise program; and

(5) documentation that the participant is free of communicable disease or infestations, as specified in parts 4605.7000 to 4605.7600, that would endanger the health of other participants;

C. reports received from other agencies involved in providing services or care to the participant;

D. participant's service agreement with the center, that must specify the responsibilities of the participant and the center with respect to payment for and provision of services and shall be signed by the participant or the participant's caregiver and the center director;

E. attendance and participation reports and progress notes that are recorded at least monthly;

F. notes on special problems or on changes needed in medication and on the need for medication assistance;

G. participant's needs assessment and current plan of care in compliance with part 9555.9700;

H. a copy of the center's statement on participants' rights, signed by the participant or the participant's caregiver to indicate the participant has been informed of rights;

I. any incident reports involving the participant, in compliance with part 9555.9720, subpart 4;

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J. copy of the individual abuse prevention plan developed for the participant in compliance with part 9555.8300 and as required by Minnesota Statutes, section 626.557, subdivision 14;

K. in a center licensed as meeting group E-3 occupancy code requirements, (1) a statement signed by the center director and the participant at the time of the participant's admission specifying the basis on which the participant was determined to be capable or not capable of taking appropriate action for self-preservation under emergency conditions as that capability is defined in part 9555.9600, subpart 8; and (2) documentation that the participant has demonstrated the capability defined in part 9555.9600, subpart 8, by participating in a fire drill within at least six months of admission to the center; and

L. discharge summary, if the participant is discharged from the center.

Subp. 2. **Data privacy.** The information contained in a participant's records shall not be disclosed without the informed written consent of the participant or the participant's legal guardian, except information shall be provided:

A. to the participant, the participant's legal guardian, or a person known to the center staff as the participant's caregiver;

B. to center staff, for use in developing and implementing the participant's plan of care;

C. to the commissioner, for the purpose of investigating complaints about a center or determining a center's compliance with parts 9555.9600 to 9555.9730;

D. to a building official or fire marshal, to the extent necessary to determine a center's compliance with part 9555.9730;

E. to a person authorized to conduct inspections required by third party payment contract, to the extent necessary to perform those duties; and

F. to the extent necessary to protect the health and safety of the participant or participants.

Subp. 3. **Right to contest.** The center shall provide each participant with written notice ensuring that each participant or participant's guardian or caregiver has been informed of the participant's right to contest the accuracy and completeness of the data maintained in the record.

**Statutory Authority:** *MS s 245.781 to 245.812*

**History:** *11 SR 2165*

### 9555.9670 PARTICIPANTS' RIGHTS.

A center shall adopt and hold employees accountable for complying with a participant's bill of rights. The rights shall include:

A. the right to participate in developing one's own plan of care;

B. the right to refuse care or participation;

C. the right to physical privacy during care or treatment;

D. the right to confidentiality of participant records; and

E. the right to present grievances regarding treatment or care in accordance with part 9555.9640, item D.

**Statutory Authority:** *MS s 245.781 to 245.812*

**History:** *11 SR 2165*

### 9555.9680 PERSONNEL REQUIREMENTS.

Subpart 1. **Center director.** The center director must meet both the requirements in items A and B or only the requirement in item C:

A. licensure by the state of Minnesota as a licensed practical nurse or completion of at least two years of postsecondary education from an accredited college, university, technical institute, or correspondence school; and



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B. completion of two years of paid or volunteer experience in planning or delivering health or social services including experience in supervision and administration; or

C. completion of four years of paid or volunteer experience in planning or delivering health or social services including two years of experience in supervision and administration.

**Subp. 2. Personnel standards.** The standards and requirements in items A to C apply to all employees:

A. Persons who supervise employees must be at least 18 years of age.

B. Employees or consultants who perform services that require licensure, certification, or registration by the state of Minnesota must have current licensure, certification, or registration in their field.

C. An employee, other than a physician, registered pharmacist, registered nurse, or licensed practical nurse, who is responsible for medication assistance shall provide a certificate verifying successful completion of a trained medication aid program for unlicensed personnel approved by the Minnesota Department of Health or shall be trained by a registered nurse to provide medication assistance in accordance with part 9555.9710, subpart 3.

**Subp. 3. Preemployment check of criminal history records.** Before employing a person who will have responsibility for the operation of the center or direct contact with participants, the center shall request the person to give informed consent for the disclosure of arrest, conviction, and criminal history records to the commissioner. The authorization form shall state the person's full name, date of birth, the specific nature of information being authorized for disclosure, persons who are designated to receive the information, and the expiration date of the authorization. The center shall send the dated and notarized form signed by the person to the department. The commissioner shall request the assistance of the Bureau of Criminal Apprehension, the county attorney, and county sheriff or chief of the police department in the person's locality in providing all criminal conviction data, arrest information, reports regarding abuse or neglect, and investigation results available from local and state criminal history repositories.

**Subp. 4. Employment disqualification factors.** A center shall not employ nor shall the operator of a center be a person whose behavior or conviction record is described by the conditions set forth in part 9555.9620, subpart 7, item A.

**Statutory Authority:** *MS s 245.781 to 245.812*

**History:** *11 SR 2165*

## 9555.9690 STAFF RATIO AND CENTER COVERAGE.

**Subpart 1. Staff ratio.** Centers must meet the standards specified in items A to G.

A. When a center serves only participants who are capable of taking appropriate action for self-preservation under emergency conditions, the center shall maintain a minimum staff to participant ratio of one staff member present for every eight participants present.

B. When a center serves only participants who are not capable of taking appropriate action for self-preservation under emergency conditions, the center shall maintain a minimum staff to participant ratio of one staff member present for every five participants present.

C. When a center serves both participants who are capable of taking appropriate action for self-preservation under emergency conditions and participants who are not, the center shall maintain a staff to participant ratio of one staff member present for every five participants present who are not capable of self-preservation and one staff member present for every eight participants present who are capable of self-preservation. When a center has participants to whom the one to eight ratio applies, as well as participants to whom the one to

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five ratio applies, the number of staff persons necessary to meet the ratio requirements can be determined by making the following computations:

(1) multiply the number of participants present who are capable of self-preservation by 12.5;

(2) multiply the number of participants present who are not capable of self-preservation by 20;

(3) add the two figures that result from the multiplication in subitems (1) and (2);

(4) when the sum calculated in subitem (3) is 100 or less, one staff person is required to meet the ratio requirements;

(5) when the sum calculated in subitem (3) is 101 to 200, two staff persons are required; and

(6) when the sum calculated in subitem (3) is 201 to 300, three staff persons are required. One additional staff person is required each time the sum increases by a unit of 100.

D. Only those employees whose primary center duties, as defined in their job descriptions, are to work directly with participants by providing care, supervision, and assistance in achieving plan of care objectives shall be counted as staff members in calculating the staff to participant ratio.

E. A multifunctional organization may count other employees of the organization besides center employees in calculating the staff to participant ratio if:

(1) the employee's responsibilities in the organization other than the center meet the requirement in item D; and

(2) the employee is assigned to the center for a specified amount of time during which the employee is not assigned to another organization.

F. No participant shall be counted as or be substituted for a staff member in calculating the staff to participant ratio.

G. A volunteer may be counted as a staff member in calculating the staff to participant ratio if the volunteer meets the same standards and requirements as paid staff.

**Subp. 2. Staff coverage of center.** Centers must meet the standards specified in items A to D.

A. In the temporary absence of the director, a staff member shall be designated to supervise the center.

B. When only one staff member is needed to meet the staff ratio requirement in subpart 1, item A, a volunteer or other adult who is not a participant shall be present when six or more participants are in attendance.

C. A person trained in basic first aid and certified in cardiopulmonary resuscitation, and the treatment of obstructed airways must be present at all times:

(1) in the center when participants are present;

(2) in a vehicle being used by the center to transport participants;

and

(3) with participants on field trips or other activities conducted by the center away from the center site.

**Subp. 3. Staff orientation to center.** A center shall provide all center employees with 20 hours of orientation to the center within the employee's first 40 hours of employment at the center. At least four hours of supervised orientation must be provided before employees work directly with center participants. The orientation must include training related to the kinds of functional impairments of current center participants, the protection and abuse reporting requirements of parts 9555.8000 to 9555.8500, and the safety requirements and procedures in part 9555.9720.

**Subp. 4. In service training.** A center shall provide a minimum of eight hours of in service training annually. In service training must be in areas related to care of center participants, including provision of medication assistance and review of parts 9555.8000 to 9555.8500, 9555.9600 to 9555.9730, and Minnesota Statutes, section 626.557.

**Statutory Authority:** *MS s 245.781 to 245.812*

**History:** *11 SR 2165*

#### **9555.9700 INDIVIDUAL SERVICE PLANNING.**

**Subpart 1. Intake screening.** Before admitting a participant, the center shall conduct an intake screening to determine how or whether the center can serve the individual, based on the center's licensure, the center's policies and services, and the individual's needs and condition. If possible, the screening shall include an interview with the participant and with the participant's caregiver. The center shall notify the individual of the outcome no more than five working days after the screening process begins.

**Subp. 2. Initial service planning.** Immediately after admission, the center shall conduct a needs assessment and develop a preliminary service plan for the participant, in accordance with items A and B. The needs assessment and preliminary service plan must be completed within 30 days and placed in the participant's record.

A. The center shall assess the participant's needs for center services based on observation of the participant and information obtained from other sources, including any assessment performed within the prescribed time by a preadmission screening team under Minnesota Statutes, section 256B.091. The needs assessment shall address:

- (1) the participant's psychosocial status (for example, awareness level, personal care needs, need for privacy or socialization);
- (2) the participant's functional status (for example, endurance and capability for ambulation, transfer, and managing activities of daily living); and
- (3) the participant's physical status, to be determined by observation, from the intake screening interview, and from the medical report received from the participant's physician.

B. The center shall develop a preliminary service plan based on the assessment in item A and coordinated with other plans of services for the participant. The preliminary service plan must include the following information and specifications:

- (1) scheduled days of participant's attendance at the center;
- (2) transportation arrangements for getting the participant to and from the center;
- (3) participant's nutritional needs and, where applicable, dietary restrictions;
- (4) role of the participant's caregiver or caregivers in carrying out the service plan; and
- (5) services and activities in which the participant will take part immediately upon admission.

**Subp. 3. Individual plan of care.** Within 90 days of the participant's admission to the center, a written plan of care must be developed by the center staff together with the participant, the participant's caregiver, and other agencies and individual service providers. The plan of care must be dated and must include:

A. an update of the preliminary service plan required in subpart 2 and additional services required by the participant;

B. short and long-term objectives for the participant stated in concrete, measurable, and time specific outcomes;

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C. the staff members responsible for implementing the individual plan of care;

D. the anticipated duration of the individual plan of care as written; and

E. provisions for quarterly review and quarterly revision of the individual plan of care.

**Statutory Authority:** *MS s 245.781 to 245.812*

**History:** *11 SR 2165*

### **9555.9710 SERVICE AND PROGRAM REQUIREMENTS.**

**Subpart 1. Food service and nutrition.** A center shall meet the requirements in items A to H.

A. Procedures for preparing, handling, and serving food, and washing food, utensils, and equipment must comply with parts 4625.2400 to 4625.5000, Requirements for Food and Beverage Establishments, and with applicable local ordinances. If the food is prepared off-site by another facility or if food service is provided according to a center's contract with a food service provider, the facility or provider must comply with parts 4625.2400 to 4625.2500 and applicable local ordinances.

B. The center shall provide refrigeration for dairy products and other perishable foods, whether supplied by the center or supplied by the participant. The refrigeration must have a temperature of 40 degrees Fahrenheit or less.

C. If a participant is at the center for more than 4-1/2 hours, the participant must be served a meal which meets one-third of the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences, specified in Recommended Dietary Allowances, 9th Edition, 1980. This publication is incorporated by reference. It is not subject to frequent change and is available at public libraries through Minitex interlibrary loan system and from the Printing and Publication Office, National Academy of Sciences, Washington, D.C. 20418.

D. The center shall offer a midmorning and a midafternoon snack.

E. The menus for all meals and snacks must be approved by a registered dietitian and must meet all applicable state rules and laws and United States Department of Agriculture regulations.

F. The center shall provide modified diets for participants whose written records specify dietary restrictions.

G. Drinking water must be available to participants throughout the hours of the center's operation.

H. The center must maintain a record indicating the menu for all meals served for at least six months.

**Subp. 2. Transportation.** If a center provides transportation, the requirements in items A and B must be met.

A. The center shall meet all applicable state and federal regulations governing vehicles and drivers.

B. The maximum transportation time for any participant being transported by a center vehicle between the participant's home and the center shall be 90 minutes, one way. Ten minute rest stops should be offered to participants when travel time exceeds 90 minutes.

**Subp. 3. Health services.** The center shall offer health services developed in consultation with a registered nurse. A registered nurse shall provide consultation and review of the health services at least monthly. Health services must include:

A. monitoring participants' health status and reporting changes to the participant's caregiver and physician and the center director;

B. educating and counseling participants on good health practices;

C. maintaining a listing of professional health resources available for referrals as needed by participants;

D. developing policies and monitoring procedures for participant self administration of medications for training unlicensed personnel who provide medication assistance; and

E. supervising staff distribution of medication and assistance with participant self administration of medication and ensuring compliance with part 9555.9680, subpart 2, item C.

**Subp. 4. Structured exercise program.** The center shall offer a daily structured exercise program for participants whose physicians have authorized their participation. The program shall be developed in consultation with a registered physical therapist. A registered physical therapist shall provide consultation and review of the exercise program, at least quarterly.

**Subp. 5. Activities of daily living.** The center shall provide participants assistance, when needed, in managing activities of daily living such as dressing, grooming, and eating, and in developing or maintaining the skills necessary to manage these activities on their own.

**Subp. 6. Daily program activities.** The center shall have a monthly plan for diversified daily program activities. Program activities shall be designed to meet the needs and interests of the participants and shall include:

A. socialization activities, such as group projects and recreational activities;

B. cultivation of personal interests, such as arts, crafts, and music; and

C. activities designed to increase the participant's knowledge and awareness of the environment and to enhance language and conceptual skills.

**Subp. 7. Social services.** A center shall offer the social services in items A to D:

A. interviewing the participant and, when possible, the participant's caregiver as part of the admission procedure specified in part 9555.9700;

B. maintaining a family and social history for the participant's record that is updated annually;

C. observing and recording psychological, emotional, social, financial, legal, employment, transportation, and other living situation factors related to the participant's achieving objectives specified in the participant's plan of care; and

D. referring the participant and caregivers to community services as required to meet the needs identified by the observation in item C.

**Statutory Authority:** *MS s 245.781 to 245.812*

**History:** *11 SR 2165*

#### **9555.9720 SAFETY REQUIREMENTS.**

**Subpart 1. First aid kit.** The center shall have a first aid kit that contains a first aid manual, sterile bandages and band-aids, sterile compresses, Ipecac syrup, scissors, an ice bag or cold pack, an oral or topical thermometer, liquid soap, adhesive tape, and money for phone calls. The first aid kit and manual must be accessible to the staff in the center and must be taken on field trips. The Ipecac syrup must be labeled with instructions to telephone the poison control center, or 911, or the participant's emergency medical care source before administering.

**Subp. 2. Telephone and posted numbers.** A center shall have a noncoin operated telephone that is readily accessible. A list of emergency numbers must be posted next to the telephone. When an area has a 911 number, the emergency number listed must be 911. In areas of the state without a 911 number, the numbers listed must be those of the local fire department, police department, emergency transportation, and poison control center. In a hospital or nursing home, the emergency care team number must be posted.

**Subp. 3. Emergency phone numbers for participants.** For each participant, the emergency phone numbers of the caregiver, the persons to be called if the caregiver cannot be reached, and the participant's physician must be readily available at the center. These numbers must also be available in vehicles provided by the center to transport participants.

**Subp. 4. Records of incidents.** The center shall maintain records of all incidents involving participants, including illnesses; accidents requiring first aid; incidents requiring emergency medical or psychiatric care; incidents requiring a police report to be made; and incidents when a complaint has been filed under Minnesota Statutes, section 626.557, Reporting of Maltreatment of Vulnerable Adults. The record shall include the participant's name, the date and time of the incident, a description of the incident, the center's action in response to the incident, and indication that the incident was reported to the participant's caregiver.

**Subp. 5. Hazardous objects, materials, or equipment.** Chemicals that are poisonous when swallowed or inhaled or that are damaging to eyes or skin must be stored in an area not accessible to the participants. Use of scissors, knives, matches, razor blades, and other potentially hazardous materials by participants shall be allowed only under supervision.

**Subp. 6. Emergency equipment.** The center shall have a flashlight and a portable radio or television set that do not require electricity and can be used if a power failure occurs.

**Subp. 7. Equipment and furniture.** Equipment and furniture must be in good repair and without sharp points, splinters, and paint that contains lead.

**Subp. 8. Areas used by participants.** The areas used by participants must be free from debris, loose plaster, peeling paint, and litter. Rugs must have a nonskid backing.

**Subp. 9. Emergencies caused by fire and weather.** The center shall have written plans for emergencies caused by fire, blizzards, and tornadoes. The plans must be posted in a visible place and be on file in the center. The plans must include items A to J:

- A. the responsibilities each staff person will assume in case of emergency;
- B. identification of primary and secondary exits;
- C. identification of building evacuation routes;
- D. identification of an emergency shelter area within the center;
- E. instructions for evacuating or rescuing participants;
- F. instructions for calling the fire department and emergency phone numbers;
- G. procedures for the quarterly fire drill;
- H. instructions on location and use of fire extinguishers;
- I. instructions on closing off the fire area; and
- J. location of the fuse box and instructions on how to throw the main switch.

The fire escape plan must be rehearsed at least four times each year and the dates of rehearsals must be recorded in the file of emergency plans.

**Subp. 10. Medical emergencies.** The center shall have written procedures governing medical emergencies and an identified source of emergency medical care and transportation that is made known to all staff members and volunteers.

**Subp. 11. Pets.** If the center allows pets, the center must ensure that:

- A. prospective participants are notified that pets may be present in the center;
- B. all dogs and cats brought into the center have current rabies shots and tags;

C. pets and pet cages are excluded from food storage, preparation, and serving areas; and

D. a record of annual examinations for communicable disease and parasites by a licensed veterinarian is maintained for all pets that reside in or regularly visit the center.

**Statutory Authority:** *MS s 245.781 to 245.812*

**History:** *11 SR 2165*

### 9555.9730 PHYSICAL PLANT AND SPACE REQUIREMENTS.

**Subpart 1. Compliance with codes.** Before being granted a license, an applicant must provide to the department documentation of compliance with the codes in items A and B.

A. Local fire codes, the local zoning code or ordinance, applicable rules of the Department of Health, and water supply and sewage disposal regulations.

B. The State Building Code, including the provisions of chapter 1340, Facilities for the Handicapped, and the Minnesota Uniform Fire Code.

**Subp. 2. Determination of occupancy code.** The occupancy code requirements for a center shall be determined according to items A to D.

A. Centers serving only participants who are capable of taking appropriate action for self-preservation under emergency conditions shall meet all applicable building and fire code requirements relative to either group E-3 occupancies or group I occupancies as specified in the State Building Code. When one or more participants enrolled are nonambulatory but mobile, the center meeting group E-3 occupancy code requirements must be located on a floor level with an exit directly to grade without any intervening stairs.

B. Centers serving a population that includes both participants who are capable and participants who are not capable of taking appropriate action for self-preservation under emergency conditions shall meet occupancy code requirements specified either under subitem (1) or (2):

(1) all applicable building and fire code requirements relative to group I occupancies as specified in the State Building Code; or

(2) all applicable building and fire code requirements relative to group E-3 occupancies as specified in the State Building Code; and

(a) the center shall meet the staff ratio requirements in part 9555.9690;

(b) not more than 50 percent of the center's licensed capacity shall be made up of participants who are not capable of taking appropriate action for self-preservation under emergency conditions;

(c) the center shall be located on a floor level with all exits directly to grade without any intervening stairs;

(d) the center shall be protected with a complete automatic detection system consisting of:

i. automatic smoke detectors in all corridors and at the top of all stairways, and

ii. automatic detectors in boiler and furnace rooms, kitchens, storage rooms, janitor closets, laundries, and other hazardous areas. This system shall be inspected and approved by a fire marshal. In buildings equipped with manual fire alarm systems, the manual fire alarm and automatic detection systems shall be electrically interconnected; and

(e) the center shall demonstrate to the commissioner the ability to evacuate the entire center population within three minutes.

C. Centers serving only participants who are not capable of taking appropriate action for self-preservation under emergency conditions shall meet

all applicable building and fire code requirements relative to group I occupancies as specified in the State Building Code.

D. The center shall provide the commissioner, the building official, and the fire marshal with the documentation required in part 9555.9660, item K, if the center is to meet the occupancy code requirements under item A or item B, subitem (2).

Subp. 3. **Signal system in restrooms.** Restrooms used by participants must be equipped with a mechanism that participants can use to signal staff members by light or by sound if participants need assistance.

Subp. 4. **Usable space requirements.** The licensed capacity of a center shall be limited by the amount of indoor space available for use by participants. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multifunctional organization, the center may share common space with the multifunctional organization if the required space available for use by participants is maintained while the center is operating. In determining the square footage of usable indoor space available, a center must not count:

A. hallways, stairways, closets, offices, restrooms, and utility and storage areas;

B. more than 25 percent of the space occupied by furniture or equipment used by participants or staff; or

C. in a multifunctional organization, any space occupied by persons associated with the multifunctional organization while participants are using common space.

Subp. 5. **Private space.** The usable indoor space available to a center must include a room or an area that can be used as private space for providing personal hygiene services or social services to participants.

Subp. 6. **Equipment and furnishings.** Each center shall provide the equipment and furnishings in items A to E:

A. a sturdy, nonfolding chair for each participant who does not require or prefer a wheelchair;

B. stable tables that are accessible to all participants and staff and accommodate dining and program activity needs;

C. age appropriate games, books, crafts, and other materials to implement daily program activities;

D. one cot, couch, or recliner per eight participants; and

E. one television set, AM/FM radio, phonograph, or tape player.

Subp. 7. **Temperature.** A minimum temperature of 70 degrees Fahrenheit must be maintained in indoor areas used by participants.

Subp. 8. **Ventilation.** Outside doors and windows which are used for ventilation must be screened in summer months.

Subp. 9. **Air quality.** The center must comply with Minnesota Statutes, sections 144.411 to 144.417, the Minnesota Clean Indoor Air Act.

**Statutory Authority:** *MS s 245.781 to 245.812*

**History:** *11 SR 2165*