STATE OF MINNESOTA

NINETY-FIRST SESSION — 2020

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# EIGHTY-FIFTH DAY

SAINT PAUL, MINNESOTA, THURSDAY, APRIL 30, 2020

The House of Representatives convened at 9:00 a.m. and was called to order by Melissa Hortman, Speaker of the House.

Prayer was offered by Representative Todd Lippert, District 20B, Northfield, Minnesota.

The members of the House gave the pledge of allegiance to the flag of the United States of America.

The roll was called and the following members were present:

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|---|---|---|---|---|---|
| Acomb | Dehn | Hausman | Lillie | Noor | Scott |
| Albright | Demuth | Heinrich | Lippert | Nornes | Stephenson |
| Anderson | Dettmer | Heintzeman | Lislegard | Novotny | Sundin |
| Backer | Drazkowski | Her | Long | O'Driscoll | Swedzinski |
| Bahner | Ecklund | Hertaus | Lucero | Olson | Tabke |
| Bahr | Edelson | Hornstein | Lueck | O'Neill | Theis |
| Baker | Elkins | Howard | Mahoney | Pelowski | Torkelson |
| Becker-Finn | Erickson | Huot | Mann | Persell | Urdahl |
| Bennett | Fabian | Johnson | Mariani | Petersburg | Vang |
| Bernardy | Fischer | Jordan | Marquart | Pierson | Vogel |
| Bierman | Franson | Jurgens | Masin | Pinto | Wagenius |
| Boe | Freiberg | Kiel | McDonald | Poppe | Wazlawik |
| Brand | Garofalo | Klevorn | Mekeland | Poston | West |
| Cantrell | Gomez | Koegel | Miller | Pryor | Winkler |
| Carlson, A. | Green | Kotyza-Witthuhn | Moller | Quam | Wolgamott |
| Carlson, L. | Grossell | Koznick | Moran | Richardson | Xiong, J. |
| Christensen | Gruenhagen | Kresha | Morrison | Robbins | Xiong, T. |
| Claflin | Gunther | Kunesh-Podein | Munson | Runbeck | Youakim |
| Considine | Haley | Layman | Murphy | Sandell | Spk. Hortman |
| Daniels | Halverson | Lee | Nash | Sandstede | |
| Daudt | Hamilton | Lesch | Nelson, M. | Sauke | |
| Davids | Hansen | Liebling | Nelson, N. | Schomacker | |
| Davnie | Hassan | Lien | Neu | Schultz | |

A quorum was present.

The Chief Clerk proceeded to read the Journal of the preceding day. There being no objection, further reading of the Journal was dispensed with and the Journal was approved as corrected by the Chief Clerk.

REPORTS OF CHIEF CLERK

S. F. No. 2939 and H. F. No. 3028, which had been referred to the Chief Clerk for comparison, were examined and found to be not identical.

Morrison moved that S. F. No. 2939 be substituted for H. F. No. 3028 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 3017 and H. F. No. 3074, which had been referred to the Chief Clerk for comparison, were examined and found to be not identical.

Lippert moved that S. F. No. 3017 be substituted for H. F. No. 3074 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 3197 and H. F. No. 3173, which had been referred to the Chief Clerk for comparison, were examined and found to be not identical.

Wazlawik moved that S. F. No. 3197 be substituted for H. F. No. 3173 and that the House File be indefinitely postponed. The motion prevailed.

## REPORTS OF STANDING COMMITTEES AND DIVISIONS

Carlson, L., from the Committee on Ways and Means to which was referred:

H. F. No. 331, A bill for an act relating to health; adding charter schools to the prohibition of tobacco in schools; increasing the tobacco sale age; increasing administrative penalties; adding a provision to municipal license of tobacco; allowing alternative penalties; amending Minnesota Statutes 2018, sections 144.4165; 144.4167, subdivision 4; 171.171; 461.12, subdivisions 2, 3, 4, 5, 6, 8; 461.18; 609.685; 609.6855; proposing coding for new law in Minnesota Statutes, chapter 461.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2019 Supplement, section 144.4165, is amended to read:

**144.4165 TOBACCO PRODUCTS PROHIBITED IN PUBLIC SCHOOLS.**

No person shall at any time smoke, chew, or otherwise ingest tobacco ~~or a tobacco product~~, or carry or use an activated electronic delivery device as defined in section 609.685, subdivision 1, in a public school, as defined in section 120A.05, subdivisions 9, 11, and 13, or in a charter school governed by chapter 124E~~, and no person under the age of 18 shall possess any of these items~~. This prohibition extends to all facilities, whether owned, rented, or leased, and all vehicles that a school district owns, leases, rents, contracts for, or controls. Nothing in this section shall prohibit the lighting of tobacco by an adult as a part of a traditional Indian spiritual or cultural ceremony. For purposes of this section, an Indian is a person who is a member of an Indian tribe as defined in section 260.755, subdivision 12.

Sec. 2. Minnesota Statutes 2019 Supplement, section 144.4167, subdivision 4, is amended to read:

Subd. 4. **Tobacco products shop.** Sections 144.414 to 144.417 do not prohibit the lighting, heating, or activation of tobacco in a tobacco products shop by a customer or potential customer for the specific purpose of sampling tobacco products. For the purposes of this subdivision, a tobacco products shop is a retail establishment that has an entrance door opening directly to the outside, that cannot be entered at any time by persons younger than 21 years of age, and that derives more than 90 percent of its gross revenue from the sale of tobacco, tobacco-related devices, and electronic delivery devices, as defined in section 609.685, and in which the sale of other products is merely incidental. "Tobacco products shop" does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.

Sec. 3. Minnesota Statutes 2018, section 171.171, is amended to read:

**171.171 SUSPENSION; ILLEGAL PURCHASE OF ALCOHOL OR TOBACCO.**

The commissioner shall suspend for a period of 90 days the license of a person who:

(1) is under the age of 21 years and is convicted of purchasing or attempting to purchase an alcoholic beverage in violation of section 340A.503 if the person used a license, Minnesota identification card, or any type of false identification to purchase or attempt to purchase the alcoholic beverage;

(2) is convicted under section 171.22, subdivision 1, clause (2), or 340A.503, subdivision 2, clause (3), of lending or knowingly permitting a person under the age of 21 years to use the person's license, Minnesota identification card, or other type of identification to purchase or attempt to purchase an alcoholic beverage; or

~~(3) is under the age of 18 years and is found by a court to have committed a petty misdemeanor under section 609.685, subdivision 3, if the person used a license, Minnesota identification card, or any type of false identification to purchase or attempt to purchase the tobacco product; or~~

~~(4)~~ (3) is convicted under section 171.22, subdivision 1, clause (2), of lending or knowingly permitting a person under the age of ~~18~~ 21 years to use the person's license, Minnesota identification card, or other type of identification to purchase or attempt to purchase ~~a tobacco product~~ tobacco, a tobacco-related device, or an electronic delivery device, as defined in section 609.685, subdivision 1; or a nicotine or lobelia delivery product, as described in section 609.6855, subdivision 1.

Sec. 4. Minnesota Statutes 2018, section 461.12, subdivision 2, is amended to read:

Subd. 2. **Administrative penalties for sales and furnishing; licensees.** If a licensee or employee of a licensee sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of ~~18~~ 21 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of ~~$75~~ $300 for the first violation. An administrative penalty of ~~$200~~ $600 must be imposed for a second violation at the same location within ~~24~~ 36 months after the initial violation. For a third or any subsequent violation at the same location within ~~24~~ 36 months after the initial violation, an administrative penalty of ~~$250~~ $1,000 must be imposed, and the licensee's authority to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products at that location must be suspended for not less than seven days and may be revoked. No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Sec. 5. Minnesota Statutes 2018, section 461.12, subdivision 3, is amended to read:

Subd. 3. **Administrative penalty for sales and furnishing; individuals.** An individual who sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of ~~18~~ 21 years ~~must~~ may be charged an administrative penalty of $50. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Sec. 6. Minnesota Statutes 2018, section 461.12, subdivision 4, is amended to read:

Subd. 4. ~~**Minors**~~ **Alternative penalties for use of false identification; persons under age 21.** The licensing authority shall consult with interested persons, as applicable, including but not limited to educators, parents, ~~children~~ guardians, persons under the age of 21 years, and representatives of the court system to develop alternative penalties for ~~minors~~ persons under the age of 21 years who purchase, ~~possess, and consume~~ or attempt to purchase, tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products using a driver's license, permit, Minnesota identification card, or any other type of false identification to misrepresent the person's age, in violation of section 609.685 or 609.6855. The licensing authority and the interested persons shall consider a variety of alternative civil ~~options~~ penalties, including, but not limited to, ~~tobacco-free~~ tobacco-free education; tobacco-cessation programs~~,~~; notice to schools~~,~~ and parents, or guardians; community service~~,~~; and ~~other~~ court diversion programs. Alternative civil penalties developed under this subdivision shall not include fines or monetary penalties.

Sec. 7. Minnesota Statutes 2018, section 461.12, subdivision 5, is amended to read:

Subd. 5. **Compliance checks.** A licensing authority shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold to test compliance with sections 609.685 and 609.6855. Compliance checks conducted under this subdivision must involve ~~minors~~ persons ~~over the age of 15~~ at least 17 years of age, but under the age of ~~18~~ 21, who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products under the direct supervision of a law enforcement officer or an employee of the licensing authority. The age requirements for persons participating in compliance checks under this subdivision shall not affect the age requirements in federal law for persons participating in federally required compliance checks of these locations.

Sec. 8. Minnesota Statutes 2018, section 461.12, subdivision 6, is amended to read:

Subd. 6. **Defense.** It is an affirmative defense to the charge of selling tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of ~~18~~ 21 years in violation of subdivision 2 or 3 that the licensee or individual making the sale relied in good faith upon proof of age as described in section 340A.503, subdivision 6.

Sec. 9. Minnesota Statutes 2018, section 461.18, is amended to read:

**461.18 BAN ON SELF-SERVICE ~~SALE OF PACKS~~ SALES; EXCEPTIONS.**

Subdivision 1. **Except in ~~adult-only~~ facilities for persons 21 years of age and older.** (a) No person shall offer for sale tobacco or tobacco-related devices, or electronic delivery devices as defined in section 609.685, subdivision 1, or nicotine or lobelia delivery products as described in section 609.6855, in open displays which are accessible to the public without the intervention of a store employee.

~~(b) [Expired August 28, 1997]~~

~~(c) [Expired]~~

~~(d)~~ (b) This subdivision shall not apply to retail stores ~~which~~ that have an entrance door opening directly to the outside and that derive at least 90 percent of their gross revenue from the sale of tobacco ~~and~~, tobacco-related devices, and electronic delivery devices as defined in section 609.685, subdivision 1, and where the retailer ensures that no person ~~younger than 18 years of age~~ under the age of 21 years is present, or permitted to enter, at any time.

Subd. 2. **Vending machine sales prohibited.** No person shall sell tobacco products, electronic delivery devices, or nicotine or lobelia delivery products from vending machines. This subdivision does not apply to vending machines in facilities that cannot be entered at any time by persons ~~younger than 18~~ under the age of 21 years ~~of age~~.

Subd. 3. **Federal regulations for cartons, multipacks.** Code of Federal Regulations, title 21, part ~~897.16(c)~~ 1140.16(c), as amended from time to time, is incorporated by reference with respect to cartons and other multipack units.

Sec. 10. **[461.22] AGE VERIFICATION AND SIGNAGE REQUIRED.**

Subdivision 1. **Signage.** At each location where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold, the licensee shall display a sign in plain view to provide public notice that selling any of these products to any person under the age of 21 is illegal and subject to penalties. The notice shall be placed in a conspicuous location in the licensed establishment and shall be readily visible to any person who is purchasing or attempting to purchase these products. The sign shall provide notice that all persons responsible for selling these products must verify, by means of photographic identification containing the bearer's date of birth, the age of any person under 30 years of age.

Subd. 2. **Age verification.** At each location where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold, the licensee shall verify, by means of government-issued photographic identification containing the bearer's date of birth, that the purchaser or person attempting to make the purchase is at least 21 years of age. Verification is not required if the purchaser or person attempting to make the purchase is 30 years of age or older. It shall not constitute a defense to a violation of this subdivision that the person appeared to be 30 years of age or older.

Sec. 11. Minnesota Statutes 2018, section 609.685, is amended to read:

**609.685 SALE OF TOBACCO TO ~~CHILDREN~~ PERSONS UNDER AGE 21.**

Subdivision 1. **Definitions.** For the purposes of this section, the following terms shall have the meanings respectively ascribed to them in this section.

(a) "Tobacco" means cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco excludes any ~~tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.~~ drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

(b) "Tobacco-related devices" means cigarette papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of ~~vapors~~ aerosol or vapor of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

(c) "Electronic delivery device" means any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption ~~that can be used by a person to simulate smoking in the delivery of nicotine or any other substance~~ through inhalation of aerosol or vapor from the product. Electronic delivery devices includes but is not limited to devices manufactured, marketed, or sold as electronic cigarettes, electronic cigars, electronic pipe, vape pens, modes, tank systems, or under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device ~~does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.~~ excludes drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

Subd. 1a. **Penalty to sell or furnish.** (a) ~~Whoever~~ Any person 21 years of age or older who sells, gives, or otherwise furnishes tobacco, tobacco-related devices, or electronic delivery devices to a person under the age of ~~18~~ 21 years is guilty of a petty misdemeanor for the first violation. Whoever violates this subdivision a subsequent time within five years of a previous conviction under this subdivision is guilty of a ~~gross~~ misdemeanor.

(b) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.

Subd. 2. ~~**Other offenses**~~ **Use of false identification.** ~~(a) Whoever furnishes tobacco, tobacco-related devices, or electronic delivery devices to a person under the age of 18 years is guilty of a misdemeanor for the first violation. Whoever violates this paragraph a subsequent time is guilty of a gross misdemeanor.~~

~~(b)~~ A person under the age of ~~18~~ 21 years who purchases or attempts to purchase tobacco, tobacco-related devices, or electronic delivery devices and who uses a driver's license, permit, Minnesota identification card, or any type of false identification to misrepresent the person's age, ~~is guilty of a misdemeanor~~ shall only be subject to an alternative civil penalty, in accordance with subdivision 2a.

Subd. 2a. **Alternative penalties.** Law enforcement and court system representatives shall consult, as applicable, with interested persons, including but not limited to parents, guardians, educators, and persons under the age of 21 years, to develop alternative civil penalties for persons under the age of 21 years who violate this section. Consulting participants shall consider a variety of alternative civil penalties including but not limited to tobacco-free education programs, community service, court diversion programs, and tobacco cessation programs, and for persons under the age of 18 years, notice to schools and to parents or guardians. Alternative civil penalties developed under this subdivision shall not include fines or monetary penalties.

~~Subd. 3. **Petty misdemeanor.** Except as otherwise provided in subdivision 2, whoever possesses, smokes, chews, or otherwise ingests, purchases, or attempts to purchase tobacco, tobacco related devices, or electronic delivery devices and is under the age of 18 years is guilty of a petty misdemeanor.~~

Subd. 4. **Effect on local ordinances.** Nothing in subdivisions 1 to ~~3~~ 2a shall supersede or preclude the continuation or adoption of any local ordinance which provides for more stringent regulation of the subject matter in subdivisions 1 to ~~3~~ 2a.

Subd. 5. **Exceptions.** (a) Notwithstanding subdivision ~~2~~ 1a, an Indian may furnish tobacco to an Indian under the age of ~~18~~ 21 years if the tobacco is furnished as part of a traditional Indian spiritual or cultural ceremony. For purposes of this paragraph, an Indian is a person who is a member of an Indian tribe as defined in section 260.755, subdivision 12.

(b) The penalties in this section do not apply to a person under the age of ~~18~~ 21 years who purchases or attempts to purchase tobacco, tobacco-related devices, or electronic delivery devices while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.

Subd. 6. **Seizure of false identification.** A ~~retailer~~ licensee may seize a form of identification listed in section 340A.503, subdivision 6, if the ~~retailer~~ licensee has reasonable grounds to believe that the form of identification has been altered or falsified or is being used to violate any law. A ~~retailer~~ licensee that seizes a form of identification as authorized under this subdivision shall deliver it to a law enforcement agency within 24 hours of seizing it.

Sec. 12. Minnesota Statutes 2018, section 609.6855, is amended to read:

**609.6855 SALE OF NICOTINE DELIVERY PRODUCTS TO ~~CHILDREN~~ PERSONS UNDER AGE 21.**

Subdivision 1. **Penalty to sell or furnish.** (a) ~~Whoever~~ Any person 21 years of age or older who sells, gives, or otherwise furnishes to a person under the age of ~~18~~ 21 years a product containing or delivering nicotine or lobelia, whether natural or synthetic, intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined by section 609.685, is guilty of a petty misdemeanor for the first violation. Whoever violates this subdivision a subsequent time within five years of a previous conviction under this subdivision is guilty of a ~~gross~~ misdemeanor.

(b) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.

(c) Notwithstanding paragraph (a), a product containing or delivering nicotine or lobelia intended for human consumption, whether natural or synthetic, or any part of such a product, that is not tobacco or an electronic delivery device as defined by section 609.685, may be sold to persons under the age of ~~18~~ 21 if the product ~~has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose~~ is a drug, device, or combination product, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that is authorized for sale by the United States Food and Drug Administration.

Subd. 2. ~~**Other offense**~~ **Use of false identification.** A person under the age of ~~18~~ 21 years who purchases or attempts to purchase a product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined by section 609.685, and who uses a driver's license, permit, Minnesota identification card, or any type of false identification to misrepresent the person's age, ~~is guilty of a misdemeanor~~ shall only be subject to an alternative civil penalty in accordance with subdivision 3. No penalty shall apply to a person under the age of 21 years who purchases or attempts to purchase these products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.

Subd. 3. ~~**Petty misdemeanor**~~ **Alternative penalties.** ~~Except as otherwise provided in subdivisions 1 and 2, whoever is under the age of 18 years and possesses, purchases, or attempts to purchase a product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined by section 609.685, is guilty of a petty misdemeanor.~~ Law enforcement and court system representatives shall consult, as applicable, with interested persons, including but not limited to parents, guardians, educators, and persons under the age of 21 years, to develop alternative civil penalties for persons under the age of 21 years who violate this section. Consulting participants shall consider a variety of alternative civil penalties including but not limited to tobacco-free education programs, community service, court diversion programs, and tobacco cessation programs, and for persons under the age of 18 years, notice to schools and to parents or guardians. Alternative civil penalties developed under this subdivision shall not include fines or monetary penalties."

Delete the title and insert:

"A bill for an act relating to health; adding charter schools to the prohibition of tobacco in schools; increasing the tobacco sale age; increasing administrative penalties; adding a provision to municipal license of tobacco; allowing alternative penalties; amending Minnesota Statutes 2018, sections 171.171; 461.12, subdivisions 2, 3, 4, 5, 6; 461.18; 609.685; 609.6855; Minnesota Statutes 2019 Supplement, sections 144.4165; 144.4167, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 461."

With the recommendation that when so amended the bill be placed on the General Register.

The report was adopted.

Mariani from the Public Safety and Criminal Justice Reform Finance and Policy Division to which was referred:

H. F. No. 334, A bill for an act relating to public safety; expanding the membership of the Board of Peace Officer Standards and Training; amending Minnesota Statutes 2018, section 626.841.

Reported the same back with the following amendments:

Page 2, line 3, before the period, insert ", of which at least one member must be a representative of a statewide crime victim coalition and at least two members must be residents of a county other than a metropolitan county as defined in section 473.121, subdivision 4"

With the recommendation that when so amended the bill be placed on the General Register.

The report was adopted.

Pursuant to Joint Rule 2.03 and in accordance with Senate Concurrent Resolution No. 6, H. F. No. 334 was re-referred to the Committee on Rules and Legislative Administration.

Halverson from the Committee on Commerce to which was referred:

H. F. No. 356, A bill for an act relating to lawful gambling; regulating electronic paddlewheels; providing for use of symbols; modifying methods of wagering and ticket requirements; amending Minnesota Statutes 2018, sections 349.12, subdivisions 18, 28a, 28b, 29; 349.151, subdivision 4a; 349.211, subdivision 2b; 609.76, subdivision 8.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **EMERGENCY EXPENDITURES; BUSINESS LOANS.**

(a) Notwithstanding any law to the contrary, a veterans or fraternal club that qualifies to make utility payments under Minnesota Statutes, section 349.12, subdivision 25, paragraph (a), clause (16), may loan lawful gambling funds to the organization's general account for emergency expenditures with prior approval of the board's director. For purposes of this section, "emergency expenditure" means money required by the organization to have sufficient

funds to: (1) reopen its primary headquarters or a non-gambling-related business it conducts at its primary headquarters; or (2) meet a financial obligation due and payable that, if not met, would require the organization to immediately close its primary headquarters or a non-gambling-related business it conducts at its primary headquarters.

(b) All loans made under this section must be repaid to the gambling account within one calendar year. As a condition of loan approval, the organization must agree to suspend the conduct of lawful gambling one year from the loan date until such time as the entire amount has been repaid to the gambling fund, to the satisfaction of the director.

(c) Applications for loans under this section must be received by the board no later than 90 days following the date that the governor's emergency executive authority has expired, or is terminated or rescinded. For purposes of this section, "governor's emergency executive authority" means the governor's Emergency Executive Order 20-04, 20-08, or 20-18, or other subsequent executive order that provides for, modifies, or extends the temporary closure of bars, restaurants, and other places of public accommodation in response to the COVID-19 pandemic.

(d) If a veterans or fraternal club is terminating lawful gambling and the loan under this section has not been repaid, the loan repayment must be included in the termination plan.

(e) This section does not authorize the use of gambling funds as loan collateral.

**EFFECTIVE DATE.** This section is effective the day following final enactment and expires the day that the governor's emergency executive authority has expired, or is terminated or rescinded.

Sec. 2. **USE OF GROSS PROFITS; TEMPORARY EXPENDITURE REQUIREMENTS.**

Notwithstanding Minnesota Statutes, section 349.15, subdivision 1, paragraph (c), or any other law to the contrary, an organization that fails to expend a minimum of 30 percent annually of gross profits on lawful purposes, or 20 percent annually for organizations that conduct lawful gambling in a location where the primary business is bingo for fiscal year 2019, is automatically on probation effective July 1, 2020, for a period of two years. The organization must increase its rating to the required minimum for fiscal year 2021 or be subject to sanctions by the board. If an organization fails to meet the minimum for fiscal year 2021, the board may suspend the organization's license or impose a civil penalty as provided in Minnesota Statutes, section 349.15, subdivision 1, paragraph (c), clauses (1) and (2).

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

Sec. 3. **TEMPORARY SALES ON CREDIT RESTRICTION.**

Notwithstanding any law to the contrary, the 30-day limit on credit for the sale of lawful gambling equipment contained in Minnesota Statutes, section 349.191, subdivision 1, does not apply during the period that the governor's emergency executive authority is in force. For purposes of this section, "governor's emergency executive authority" means the governor's Emergency Executive Order 20-04, 20-08, or 20-18, or other subsequent executive order that provides for, modifies, or extends the temporary closure of bars, restaurants, and other places of public accommodation in response to the COVID-19 pandemic; and the governor's Emergency Executive Order 20-20, or other subsequent executive order that provides for, modifies, or extends the restriction to stay at home or in place of residence, except to engage in exempt activities and critical sector work in response to the COVID-19 pandemic.

**EFFECTIVE DATE.** This section is effective retroactively from March 17, 2020, and expires the day that the governor's emergency executive authority has expired, or is terminated or rescinded.

Sec. 4. **USE OF GROSS PROFITS; EVALUATION OF EXPENDITURES.**

Notwithstanding any law to the contrary, the requirements of Minnesota Statutes, section 349.15, subdivision 1, paragraph (b), are waived for the fiscal year ending June 30, 2020.

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

Sec. 5. **EXTENSION OF LICENSE RENEWAL DATES.**

(a) The expiration dates for annual licenses required by Minnesota Statutes, sections 349.16, subdivisions 3 and 6; 349.161, subdivision 4; 349.163, subdivision 2; 349.1635, subdivision 2; 349.165, subdivision 1; and 349.167, subdivision 2, paragraph (b), are extended two calendar months from the respective licenses' current expiration dates.

(b) This subdivision applies only to licenses that were effective on April 1, 2020.

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

Sec. 6. **EXEMPT ACTIVITIES.**

(a) The $150 application fee under Minnesota Statutes, section 349.166, subdivision 2, paragraph (a), is waived for 60 days following the date that the governor's emergency executive authority has expired, or is terminated or rescinded. The waiver granted under this paragraph is onetime.

(b) An organization that was granted a permit under Minnesota Statutes, section 349.166, subdivision 2, paragraph (a), for an exempt activity that occurred during the time that the governor's emergency executive authority was in force, may postpone its exempt activity for up to 400 days from the original date.

(c) For purposes of this section, "governor's emergency executive authority" means the governor's Emergency Executive Order 20-20, or other subsequent executive order that provides for, modifies, or extends the restriction to stay at home or in place of residence, except to engage in exempt activities and critical sector work in response to the COVID-19 pandemic.

**EFFECTIVE DATE.** This section is effective the day following final enactment and expires on the day that the governor's emergency executive authority has expired, or is terminated or rescinded.

Sec. 7. **TRAINING OF GAMBLING MANAGERS.**

The 90-day gambling training requirement in Minnesota Statutes, section 349.167, subdivision 4, is extended 60 days following the date that the governor's emergency executive authority has expired, or is terminated or rescinded. For purposes of this section, "governor's emergency executive authority" means the governor's Emergency Executive Order 20-20, or other subsequent executive order that provides for, modifies, or extends the restriction to stay at home or in place of residence, except to engage in exempt activities and critical sector work in response to the COVID-19 pandemic.

**EFFECTIVE DATE.** This section is effective the day following final enactment and expires on the day that the governor's emergency executive authority has expired, or is terminated or rescinded."

Delete the title and insert:

"A bill for an act relating to lawful gambling; providing relief to certain organizations affected by executive order closing bars, restaurants, and other places of public accommodation; providing waivers, extensions, and other temporary requirements and restrictions for lawful gambling."

With the recommendation that when so amended the bill be placed on the General Register.

The report was adopted.

Pursuant to Joint Rule 2.03 and in accordance with Senate Concurrent Resolution No. 6, H. F. No. 356 was re-referred to the Committee on Rules and Legislative Administration.

Freiberg from the Committee on Government Operations to which was referred:

H. F. No. 1513, A bill for an act relating to local government; providing for payment of city charter commission expenses; amending Minnesota Statutes 2018, section 410.06.

Reported the same back with the following amendments:

Page 1, line 14, strike "so" and delete ".0007" and insert ".07 percent"

With the recommendation that when so amended the bill be placed on the General Register.

The report was adopted.

Carlson, L., from the Committee on Ways and Means to which was referred:

H. F. No. 1914, A bill for an act relating to health; adding advanced practice registered nurses to certain statutes; amending Minnesota Statutes 2018, sections 62D.09, subdivision 1; 62E.06, subdivision 1; 62J.17, subdivision 4a; 62J.23, subdivision 2; 62J.495, subdivision 1a; 62J.52, subdivision 2; 62J.823, subdivision 3; 62Q.184, subdivision 1; 62Q.43, subdivisions 1, 2; 62Q.54; 62Q.57, subdivision 1; 62Q.73, subdivision 7; 62Q.733, subdivision 3; 62Q.74, subdivision 1; 62S.08, subdivision 3; 62S.20, subdivision 5b; 62S.21, subdivision 2; 62S.268, subdivision 1; 144.3345, subdivision 1; 144.3352; 144.34; 144.441, subdivisions 4, 5; 144.442, subdivision 1; 144.4803, subdivisions 1, 4, 10, by adding a subdivision; 144.4806; 144.4807, subdivisions 1, 2, 4; 144.50, subdivision 2; 144.55, subdivisions 2, 6; 144.6501, subdivision 7; 144.651, subdivisions 7, 8, 9, 10, 12, 14, 31, 33; 144.652, subdivision 2; 144.69; 144.7402, subdivision 2; 144.7406, subdivision 2; 144.7407, subdivision 2; 144.7414, subdivision 2; 144.7415, subdivision 2; 144.9502, subdivision 4; 144.966, subdivisions 3, 6; 144A.135; 144A.161, subdivisions 5, 5a, 5e, 5g; 144A.75, subdivisions 3, 6; 144A.752, subdivision 1; 145.853, subdivision 5; 145.892, subdivision 3; 145.94, subdivision 2; 145B.13; 145C.02; 145C.05, subdivision 2; 145C.06; 145C.07, subdivision 1; 145C.16; 148.6438, subdivision 1; 151.19, subdivision 4; 151.21, subdivision 4a; 152.32, subdivision 3; 245.4871, subdivision 27; 245.62, subdivision 3; 245A.143, subdivision 8; 245A.1435; 245C.02, subdivision 18; 245C.04, subdivision 1; 245D.02, subdivision 11; 245D.11, subdivision 2; 245D.22, subdivision 7; 245D.25, subdivision 2; 245G.08, subdivisions 2, 3, 5; 245G.21, subdivisions 2, 3; 245G.22, subdivisions 3, 4, 6, 7, 16; 245H.11; 246.711, subdivision 2; 246.715, subdivision 2; 246.716, subdivision 2; 246.721; 246.722; 251.043, subdivision 1; 252A.02, subdivision 12; 252A.04, subdivision 2; 252A.20, subdivision 1; 253B.03, subdivisions 4, 6d; 253B.06, subdivisions 1, 2; 253B.07, subdivision 2; 253B.08, subdivision 5; 253B.092, subdivisions 2, 3, 6, 8; 253B.0921; 253B.20, subdivisions 4, 6; 253B.23, subdivision 4; 254A.08, subdivision 2; 256.9685, subdivisions 1a, 1b, 1c; 256.975, subdivisions 7a, 11; 256B.038; 256B.04, subdivision 14a; 256B.043, subdivision 2; 256B.055, subdivision 12;

256B.0622, subdivisions 2b, 8; 256B.0623, subdivision 2; 256B.0625, subdivisions 3, 4, 13, 17, 26, 28, 60a; 256B.0654, subdivisions 1, 2a, 3, 4; 256B.0659, subdivisions 2, 4, 8, 11; 256B.0913, subdivision 8; 256B.73, subdivision 5; 256J.08, subdivision 73a; 256R.44; 256R.54, subdivisions 1, 2; 257.63, subdivision 3; 257B.01, subdivisions 3, 9, 10; 257B.06, subdivision 7.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2018, section 62D.09, subdivision 1, is amended to read:

Subdivision 1. **Marketing requirements.** (a) Any written marketing materials which may be directed toward potential enrollees and which include a detailed description of benefits provided by the health maintenance organization shall include a statement of enrollee information and rights as described in section 62D.07, subdivision 3, clauses (2) and (3). Prior to any oral marketing presentation, the agent marketing the plan must inform the potential enrollees that any complaints concerning the material presented should be directed to the health maintenance organization, the commissioner of health, or, if applicable, the employer.

(b) Detailed marketing materials must affirmatively disclose all exclusions and limitations in the organization's services or kinds of services offered to the contracting party, including but not limited to the following types of exclusions and limitations:

(1) health care services not provided;

(2) health care services requiring co-payments or deductibles paid by enrollees;

(3) the fact that access to health care services does not guarantee access to a particular provider type; and

(4) health care services that are or may be provided only by referral of a physician or advanced practice registered nurse.

(c) No marketing materials may lead consumers to believe that all health care needs will be covered. All marketing materials must alert consumers to possible uncovered expenses with the following language in bold print: "THIS HEALTH CARE PLAN MAY NOT COVER ALL YOUR HEALTH CARE EXPENSES; READ YOUR CONTRACT CAREFULLY TO DETERMINE WHICH EXPENSES ARE COVERED." Immediately following the disclosure required under paragraph (b), clause (3), consumers must be given a telephone number to use to contact the health maintenance organization for specific information about access to provider types.

(d) The disclosures required in paragraphs (b) and (c) are not required on billboards or image, and name identification advertisement.

Sec. 2. Minnesota Statutes 2018, section 62E.06, subdivision 1, is amended to read:

Subdivision 1. **Number three plan.** A plan of health coverage shall be certified as a number three qualified plan if it otherwise meets the requirements established by chapters 62A, 62C, and 62Q, and the other laws of this state, whether or not the policy is issued in Minnesota, and meets or exceeds the following minimum standards:

(a) The minimum benefits for a covered individual shall, subject to the other provisions of this subdivision, be equal to at least 80 percent of the cost of covered services in excess of an annual deductible which does not exceed $150 per person. The coverage shall include a limitation of $3,000 per person on total annual out-of-pocket expenses for services covered under this subdivision. The coverage shall not be subject to a lifetime maximum on essential health benefits.

The prohibition on lifetime maximums for essential health benefits and $3,000 limitation on total annual out-of-pocket expenses shall not be subject to change or substitution by use of an actuarially equivalent benefit.

(b) Covered expenses shall be the usual and customary charges for the following services and articles when prescribed by a physician or advanced practice registered nurse:

(1) hospital services;

(2) professional services for the diagnosis or treatment of injuries, illnesses, or conditions, other than dental, which are rendered by a physician or advanced practice registered nurse or at the physician's or advanced practice registered nurse's direction;

(3) drugs requiring a physician's or advanced practice registered nurse's prescription;

(4) services of a nursing home for not more than 120 days in a year if the services would qualify as reimbursable services under Medicare;

(5) services of a home health agency if the services would qualify as reimbursable services under Medicare;

(6) use of radium or other radioactive materials;

(7) oxygen;

(8) anesthetics;

(9) prostheses other than dental but including scalp hair prostheses worn for hair loss suffered as a result of alopecia areata;

(10) rental or purchase, as appropriate, of durable medical equipment other than eyeglasses and hearing aids, unless coverage is required under section 62Q.675;

(11) diagnostic x-rays and laboratory tests;

(12) oral surgery for partially or completely unerupted impacted teeth, a tooth root without the extraction of the entire tooth, or the gums and tissues of the mouth when not performed in connection with the extraction or repair of teeth;

(13) services of a physical therapist;

(14) transportation provided by licensed ambulance service to the nearest facility qualified to treat the condition; or a reasonable mileage rate for transportation to a kidney dialysis center for treatment; and

(15) services of an occupational therapist.

(c) Covered expenses for the services and articles specified in this subdivision do not include the following:

(1) any charge for care for injury or disease either (i) arising out of an injury in the course of employment and subject to a workers' compensation or similar law, (ii) for which benefits are payable without regard to fault under coverage statutorily required to be contained in any motor vehicle, or other liability insurance policy or equivalent self-insurance, or (iii) for which benefits are payable under another policy of accident and health insurance, Medicare, or any other governmental program except as otherwise provided by section 62A.04, subdivision 3, clause (4);

(2) any charge for treatment for cosmetic purposes other than for reconstructive surgery when such service is incidental to or follows surgery resulting from injury, sickness, or other diseases of the involved part or when such service is performed on a covered dependent child because of congenital disease or anomaly which has resulted in a functional defect as determined by the attending physician or advanced practice registered nurse;

(3) care which is primarily for custodial or domiciliary purposes which would not qualify as eligible services under Medicare;

(4) any charge for confinement in a private room to the extent it is in excess of the institution's charge for its most common semiprivate room, unless a private room is prescribed as medically necessary by a physician or advanced practice registered nurse, provided, however, that if the institution does not have semiprivate rooms, its most common semiprivate room charge shall be considered to be 90 percent of its lowest private room charge;

(5) that part of any charge for services or articles rendered or prescribed by a physician, advanced practice registered nurse, dentist, or other health care personnel which exceeds the prevailing charge in the locality where the service is provided; and

(6) any charge for services or articles the provision of which is not within the scope of authorized practice of the institution or individual rendering the services or articles.

(d) The minimum benefits for a qualified plan shall include, in addition to those benefits specified in clauses (a) and (e), benefits for well baby care, effective July 1, 1980, subject to applicable deductibles, coinsurance provisions, and maximum lifetime benefit limitations.

(e) Effective July 1, 1979, the minimum benefits of a qualified plan shall include, in addition to those benefits specified in clause (a), a second opinion from a physician on all surgical procedures expected to cost a total of $500 or more in physician, laboratory, and hospital fees, provided that the coverage need not include the repetition of any diagnostic tests.

(f) Effective August 1, 1985, the minimum benefits of a qualified plan must include, in addition to the benefits specified in clauses (a), (d), and (e), coverage for special dietary treatment for phenylketonuria when recommended by a physician or advanced practice registered nurse.

(g) Outpatient mental health coverage is subject to section 62A.152, subdivision 2.

Sec. 3. Minnesota Statutes 2018, section 62J.17, subdivision 4a, is amended to read:

Subd. 4a. **Expenditure reporting.** Each hospital, outpatient surgical center, diagnostic imaging center, and physician or advanced practice registered nurse clinic shall report annually to the commissioner on all major spending commitments, in the form and manner specified by the commissioner. The report shall include the following information:

(1) a description of major spending commitments made during the previous year, including the total dollar amount of major spending commitments and purpose of the expenditures;

(2) the cost of land acquisition, construction of new facilities, and renovation of existing facilities;

(3) the cost of purchased or leased medical equipment, by type of equipment;

(4) expenditures by type for specialty care and new specialized services;

(5) information on the amount and types of added capacity for diagnostic imaging services, outpatient surgical services, and new specialized services; and

(6) information on investments in electronic medical records systems.

For hospitals and outpatient surgical centers, this information shall be included in reports to the commissioner that are required under section 144.698. For diagnostic imaging centers, this information shall be included in reports to the commissioner that are required under section 144.565. For all other health care providers that are subject to this reporting requirement, reports must be submitted to the commissioner by March 1 each year for the preceding calendar year.

Sec. 4. Minnesota Statutes 2019 Supplement, section 62J.23, subdivision 2, is amended to read:

Subd. 2. **Restrictions.** (a) From July 1, 1992, until rules are adopted by the commissioner under this section, the restrictions in the federal Medicare antikickback statutes in section 1128B(b) of the Social Security Act, United States Code, title 42, section 1320a-7b(b), and rules adopted under the federal statutes, apply to all persons in the state, regardless of whether the person participates in any state health care program.

(b) Nothing in paragraph (a) shall be construed to prohibit an individual from receiving a discount or other reduction in price or a limited-time free supply or samples of a prescription drug, medical supply, or medical equipment offered by a pharmaceutical manufacturer, medical supply or device manufacturer, health plan company, or pharmacy benefit manager, so long as:

(1) the discount or reduction in price is provided to the individual in connection with the purchase of a prescription drug, medical supply, or medical equipment prescribed for that individual;

(2) it otherwise complies with the requirements of state and federal law applicable to enrollees of state and federal public health care programs;

(3) the discount or reduction in price does not exceed the amount paid directly by the individual for the prescription drug, medical supply, or medical equipment; and

(4) the limited-time free supply or samples are provided by a physician, advanced practice registered nurse, or pharmacist, as provided by the federal Prescription Drug Marketing Act.

For purposes of this paragraph, "prescription drug" includes prescription drugs that are administered through infusion, and related services and supplies.

(c) No benefit, reward, remuneration, or incentive for continued product use may be provided to an individual or an individual's family by a pharmaceutical manufacturer, medical supply or device manufacturer, or pharmacy benefit manager, except that this prohibition does not apply to:

(1) activities permitted under paragraph (b);

(2) a pharmaceutical manufacturer, medical supply or device manufacturer, health plan company, or pharmacy benefit manager providing to a patient, at a discount or reduced price or free of charge, ancillary products necessary for treatment of the medical condition for which the prescription drug, medical supply, or medical equipment was prescribed or provided; and

(3) a pharmaceutical manufacturer, medical supply or device manufacturer, health plan company, or pharmacy benefit manager providing to a patient a trinket or memento of insignificant value.

(d) Nothing in this subdivision shall be construed to prohibit a health plan company from offering a tiered formulary with different co-payment or cost-sharing amounts for different drugs.

Sec. 5. Minnesota Statutes 2018, section 62J.495, subdivision 1a, is amended to read:

Subd. 1a. **Definitions.** (a) "Certified electronic health record technology" means an electronic health record that is certified pursuant to section 3001(c)(5) of the HITECH Act to meet the standards and implementation specifications adopted under section 3004 as applicable.

(b) "Commissioner" means the commissioner of health.

(c) "Pharmaceutical electronic data intermediary" means any entity that provides the infrastructure to connect computer systems or other electronic devices utilized by prescribing practitioners with those used by pharmacies, health plans, third-party administrators, and pharmacy benefit managers in order to facilitate the secure transmission of electronic prescriptions, refill authorization requests, communications, and other prescription-related information between such entities.

(d) "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act in division A, title XIII and division B, title IV of the American Recovery and Reinvestment Act of 2009, including federal regulations adopted under that act.

(e) "Interoperable electronic health record" means an electronic health record that securely exchanges health information with another electronic health record system that meets requirements specified in subdivision 3, and national requirements for certification under the HITECH Act.

(f) "Qualified electronic health record" means an electronic record of health-related information on an individual that includes patient demographic and clinical health information and has the capacity to:

(1) provide clinical decision support;

(2) support ~~physician~~ provider order entry;

(3) capture and query information relevant to health care quality; and

(4) exchange electronic health information with, and integrate such information from, other sources.

Sec. 6. Minnesota Statutes 2018, section 62J.52, subdivision 2, is amended to read:

Subd. 2. **Uniform billing form CMS 1500.** (a) On and after January 1, 1996, all noninstitutional health care services rendered by providers in Minnesota except dental or pharmacy providers, that are not currently being billed using an equivalent electronic billing format, must be billed using the most current version of the health insurance claim form CMS 1500.

(b) The instructions and definitions for the use of the uniform billing form CMS 1500 shall be in accordance with the manual developed by the Administrative Uniformity Committee entitled standards for the use of the CMS 1500 form, dated February 1994, as further defined by the commissioner.

(c) Services to be billed using the uniform billing form CMS 1500 include physician services and supplies, durable medical equipment, noninstitutional ambulance services, independent ancillary services including occupational therapy, physical therapy, speech therapy and audiology, home infusion therapy, podiatry services, optometry services, mental health licensed professional services, substance abuse licensed professional services, ~~nursing practitioner professional services, certified registered nurse anesthetists~~ advanced practice registered nurse services, chiropractors, physician assistants, laboratories, medical suppliers, waivered services, personal care attendants, and other health care providers such as day activity centers and freestanding ambulatory surgical centers.

(d) Services provided by Medicare Critical Access Hospitals electing Method II billing will be allowed an exception to this provision to allow the inclusion of the professional fees on the CMS 1450.

Sec. 7. Minnesota Statutes 2018, section 62J.823, subdivision 3, is amended to read:

Subd. 3. **Applicability and scope.** Any hospital, as defined in section 144.696, subdivision 3, and outpatient surgical center, as defined in section 144.696, subdivision 4, shall provide a written estimate of the cost of a specific service or stay upon the request of a patient, doctor, advanced practice registered nurse, or the patient's representative. The request must include:

(1) the health coverage status of the patient, including the specific health plan or other health coverage under which the patient is enrolled, if any; and

(2) at least one of the following:

(i) the specific diagnostic-related group code;

(ii) the name of the procedure or procedures to be performed;

(iii) the type of treatment to be received; or

(iv) any other information that will allow the hospital or outpatient surgical center to determine the specific diagnostic-related group or procedure code or codes.

Sec. 8. Minnesota Statutes 2019 Supplement, section 62Q.184, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in this subdivision have the meanings given them.

(b) "Clinical practice guideline" means a systematically developed statement to assist health care providers and enrollees in making decisions about appropriate health care services for specific clinical circumstances and conditions developed independently of a health plan company, pharmaceutical manufacturer, or any entity with a conflict of interest. A clinical practice guideline also includes a preferred drug list developed in accordance with section 256B.0625.

(c) "Clinical review criteria" means the written screening procedures, decision abstracts, clinical protocols, and clinical practice guidelines used by a health plan company to determine the medical necessity and appropriateness of health care services.

(d) "Health plan company" has the meaning given in section 62Q.01, subdivision 4, but also includes a county-based purchasing plan participating in a public program under chapter 256B or 256L and an integrated health partnership under section 256B.0755.

(e) "Step therapy protocol" means a protocol or program that establishes the specific sequence in which prescription drugs for a specified medical condition, including self-administered drugs and ~~physician-administered~~ drugs that are administered by a physician or advanced practice registered nurse, are medically appropriate for a particular enrollee and are covered under a health plan.

(f) "Step therapy override" means that the step therapy protocol is overridden in favor of coverage of the selected prescription drug of the prescribing health care provider because at least one of the conditions of subdivision 3, paragraph (a), exists.

Sec. 9. Minnesota Statutes 2018, section 62Q.43, subdivision 1, is amended to read:

Subdivision 1. **Closed-panel health plan.** For purposes of this section, "closed-panel health plan" means a health plan as defined in section 62Q.01 that requires an enrollee to receive all or a majority of primary care services from a specific clinic or ~~physician~~ primary care provider designated by the enrollee that is within the health plan company's clinic or ~~physician~~ provider network.

Sec. 10. Minnesota Statutes 2018, section 62Q.43, subdivision 2, is amended to read:

Subd. 2. **Access requirement.** Every closed-panel health plan must allow enrollees under the age of 26 years to change their designated clinic or ~~physician~~ primary care provider at least once per month, as long as the clinic or ~~physician~~ provider is part of the health plan company's statewide clinic or ~~physician~~ provider network. A health plan company shall not charge enrollees who choose this option higher premiums or cost sharing than would otherwise apply to enrollees who do not choose this option. A health plan company may require enrollees to provide 15 days' written notice of intent to change their designated clinic or ~~physician~~ primary care provider.

Sec. 11. Minnesota Statutes 2018, section 62Q.54, is amended to read:

**62Q.54 REFERRALS FOR RESIDENTS OF HEALTH CARE FACILITIES.**

If an enrollee is a resident of a health care facility licensed under chapter 144A or a housing with services establishment registered under chapter 144D, the enrollee's primary care ~~physician~~ provider must refer the enrollee to that facility's skilled nursing unit or that facility's appropriate care setting, provided that the health plan company and the provider can best meet the patient's needs in that setting, if the following conditions are met:

(1) the facility agrees to be reimbursed at that health plan company's contract rate negotiated with similar providers for the same services and supplies; and

(2) the facility meets all guidelines established by the health plan company related to quality of care, utilization, referral authorization, risk assumption, use of health plan company network, and other criteria applicable to providers under contract for the same services and supplies.

Sec. 12. Minnesota Statutes 2018, section 62Q.57, subdivision 1, is amended to read:

Subdivision 1. **Choice of primary care provider.** (a) If a health plan company offering a group health plan, or an individual health plan that is not a grandfathered plan, requires or provides for the designation by an enrollee of a participating primary care provider, the health plan company shall permit each enrollee to:

(1) designate any participating primary care provider available to accept the enrollee; and

(2) for a child, designate any participating physician or advanced practice registered nurse who specializes in pediatrics as the child's primary care provider and is available to accept the child.

(b) This section does not waive any exclusions of coverage under the terms and conditions of the health plan with respect to coverage of pediatric care.

Sec. 13. Minnesota Statutes 2018, section 62Q.73, subdivision 7, is amended to read:

Subd. 7. **Standards of review.** (a) For an external review of any issue in an adverse determination that does not require a medical necessity determination, the external review must be based on whether the adverse determination was in compliance with the enrollee's health benefit plan.

(b) For an external review of any issue in an adverse determination by a health plan company licensed under chapter 62D that requires a medical necessity determination, the external review must determine whether the adverse determination was consistent with the definition of medically necessary care in Minnesota Rules, part 4685.0100, subpart 9b.

(c) For an external review of any issue in an adverse determination by a health plan company, other than a health plan company licensed under chapter 62D, that requires a medical necessity determination, the external review must determine whether the adverse determination was consistent with the definition of medically necessary care in section 62Q.53, subdivision 2.

(d) For an external review of an adverse determination involving experimental or investigational treatment, the external review entity must base its decision on all documents submitted by the health plan company and enrollee, including medical records, the attending physician, advanced practice registered nurse, or health care professional's recommendation, consulting reports from health care professionals, the terms of coverage, federal Food and Drug Administration approval, and medical or scientific evidence or evidence-based standards.

Sec. 14. Minnesota Statutes 2018, section 62Q.733, subdivision 3, is amended to read:

Subd. 3. **Health care provider or provider.** "Health care provider" or "provider" means a physician, advanced practice registered nurse, chiropractor, dentist, podiatrist, or other provider as defined under section 62J.03, other than hospitals, ambulatory surgical centers, or freestanding emergency rooms.

Sec. 15. Minnesota Statutes 2018, section 62Q.74, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section, "category of coverage" means one of the following types of health-related coverage:

(1) health;

(2) no-fault automobile medical benefits; or

(3) workers' compensation medical benefits.

(b) "Health care provider" or "provider" means a physician, advanced practice registered nurse, chiropractor, dentist, podiatrist, hospital, ambulatory surgical center, freestanding emergency room, or other provider, as defined in section 62J.03.

Sec. 16. Minnesota Statutes 2018, section 62S.08, subdivision 3, is amended to read:

Subd. 3. **Mandatory format.** The following standard format outline of coverage must be used, unless otherwise specifically indicated:

COMPANY NAME

ADDRESS - CITY AND STATE

TELEPHONE NUMBER

LONG-TERM CARE INSURANCE

OUTLINE OF COVERAGE

Policy Number or Group Master Policy and Certificate Number

(Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, must appear as follows in the outline of coverage.)

CAUTION: The issuance of this long-term care insurance (policy) (certificate) is based upon your responses to the questions on your application. A copy of your (application) (enrollment form) (is enclosed) (was retained by you when you applied). If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises. If, for any reason, any of your answers are incorrect, contact the company at this address: (insert address).

(1) This policy is (an individual policy of insurance) (a group policy) which was issued in the (indicate jurisdiction in which group policy was issued).

(2) PURPOSE OF OUTLINE OF COVERAGE. This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance contract, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the policy or group policy sets forth in detail the rights and obligations of both you and the insurance company. Therefore, if you purchase this coverage, or any other coverage, it is important that you READ YOUR POLICY (OR CERTIFICATE) CAREFULLY.

(3) THIS PLAN IS INTENDED TO BE A QUALIFIED LONG-TERM CARE INSURANCE CONTRACT AS DEFINED UNDER SECTION 7702(B)(b) OF THE INTERNAL REVENUE CODE OF 1986.

(4) TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE CONTINUED IN FORCE OR DISCONTINUED.

(a) (For long-term care health insurance policies or certificates describe one of the following permissible policy renewability provisions:)

(1) (Policies and certificates that are guaranteed renewable shall contain the following statement:) RENEWABILITY: THIS POLICY (CERTIFICATE) IS GUARANTEED RENEWABLE. This means you have the right, subject to the terms of your policy, (certificate) to continue this policy as long as you pay your premiums on time. (Company name) cannot change any of the terms of your policy on its own, except that, in the future, IT MAY INCREASE THE PREMIUM YOU PAY.

(2) (Policies and certificates that are noncancelable shall contain the following statement:) RENEWABILITY: THIS POLICY (CERTIFICATE) IS NONCANCELABLE. This means that you have the right, subject to the terms of your policy, to continue this policy as long as you pay your premiums on time. (Company name) cannot change any of the terms of your policy on its own and cannot change the premium you currently pay. However, if your policy contains an inflation protection feature where you choose to increase your benefits, (company name) may increase your premium at that time for those additional benefits.

(b) (For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy.)

(c) (Describe waiver of premium provisions or state that there are not such provisions.)

(5) TERMS UNDER WHICH THE COMPANY MAY CHANGE PREMIUMS.

(In bold type larger than the maximum type required to be used for the other provisions of the outline of coverage, state whether or not the company has a right to change the premium and, if a right exists, describe clearly and concisely each circumstance under which the premium may change.)

(6) TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.

(a) (Provide a brief description of the right to return -- "free look" provision of the policy.)

(b) (Include a statement that the policy either does or does not contain provisions providing for a refund or partial refund of premium upon the death of an insured or surrender of the policy or certificate. If the policy contains such provisions, include a description of them.)

(7) THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the insurance company.

(a) (For agents) neither (insert company name) nor its agents represent Medicare, the federal government, or any state government.

(b) (For direct response) (insert company name) is not representing Medicare, the federal government, or any state government.

(8) LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital, such as in a nursing home, in the community, or in the home.

This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy (limitations), (waiting periods), and (coinsurance) requirements. (Modify this paragraph if the policy is not an indemnity policy.)

(9) BENEFITS PROVIDED BY THIS POLICY.

(a) (Covered services, related deductible(s), waiting periods, elimination periods, and benefit maximums.)

(b) (Institutional benefits, by skill level.)

(c) (Noninstitutional benefits, by skill level.)

(d) (Eligibility for payment of benefits.)

(Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and must be defined and described as part of the outline of coverage.)

(Any benefit screens must be explained in this section. If these screens differ for different benefits, explanation of the screen should accompany each benefit description. If an attending physician, advanced practice registered nurse, or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified. If activities of daily living (ADLs) are used to measure an insured's need for long-term care, then these qualifying criteria or screens must be explained.)

(10) LIMITATIONS AND EXCLUSIONS:

Describe:

(a) preexisting conditions;

(b) noneligible facilities/provider;

(c) noneligible levels of care (e.g., unlicensed providers, care or treatment provided by a family member, etc.);

(d) exclusions/exceptions; and

(e) limitations.

(This section should provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in paragraph (8).)

THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.

(11) RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. As applicable, indicate the following:

(a) that the benefit level will not increase over time;

(b) any automatic benefit adjustment provisions;

(c) whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage;

(d) if there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations; and

(e) whether there will be any additional premium charge imposed and how that is to be calculated.

(12) ALZHEIMER'S DISEASE AND OTHER ORGANIC BRAIN DISORDERS. (State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically, describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.)

(13) PREMIUM.

(a) State the total annual premium for the policy.

(b) If the premium varies with an applicant's choice among benefit options, indicate the portion of annual premium which corresponds to each benefit option.

(14) ADDITIONAL FEATURES.

(a) Indicate if medical underwriting is used.

(b) Describe other important features.

(15) CONTACT THE STATE DEPARTMENT OF COMMERCE OR SENIOR LINKAGE LINE IF YOU HAVE GENERAL QUESTIONS REGARDING LONG-TERM CARE INSURANCE. CONTACT THE INSURANCE COMPANY IF YOU HAVE SPECIFIC QUESTIONS REGARDING YOUR LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE.

Sec. 17. Minnesota Statutes 2018, section 62S.20, subdivision 5b, is amended to read:

Subd. 5b. **Benefit triggers.** Activities of daily living and cognitive impairment must be used to measure an insured's need for long-term care and must be described in the policy or certificate in a separate paragraph and must be labeled "Eligibility for the Payment of Benefits." Any additional benefit triggers must also be explained in this section. If these triggers differ for different benefits, explanation of the trigger must accompany each benefit description. If an attending physician, advanced practice registered nurse, or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too shall be specified.

Sec. 18. Minnesota Statutes 2018, section 62S.21, subdivision 2, is amended to read:

Subd. 2. **Medication information required.** If an application for long-term care insurance contains a question which asks whether the applicant has had medication prescribed by a physician or advanced practice registered nurse, it must also ask the applicant to list the medication that has been prescribed. If the medications listed in the application were known by the insurer, or should have been known at the time of application, to be directly related to a medical condition for which coverage would otherwise be denied, then the policy or certificate shall not be rescinded for that condition.

Sec. 19. Minnesota Statutes 2018, section 62S.268, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them:

(a) "Qualified long-term care services" means services that meet the requirements of section 7702(c)(1) of the Internal Revenue Code of 1986, as amended, as follows: necessary diagnostic, preventive, therapeutic, curative, treatment, mitigation, and rehabilitative services, and maintenance or personal care services which are required by a chronically ill individual, and are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

(b) "Chronically ill individual" has the meaning prescribed for this term by section 7702B(c)(2) of the Internal Revenue Code of 1986, as amended. Under this provision, a chronically ill individual means any individual who has been certified by a licensed health care practitioner as being unable to perform, without substantial assistance from another individual, at least two activities of daily living for a period of at least 90 days due to a loss of functional capacity, or requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

The term "chronically ill individual" does not include an individual otherwise meeting these requirements unless within the preceding 12-month period a licensed health care practitioner has certified that the individual meets these requirements.

(c) "Licensed health care practitioner" means a physician, as defined in section 1861(r)(1) of the Social Security Act, an advanced practice registered nurse, a registered professional nurse, licensed social worker, or other individual who meets requirements prescribed by the Secretary of the Treasury.

(d) "Maintenance or personal care services" means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual, including the protection from threats to health and safety due to severe cognitive impairment.

Sec. 20. Minnesota Statutes 2018, section 144.3345, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The following definitions are used for the purposes of this section.

(b) "Eligible community e-health collaborative" means an existing or newly established collaborative to support the adoption and use of interoperable electronic health records. A collaborative must consist of at least two or more eligible health care entities in at least two of the categories listed in paragraph (c) and have a focus on interconnecting the members of the collaborative for secure and interoperable exchange of health care information.

(c) "Eligible health care entity" means one of the following:

(1) community clinics, as defined under section 145.9268;

(2) hospitals eligible for rural hospital capital improvement grants, as defined in section 144.148;

(3) physician or advanced practice registered nurse clinics located in a community with a population of less than 50,000 according to United States Census Bureau statistics and outside the seven-county metropolitan area;

(4) nursing facilities licensed under sections 144A.01 to 144A.27;

(5) community health boards as established under chapter 145A;

(6) nonprofit entities with a purpose to provide health information exchange coordination governed by a representative, multi-stakeholder board of directors; and

(7) other providers of health or health care services approved by the commissioner for which interoperable electronic health record capability would improve quality of care, patient safety, or community health.

Sec. 21. Minnesota Statutes 2018, section 144.3352, is amended to read:

**144.3352 HEPATITIS B MATERNAL CARRIER DATA; INFANT IMMUNIZATION.**

The commissioner of health or a community health board may inform the physician or advanced practice registered nurse attending a newborn of the hepatitis B infection status of the biological mother.

Sec. 22. Minnesota Statutes 2018, section 144.34, is amended to read:

**144.34 INVESTIGATION AND CONTROL OF OCCUPATIONAL DISEASES.**

Any physician or advanced practice registered nurse having under professional care any person whom the physician or advanced practice registered nurse believes to be suffering from poisoning from lead, phosphorus, arsenic, brass, silica dust, carbon monoxide gas, wood alcohol, or mercury, or their compounds, or from anthrax or from compressed-air illness or any other disease contracted as a result of the nature of the employment of such person shall within five days mail to the Department of Health a report stating the name, address, and occupation of such patient, the name, address, and business of the patient's employer, the nature of the disease, and such other information as may reasonably be required by the department. The department shall prepare and furnish the physicians and advanced practice registered nurses of this state suitable blanks for the reports herein required. No report made pursuant to the provisions of this section shall be admissible as evidence of the facts therein stated in any action at law or in any action under the Workers' Compensation Act against any employer of such diseased person. The Department of Health is authorized to investigate and to make recommendations for the elimination or prevention of occupational diseases which have been reported to it, or which shall be reported to it, in accordance with the provisions of this section. The department is also authorized to study and provide advice in regard to conditions that may be suspected of causing occupational diseases. Information obtained upon investigations made in accordance with the provisions of this section shall not be admissible as evidence in any action at law to recover damages for personal injury or in any action under the Workers' Compensation Act. Nothing herein contained shall be construed to interfere with or limit the powers of the Department of Labor and Industry to make inspections of places of employment or issue orders for the protection of the health of the persons therein employed. When upon investigation the commissioner of health reaches a conclusion that a condition exists which is dangerous to the life and health of the workers in any industry or factory or other industrial institutions the commissioner shall file a report thereon with the Department of Labor and Industry.

Sec. 23. Minnesota Statutes 2018, section 144.441, subdivision 4, is amended to read:

Subd. 4. **Screening of employees.** As determined by the commissioner under subdivision 2, a person employed by the designated school or school district shall submit to the administrator or other person having general control and supervision of the school one of the following:

(1) a statement from a physician, advanced practice registered nurse, or public clinic stating that the person has had a negative Mantoux test reaction within the past year, provided that the person has no symptoms suggestive of tuberculosis or evidence of a new exposure to active tuberculosis;

(2) a statement from a physician, advanced practice registered nurse, or public clinic stating that a person who has a positive Mantoux test reaction has had a negative chest roentgenogram (X-ray) for tuberculosis within the past year, provided that the person has no symptoms suggestive of tuberculosis or evidence of a new exposure to active tuberculosis;

(3) a statement from a physician, advanced practice registered nurse, or public health clinic stating that the person (i) has a history of adequately treated active tuberculosis; (ii) is currently receiving tuberculosis preventive therapy; (iii) is currently undergoing therapy for active tuberculosis and the person's presence in a school building will not endanger the health of other people; or (iv) has completed a course of preventive therapy or was intolerant to preventive therapy, provided the person has no symptoms suggestive of tuberculosis or evidence of a new exposure to active tuberculosis; or

(4) a notarized statement signed by the person stating that the person has not submitted the proof of tuberculosis screening as required by this subdivision because of conscientiously held beliefs. This statement must be forwarded to the commissioner of health.

Sec. 24. Minnesota Statutes 2018, section 144.441, subdivision 5, is amended to read:

Subd. 5. **Exceptions.** Subdivisions 3 and 4 do not apply to:

(1) a person with a history of either a past positive Mantoux test reaction or active tuberculosis who has a documented history of completing a course of tuberculosis therapy or preventive therapy when the school or school district holds a statement from a physician, advanced practice registered nurse, or public health clinic indicating that such therapy was provided to the person and that the person has no symptoms suggestive of tuberculosis or evidence of a new exposure to active tuberculosis; and

(2) a person with a history of a past positive Mantoux test reaction who has not completed a course of preventive therapy. This determination shall be made by the commissioner based on currently accepted public health standards and the person's health status.

Sec. 25. Minnesota Statutes 2018, section 144.442, subdivision 1, is amended to read:

Subdivision 1. **Administration; notification.** In the event that the commissioner designates a school or school district under section 144.441, subdivision 2, the school or school district or community health board may administer Mantoux screening tests to some or all persons enrolled in or employed by the designated school or school district. Any Mantoux screening provided under this section shall be under the direction of a licensed physician or advanced practice registered nurse.

Prior to administering the Mantoux test to such persons, the school or school district or community health board shall inform in writing such persons and parents or guardians of minor children to whom the test may be administered, of the following:

(1) that there has been an occurrence of active tuberculosis or evidence of a higher than expected prevalence of tuberculosis infection in that school or school district;

(2) that screening is necessary to avoid the spread of tuberculosis;

(3) the manner by which tuberculosis is transmitted;

(4) the risks and possible side effects of the Mantoux test;

(5) the risks from untreated tuberculosis to the infected person and others;

(6) the ordinary course of further diagnosis and treatment if the Mantoux test is positive;

(7) that screening has been scheduled; and

(8) that no person will be required to submit to the screening if the person submits a statement of objection due to the conscientiously held beliefs of the person employed or of the parent or guardian of a minor child.

Sec. 26. Minnesota Statutes 2018, section 144.4803, subdivision 1, is amended to read:

Subdivision 1. **Active tuberculosis.** "Active tuberculosis" includes infectious and noninfectious tuberculosis and means:

(1) a condition evidenced by a positive culture for mycobacterium tuberculosis taken from a pulmonary or laryngeal source;

(2) a condition evidenced by a positive culture for mycobacterium tuberculosis taken from an extrapulmonary source when there is clinical evidence such as a positive skin test for tuberculosis infection, coughing, sputum production, fever, or other symptoms compatible with pulmonary tuberculosis; or

(3) a condition in which clinical specimens are not available for culture, but there is radiographic evidence of tuberculosis such as an abnormal chest x-ray, and clinical evidence such as a positive skin test for tuberculosis infection, coughing, sputum production, fever, or other symptoms compatible with pulmonary tuberculosis, that lead a physician or advanced practice registered nurse to reasonably diagnose active tuberculosis according to currently accepted standards of medical practice and to initiate treatment for tuberculosis.

Sec. 27. Minnesota Statutes 2018, section 144.4803, is amended by adding a subdivision to read:

Subd. 1a. **Advanced practice registered nurse.** "Advanced practice registered nurse" means a person who is licensed by the Board of Nursing under chapter 148 to practice as an advanced practice registered nurse.

Sec. 28. Minnesota Statutes 2018, section 144.4803, subdivision 4, is amended to read:

Subd. 4. **Clinically suspected of having active tuberculosis.** "Clinically suspected of having active tuberculosis" means presenting a reasonable possibility of having active tuberculosis based upon epidemiologic, clinical, or radiographic evidence, laboratory test results, or other reliable evidence as determined by a physician or advanced practice registered nurse using currently accepted standards of medical practice.

Sec. 29. Minnesota Statutes 2018, section 144.4803, subdivision 10, is amended to read:

Subd. 10. **Endangerment to the public health.** "Endangerment to the public health" means a carrier who may transmit tuberculosis to another person or persons because the carrier has engaged or is engaging in any of the following conduct:

(1) refuses or fails to submit to a diagnostic tuberculosis examination that is ordered by a physician or advanced practice registered nurse and is reasonable according to currently accepted standards of medical practice;

(2) refuses or fails to initiate or complete treatment for tuberculosis that is prescribed by a physician or advanced practice registered nurse and is reasonable according to currently accepted standards of medical practice;

(3) refuses or fails to keep appointments for treatment of tuberculosis;

(4) refuses or fails to provide the commissioner, upon request, with evidence showing the completion of a course of treatment for tuberculosis that is prescribed by a physician or advanced practice registered nurse and is reasonable according to currently accepted standards of medical practice;

(5) refuses or fails to initiate or complete a course of directly observed therapy that is prescribed by a physician or advanced practice registered nurse and is reasonable according to currently accepted standards of medical practice;

(6) misses at least 20 percent of scheduled appointments for directly observed therapy, or misses at least two consecutive appointments for directly observed therapy;

(7) refuses or fails to follow contagion precautions for tuberculosis after being instructed on the precautions by a licensed health professional or by the commissioner;

(8) based on evidence of the carrier's past or present behavior, may not complete a course of treatment for tuberculosis that is reasonable according to currently accepted standards of medical practice; or

(9) may expose other persons to tuberculosis based on epidemiological, medical, or other reliable evidence.

Sec. 30. Minnesota Statutes 2018, section 144.4806, is amended to read:

**144.4806 PREVENTIVE MEASURES UNDER HEALTH ORDER.**

A health order may include, but need not be limited to, an order:

(1) requiring the carrier's attending physician, advanced practice registered nurse, or treatment facility to isolate and detain the carrier for treatment or for a diagnostic examination for tuberculosis, pursuant to section 144.4807, subdivision 1, if the carrier is an endangerment to the public health and is in a treatment facility;

(2) requiring a carrier who is an endangerment to the public health to submit to diagnostic examination for tuberculosis and to remain in the treatment facility until the commissioner receives the results of the examination;

(3) requiring a carrier who is an endangerment to the public health to remain in or present at a treatment facility until the carrier has completed a course of treatment for tuberculosis that is prescribed by a physician or advanced practice registered nurse and is reasonable according to currently accepted standards of medical practice;

(4) requiring a carrier who is an endangerment to the public health to complete a course of treatment for tuberculosis that is prescribed by a physician or advanced practice registered nurse and is reasonable according to currently accepted standards of medical practice and, if necessary, to follow contagion precautions for tuberculosis;

(5) requiring a carrier who is an endangerment to the public health to follow a course of directly observed therapy that is prescribed by a physician or advanced practice registered nurse and is reasonable according to currently accepted standards of medical practice;

(6) excluding a carrier who is an endangerment to the public health from the carrier's place of work or school, or from other premises if the commissioner determines that exclusion is necessary because contagion precautions for tuberculosis cannot be maintained in a manner adequate to protect others from being exposed to tuberculosis;

(7) requiring a licensed health professional or treatment facility to provide to the commissioner certified copies of all medical and epidemiological data relevant to the carrier's tuberculosis and status as an endangerment to the public health;

(8) requiring the diagnostic examination for tuberculosis of other persons in the carrier's household, workplace, or school, or other persons in close contact with the carrier if the commissioner has probable cause to believe that the persons may have active tuberculosis or may have been exposed to tuberculosis based on epidemiological, medical, or other reliable evidence; or

(9) requiring a carrier or other persons to follow contagion precautions for tuberculosis.

Sec. 31. Minnesota Statutes 2018, section 144.4807, subdivision 1, is amended to read:

Subdivision 1. **Obligation to isolate.** If the carrier is in a treatment facility, the commissioner or a carrier's attending physician or advanced practice registered nurse, after obtaining approval from the commissioner, may issue a notice of obligation to isolate to a treatment facility if the commissioner or attending physician or advanced practice registered nurse has probable cause to believe that a carrier is an endangerment to the public health.

Sec. 32. Minnesota Statutes 2018, section 144.4807, subdivision 2, is amended to read:

Subd. 2. **Obligation to examine.** If the carrier is clinically suspected of having active tuberculosis, the commissioner may issue a notice of obligation to examine to the carrier's attending physician or advanced practice registered nurse to conduct a diagnostic examination for tuberculosis on the carrier.

Sec. 33. Minnesota Statutes 2018, section 144.4807, subdivision 4, is amended to read:

Subd. 4. **Service of health order on carrier.** When issuing a notice of obligation to isolate or examine to the carrier's physician or advanced practice registered nurse or a treatment facility, the commissioner shall simultaneously serve a health order on the carrier ordering the carrier to remain in the treatment facility for treatment or examination.

Sec. 34. Minnesota Statutes 2018, section 144.50, subdivision 2, is amended to read:

Subd. 2. **Hospital, sanitarium, other institution; definition.** Hospital, sanitarium or other institution for the hospitalization or care of human beings, within the meaning of sections 144.50 to 144.56 shall mean any institution, place, building, or agency, in which any accommodation is maintained, furnished, or offered for five or more persons for: the hospitalization of the sick or injured; the provision of care in a swing bed authorized under section 144.562; elective outpatient surgery for preexamined, prediagnosed low risk patients; emergency medical services offered 24 hours a day, seven days a week, in an ambulatory or outpatient setting in a facility not a part of a licensed hospital; or the institutional care of human beings. Nothing in sections 144.50 to 144.56 shall apply to a clinic, a physician's or advanced practice registered nurse's office or to hotels or other similar places that furnish only board and room, or either, to their guests.

Sec. 35. Minnesota Statutes 2019 Supplement, section 144.55, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For the purposes of this section, the terms in this subdivision have the meanings given them.

(b) "Outpatient surgical center" or "center" means a facility organized for the specific purpose of providing elective outpatient surgery for preexamined, prediagnosed, low-risk patients. An outpatient surgical center is not organized to provide regular emergency medical services and does not include a physician's, advanced practice registered nurse's, or dentist's office or clinic for the practice of medicine, the practice of dentistry, or the delivery of primary care.

(c) "Approved accrediting organization" means any organization recognized as an accreditation organization by the Centers for Medicare and Medicaid Services.

Sec. 36. Minnesota Statutes 2018, section 144.55, subdivision 6, is amended to read:

Subd. 6. **Suspension, revocation, and refusal to renew.** (a) The commissioner may refuse to grant or renew, or may suspend or revoke, a license on any of the following grounds:

(1) violation of any of the provisions of sections 144.50 to 144.56 or the rules or standards issued pursuant thereto, or Minnesota Rules, chapters 4650 and 4675;

(2) permitting, aiding, or abetting the commission of any illegal act in the institution;

(3) conduct or practices detrimental to the welfare of the patient; or

(4) obtaining or attempting to obtain a license by fraud or misrepresentation; or

(5) with respect to hospitals and outpatient surgical centers, if the commissioner determines that there is a pattern of conduct that one or more physicians or advanced practice registered nurses who have a "financial or economic interest," as defined in section 144.6521, subdivision 3, in the hospital or outpatient surgical center, have not provided the notice and disclosure of the financial or economic interest required by section 144.6521.

(b) The commissioner shall not renew a license for a boarding care bed in a resident room with more than four beds.

Sec. 37. Minnesota Statutes 2018, section 144.6501, subdivision 7, is amended to read:

Subd. 7. **Consent to treatment.** An admission contract must not include a clause requiring a resident to sign a consent to all treatment ordered by any physician or advanced practice registered nurse. An admission contract may require consent only for routine nursing care or emergency care. An admission contract must contain a clause that informs the resident of the right to refuse treatment.

Sec. 38. Minnesota Statutes 2018, section 144.651, subdivision 7, is amended to read:

Subd. 7. **Physician's or advanced practice registered nurse's identity.** Patients and residents shall have or be given, in writing, the name, business address, telephone number, and specialty, if any, of the physician or advanced practice registered nurse responsible for coordination of their care. In cases where it is medically inadvisable, as documented by the attending physician or advanced practice registered nurse in a patient's or resident's care record, the information shall be given to the patient's or resident's guardian or other person designated by the patient or resident as a representative.

Sec. 39. Minnesota Statutes 2018, section 144.651, subdivision 8, is amended to read:

Subd. 8. **Relationship with other health services.** Patients and residents who receive services from an outside provider are entitled, upon request, to be told the identity of the provider. Residents shall be informed, in writing, of any health care services which are provided to those residents by individuals, corporations, or organizations other than their facility. Information shall include the name of the outside provider, the address, and a description of the service which may be rendered. In cases where it is medically inadvisable, as documented by the attending physician or advanced practice registered nurse in a patient's or resident's care record, the information shall be given to the patient's or resident's guardian or other person designated by the patient or resident as a representative.

Sec. 40. Minnesota Statutes 2018, section 144.651, subdivision 9, is amended to read:

Subd. 9. **Information about treatment.** Patients and residents shall be given by their physicians or advanced practice registered nurses complete and current information concerning their diagnosis, treatment, alternatives, risks, and prognosis as required by the physician's or advanced practice registered nurse's legal duty to disclose. This information shall be in terms and language the patients or residents can reasonably be expected to understand. Patients and residents may be accompanied by a family member or other chosen representative, or both. This information shall include the likely medical or major psychological results of the treatment and its alternatives. In cases where it is medically inadvisable, as documented by the attending physician or advanced practice registered nurse in a patient's or resident's medical record, the information shall be given to the patient's or resident's guardian or other person designated by the patient or resident as a representative. Individuals have the right to refuse this information.

Every patient or resident suffering from any form of breast cancer shall be fully informed, prior to or at the time of admission and during her stay, of all alternative effective methods of treatment of which the treating physician or advanced practice registered nurse is knowledgeable, including surgical, radiological, or chemotherapeutic treatments or combinations of treatments and the risks associated with each of those methods.

Sec. 41. Minnesota Statutes 2018, section 144.651, subdivision 10, is amended to read:

Subd. 10. **Participation in planning treatment; notification of family members.** (a) Patients and residents shall have the right to participate in the planning of their health care. This right includes the opportunity to discuss treatment and alternatives with individual caregivers, the opportunity to request and participate in formal care conferences, and the right to include a family member or other chosen representative, or both. In the event that the patient or resident cannot be present, a family member or other representative chosen by the patient or resident may be included in such conferences. A chosen representative may include a doula of the patient's choice.

(b) If a patient or resident who enters a facility is unconscious or comatose or is unable to communicate, the facility shall make reasonable efforts as required under paragraph (c) to notify either a family member or a person designated in writing by the patient as the person to contact in an emergency that the patient or resident has been admitted to the facility. The facility shall allow the family member to participate in treatment planning, unless the facility knows or has reason to believe the patient or resident has an effective advance directive to the contrary or knows the patient or resident has specified in writing that they do not want a family member included in treatment planning. After notifying a family member but prior to allowing a family member to participate in treatment planning, the facility must make reasonable efforts, consistent with reasonable medical practice, to determine if the patient or resident has executed an advance directive relative to the patient or resident's health care decisions. For purposes of this paragraph, "reasonable efforts" include:

(1) examining the personal effects of the patient or resident;

(2) examining the medical records of the patient or resident in the possession of the facility;

(3) inquiring of any emergency contact or family member contacted under this section whether the patient or resident has executed an advance directive and whether the patient or resident has a physician or advanced practice registered nurse to whom the patient or resident normally goes for care; and

(4) inquiring of the physician or advanced practice registered nurse to whom the patient or resident normally goes for care, if known, whether the patient or resident has executed an advance directive. If a facility notifies a family member or designated emergency contact or allows a family member to participate in treatment planning in accordance with this paragraph, the facility is not liable to the patient or resident for damages on the grounds that the notification of the family member or emergency contact or the participation of the family member was improper or violated the patient's privacy rights.

(c) In making reasonable efforts to notify a family member or designated emergency contact, the facility shall attempt to identify family members or a designated emergency contact by examining the personal effects of the patient or resident and the medical records of the patient or resident in the possession of the facility. If the facility is unable to notify a family member or designated emergency contact within 24 hours after the admission, the facility shall notify the county social service agency or local law enforcement agency that the patient or resident has been admitted and the facility has been unable to notify a family member or designated emergency contact. The county social service agency and local law enforcement agency shall assist the facility in identifying and notifying a family member or designated emergency contact. A county social service agency or local law enforcement agency that assists a facility in implementing this subdivision is not liable to the patient or resident for damages on the grounds that the notification of the family member or emergency contact or the participation of the family member was improper or violated the patient's privacy rights.

Sec. 42. Minnesota Statutes 2018, section 144.651, subdivision 12, is amended to read:

Subd. 12. **Right to refuse care.** Competent patients and residents shall have the right to refuse treatment based on the information required in subdivision 9. Residents who refuse treatment, medication, or dietary restrictions shall be informed of the likely medical or major psychological results of the refusal, with documentation in the individual medical record. In cases where a patient or resident is incapable of understanding the circumstances but has not been adjudicated incompetent, or when legal requirements limit the right to refuse treatment, the conditions and circumstances shall be fully documented by the attending physician or advanced practice registered nurse in the patient's or resident's medical record.

Sec. 43. Minnesota Statutes 2018, section 144.651, subdivision 14, is amended to read:

Subd. 14. **Freedom from maltreatment.** Patients and residents shall be free from maltreatment as defined in the Vulnerable Adults Protection Act. "Maltreatment" means conduct described in section 626.5572, subdivision 15, or the intentional and nontherapeutic infliction of physical pain or injury, or any persistent course of conduct intended to produce mental or emotional distress. Every patient and resident shall also be free from nontherapeutic chemical and physical restraints, except in fully documented emergencies, or as authorized in writing after examination by a patient's or resident's physician or advanced practice registered nurse for a specified and limited period of time, and only when necessary to protect the resident from self-injury or injury to others.

Sec. 44. Minnesota Statutes 2018, section 144.651, subdivision 31, is amended to read:

Subd. 31. **Isolation and restraints.** A minor patient who has been admitted to a residential program as defined in section 253C.01 has the right to be free from physical restraint and isolation except in emergency situations involving a likelihood that the patient will physically harm the patient's self or others. These procedures may not be used for disciplinary purposes, to enforce program rules, or for the convenience of staff. Isolation or restraint may be used only upon the prior authorization of a physician, advanced practice registered nurse, psychiatrist, or licensed psychologist, only when less restrictive measures are ineffective or not feasible and only for the shortest time necessary.

Sec. 45. Minnesota Statutes 2018, section 144.651, subdivision 33, is amended to read:

Subd. 33. **Restraints.** (a) Competent nursing home residents, family members of residents who are not competent, and legally appointed conservators, guardians, and health care agents as defined under section 145C.01, have the right to request and consent to the use of a physical restraint in order to treat the medical symptoms of the resident.

(b) Upon receiving a request for a physical restraint, a nursing home shall inform the resident, family member, or legal representative of alternatives to and the risks involved with physical restraint use. The nursing home shall provide a physical restraint to a resident only upon receipt of a signed consent form authorizing restraint use and a written order from the attending physician or advanced practice registered nurse that contains statements and determinations regarding medical symptoms and specifies the circumstances under which restraints are to be used.

(c) A nursing home providing a restraint under paragraph (b) must:

(1) document that the procedures outlined in that paragraph have been followed;

(2) monitor the use of the restraint by the resident; and

(3) periodically, in consultation with the resident, the family, and the attending physician or advanced practice registered nurse, reevaluate the resident's need for the restraint.

(d) A nursing home shall not be subject to fines, civil money penalties, or other state or federal survey enforcement remedies solely as the result of allowing the use of a physical restraint as authorized in this subdivision. Nothing in this subdivision shall preclude the commissioner from taking action to protect the health and safety of a resident if:

(1) the use of the restraint has jeopardized the health and safety of the resident; and

(2) the nursing home failed to take reasonable measures to protect the health and safety of the resident.

(e) For purposes of this subdivision, "medical symptoms" include:

(1) a concern for the physical safety of the resident; and

(2) physical or psychological needs expressed by a resident. A resident's fear of falling may be the basis of a medical symptom.

A written order from the attending physician or advanced practice registered nurse that contains statements and determinations regarding medical symptoms is sufficient evidence of the medical necessity of the physical restraint.

(f) When determining nursing facility compliance with state and federal standards for the use of physical restraints, the commissioner of health is bound by the statements and determinations contained in the attending physician's or advanced practice registered nurse's order regarding medical symptoms. For purposes of this order, "medical symptoms" include the request by a competent resident, family member of a resident who is not competent, or legally appointed conservator, guardian, or health care agent as defined under section 145C.01, that the facility provide a physical restraint in order to enhance the physical safety of the resident.

Sec. 46. Minnesota Statutes 2018, section 144.652, subdivision 2, is amended to read:

Subd. 2. **Correction order; emergencies.** A substantial violation of the rights of any patient or resident as defined in section 144.651, shall be grounds for issuance of a correction order pursuant to section 144.653 or 144A.10. The issuance or nonissuance of a correction order shall not preclude, diminish, enlarge, or otherwise alter private action by or on behalf of a patient or resident to enforce any unreasonable violation of the patient's or resident's rights. Compliance with the provisions of section 144.651 shall not be required whenever emergency conditions, as documented by the attending physician or advanced practice registered nurse in a patient's medical record or a resident's care record, indicate immediate medical treatment, including but not limited to surgical procedures, is necessary and it is impossible or impractical to comply with the provisions of section 144.651 because delay would endanger the patient's or resident's life, health, or safety.

Sec. 47. Minnesota Statutes 2018, section 144.69, is amended to read:

**144.69 CLASSIFICATION OF DATA ON INDIVIDUALS.**

Notwithstanding any law to the contrary, including section 13.05, subdivision 9, data collected on individuals by the cancer surveillance system, including the names and personal identifiers of persons required in section 144.68 to report, shall be private and may only be used for the purposes set forth in this section and sections 144.671, 144.672, and 144.68. Any disclosure other than is provided for in this section and sections 144.671, 144.672, and 144.68, is declared to be a misdemeanor and punishable as such. Except as provided by rule, and as part of an epidemiologic investigation, an officer or employee of the commissioner of health may interview patients named in any such report, or relatives of any such patient, only after the consent of the attending physician, advanced practice registered nurse, or surgeon is obtained.

Sec. 48. Minnesota Statutes 2018, section 144.7402, subdivision 2, is amended to read:

Subd. 2. **Conditions.** A facility shall follow the procedures outlined in sections 144.7401 to 144.7415 when all of the following conditions are met:

(1) the facility determines that significant exposure has occurred, following the protocol under section 144.7414;

(2) the licensed physician or advanced practice registered nurse for the emergency medical services person needs the source individual's blood-borne pathogen test results to begin, continue, modify, or discontinue treatment, in accordance with the most current guidelines of the United States Public Health Service, because of possible exposure to a blood-borne pathogen; and

(3) the emergency medical services person consents to provide a blood sample for testing for a blood-borne pathogen. If the emergency medical services person consents to blood collection, but does not consent at that time to blood-borne pathogen testing, the facility shall preserve the sample for at least 90 days. If the emergency medical services person elects to have the sample tested within 90 days, the testing shall be done as soon as feasible.

Sec. 49. Minnesota Statutes 2018, section 144.7406, subdivision 2, is amended to read:

Subd. 2. **Procedures without consent.** If the source individual has provided a blood sample with consent but does not consent to blood-borne pathogen testing, the facility shall test for blood-borne pathogens if the emergency medical services person or emergency medical services agency requests the test, provided all of the following criteria are met:

(1) the emergency medical services person or emergency medical services agency has documented exposure to blood or body fluids during performance of that person's occupation or while acting as a Good Samaritan under section 604A.01 or executing a citizen's arrest under section 629.30;

(2) the facility has determined that a significant exposure has occurred and a licensed physician or advanced practice registered nurse for the emergency medical services person has documented in the emergency medical services person's medical record that blood-borne pathogen test results are needed for beginning, modifying, continuing, or discontinuing medical treatment for the emergency medical services person under section 144.7414, subdivision 2;

(3) the emergency medical services person provides a blood sample for testing for blood-borne pathogens as soon as feasible;

(4) the facility asks the source individual to consent to a test for blood-borne pathogens and the source individual does not consent;

(5) the facility has provided the source individual with all of the information required by section 144.7403; and

(6) the facility has informed the emergency medical services person of the confidentiality requirements of section 144.7411 and the penalties for unauthorized release of source information under section 144.7412.

Sec. 50. Minnesota Statutes 2018, section 144.7407, subdivision 2, is amended to read:

Subd. 2. **Procedures without consent.** (a) An emergency medical services agency, or, if there is no agency, an emergency medical services person, may bring a petition for a court order to require a source individual to provide a blood sample for testing for blood-borne pathogens. The petition shall be filed in the district court in the county where the source individual resides or is hospitalized. The petitioner shall serve the petition on the source individual at least three days before a hearing on the petition. The petition shall include one or more affidavits attesting that:

(1) the facility followed the procedures in sections 144.7401 to 144.7415 and attempted to obtain blood-borne pathogen test results according to those sections;

(2) it has been determined under section 144.7414, subdivision 2, that a significant exposure has occurred to the emergency medical services person; and

(3) a physician with specialty training in infectious diseases, including HIV, has documented that the emergency medical services person has provided a blood sample and consented to testing for blood-borne pathogens and blood-borne pathogen test results are needed for beginning, continuing, modifying, or discontinuing medical treatment for the emergency medical services person.

(b) Facilities shall cooperate with petitioners in providing any necessary affidavits to the extent that facility staff can attest under oath to the facts in the affidavits.

(c) The court may order the source individual to provide a blood sample for blood-borne pathogen testing if:

(1) there is probable cause to believe the emergency medical services person has experienced a significant exposure to the source individual;

(2) the court imposes appropriate safeguards against unauthorized disclosure that must specify the persons who have access to the test results and the purposes for which the test results may be used;

(3) a licensed physician or advanced practice registered nurse for the emergency medical services person needs the test results for beginning, continuing, modifying, or discontinuing medical treatment for the emergency medical services person; and

(4) the court finds a compelling need for the test results. In assessing compelling need, the court shall weigh the need for the court-ordered blood collection and test results against the interests of the source individual, including, but not limited to, privacy, health, safety, or economic interests. The court shall also consider whether the involuntary blood collection and testing would serve the public interest.

(d) The court shall conduct the proceeding in camera unless the petitioner or the source individual requests a hearing in open court and the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

(e) The court shall conduct an ex parte hearing if the source individual does not attend the noticed hearing and the petitioner complied with the notice requirements in paragraph (a).

(f) The source individual has the right to counsel in any proceeding brought under this subdivision.

(g) The court may order a source individual taken into custody by a peace officer for purposes of obtaining a blood sample if the source individual does not comply with an order issued by the court pursuant to paragraph (c). The source individual shall be held no longer than is necessary to secure a blood sample. A person may not be held for more than 24 hours without receiving a court hearing.

Sec. 51. Minnesota Statutes 2018, section 144.7414, subdivision 2, is amended to read:

Subd. 2. **Facility protocol requirements.** Every facility shall adopt and follow a postexposure protocol for emergency medical services persons who have experienced a significant exposure. The postexposure protocol must adhere to the most current recommendations of the United States Public Health Service and include, at a minimum, the following:

(1) a process for emergency medical services persons to report an exposure in a timely fashion;

(2) a process for an infectious disease specialist, or a licensed physician or advanced practice registered nurse who is knowledgeable about the most current recommendations of the United States Public Health Service in consultation with an infectious disease specialist, (i) to determine whether a significant exposure to one or more blood-borne pathogens has occurred and (ii) to provide, under the direction of a licensed physician or advanced practice registered nurse, a recommendation or recommendations for follow-up treatment appropriate to the particular blood-borne pathogen or pathogens for which a significant exposure has been determined;

(3) if there has been a significant exposure, a process to determine whether the source individual has a blood-borne pathogen through disclosure of test results, or through blood collection and testing as required by sections 144.7401 to 144.7415;

(4) a process for providing appropriate counseling prior to and following testing for a blood-borne pathogen regarding the likelihood of blood-borne pathogen transmission and follow-up recommendations according to the most current recommendations of the United States Public Health Service, recommendations for testing, and treatment to the emergency medical services person;

(5) a process for providing appropriate counseling under clause (4) to the emergency medical services person and the source individual; and

(6) compliance with applicable state and federal laws relating to data practices, confidentiality, informed consent, and the patient bill of rights.

Sec. 52. Minnesota Statutes 2018, section 144.7415, subdivision 2, is amended to read:

Subd. 2. **Immunity.** A facility, licensed physician, advanced practice registered nurse, and designated health care personnel are immune from liability in any civil, administrative, or criminal action relating to the disclosure of test results to an emergency medical services person or emergency medical services agency and the testing of a blood sample from the source individual for blood-borne pathogens if a good faith effort has been made to comply with sections 144.7401 to 144.7415.

Sec. 53. Minnesota Statutes 2018, section 144.9502, subdivision 4, is amended to read:

Subd. 4. **Blood lead analyses and epidemiologic information.** The blood lead analysis reports required in this section must specify:

(1) whether the specimen was collected as a capillary or venous sample;

(2) the date the sample was collected;

(3) the results of the blood lead analysis;

(4) the date the sample was analyzed;

(5) the method of analysis used;

(6) the full name, address, and phone number of the laboratory performing the analysis;

(7) the full name, address, and phone number of the physician, advanced practice registered nurse, or facility requesting the analysis;

(8) the full name, address, and phone number of the person with the blood lead level, and the person's birthdate, gender, and race.

Sec. 54. Minnesota Statutes 2018, section 144.966, subdivision 3, is amended to read:

Subd. 3. **Early hearing detection and intervention programs.** All hospitals shall establish an early hearing detection and intervention (EHDI) program. Each EHDI program shall:

(1) in advance of any hearing screening testing, provide to the newborn's or infant's parents or parent information concerning the nature of the screening procedure, applicable costs of the screening procedure, the potential risks and effects of hearing loss, and the benefits of early detection and intervention;

(2) comply with parental election as described under section 144.125, subdivision 4;

(3) develop policies and procedures for screening and rescreening based on Department of Health recommendations;

(4) provide appropriate training and monitoring of individuals responsible for performing hearing screening tests as recommended by the Department of Health;

(5) test the newborn's hearing prior to discharge, or, if the newborn is expected to remain in the hospital for a prolonged period, testing shall be performed prior to three months of age or when medically feasible;

(6) develop and implement procedures for documenting the results of all hearing screening tests;

(7) inform the newborn's or infant's parents or parent, primary care physician or advanced practice registered nurse, and the Department of Health according to recommendations of the Department of Health of the results of the hearing screening test or rescreening if conducted, or if the newborn or infant was not successfully tested. The hospital that discharges the newborn or infant to home is responsible for the screening; and

(8) collect performance data specified by the Department of Health.

Sec. 55. Minnesota Statutes 2018, section 144.966, subdivision 6, is amended to read:

Subd. 6. **Civil and criminal immunity and penalties.** (a) No physician, advanced practice registered nurse, or hospital shall be civilly or criminally liable for failure to conduct hearing screening testing.

(b) No physician, midwife, nurse, other health professional, or hospital acting in compliance with this section shall be civilly or criminally liable for any acts conforming with this section, including furnishing information required according to this section.

Sec. 56. Minnesota Statutes 2018, section 144A.135, is amended to read:

**144A.135 TRANSFER AND DISCHARGE APPEALS.**

(a) The commissioner shall establish a mechanism for hearing appeals on transfers and discharges of residents by nursing homes or boarding care homes licensed by the commissioner. The commissioner may adopt permanent rules to implement this section.

(b) Until federal regulations are adopted under sections 1819(f)(3) and 1919(f)(3) of the Social Security Act that govern appeals of the discharges or transfers of residents from nursing homes and boarding care homes certified for participation in Medicare or medical assistance, the commissioner shall provide hearings under sections 14.57 to 14.62 and the rules adopted by the Office of Administrative Hearings governing contested cases. To appeal the discharge or transfer, or notification of an intended discharge or transfer, a resident or the resident's representative must request a hearing in writing no later than 30 days after receiving written notice, which conforms to state and federal law, of the intended discharge or transfer.

(c) Hearings under this section shall be held no later than 14 days after receipt of the request for hearing, unless impractical to do so or unless the parties agree otherwise. Hearings shall be held in the facility in which the resident resides, unless impractical to do so or unless the parties agree otherwise.

(d) A resident who timely appeals a notice of discharge or transfer, and who resides in a certified nursing home or boarding care home, may not be discharged or transferred by the nursing home or boarding care home until resolution of the appeal. The commissioner can order the facility to readmit the resident if the discharge or transfer was in violation of state or federal law. If the resident is required to be hospitalized for medical necessity before resolution of the appeal, the facility shall readmit the resident unless the resident's attending physician or advanced practice registered nurse documents, in writing, why the resident's specific health care needs cannot be met in the facility.

(e) The commissioner and Office of Administrative Hearings shall conduct the hearings in compliance with the federal regulations described in paragraph (b), when adopted.

(f) Nothing in this section limits the right of a resident or the resident's representative to request or receive assistance from the Office of Ombudsman for Long-Term Care or the Office of Health Facility Complaints with respect to an intended discharge or transfer.

(g) A person required to inform a health care facility of the person's status as a registered predatory offender under section 243.166, subdivision 4b, who knowingly fails to do so shall be deemed to have endangered the safety of individuals in the facility under Code of Federal Regulations, chapter 42, section 483.12. Notwithstanding paragraph (d), any appeal of the notice and discharge shall not constitute a stay of the discharge.

Sec. 57. Minnesota Statutes 2018, section 144A.161, subdivision 5, is amended to read:

Subd. 5. **Licensee responsibilities related to sending the notice in subdivision 5a.** (a) The licensee shall establish an interdisciplinary team responsible for coordinating and implementing the plan. The interdisciplinary team shall include representatives from the county social services agency, the Office of Ombudsman for Long-Term Care, the Office of the Ombudsman for Mental Health and Developmental Disabilities, facility staff that provide direct care services to the residents, and facility administration.

(b) Concurrent with the notice provided in subdivision 5a, the licensee shall provide an updated resident census summary document to the county social services agency, the Ombudsman for Long-Term Care, and the Ombudsman for Mental Health and Developmental Disabilities that includes the following information on each resident to be relocated:

(1) resident name;

(2) date of birth;

(3) Social Security number;

(4) payment source and medical assistance identification number, if applicable;

(5) county of financial responsibility if the resident is enrolled in a Minnesota health care program;

(6) date of admission to the facility;

(7) all current diagnoses;

(8) the name of and contact information for the resident's physician or advanced practice registered nurse;

(9) the name and contact information for the resident's responsible party;

(10) the name of and contact information for any case manager, managed care coordinator, or other care coordinator, if known;

(11) information on the resident's status related to commitment and probation; and

(12) the name of the managed care organization in which the resident is enrolled, if known.

Sec. 58. Minnesota Statutes 2018, section 144A.161, subdivision 5a, is amended to read:

Subd. 5a. **Administrator and licensee responsibility to provide notice.** At least 60 days before the proposed date of closing, reduction, or change in operations as agreed to in the plan, the administrator shall send a written notice of closure, reduction, or change in operations to each resident being relocated, the resident's responsible party, the resident's managed care organization if it is known, the county social services agency, the commissioner of health, the commissioner of human services, the Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental Health and Developmental Disabilities, the resident's attending physician or advanced practice registered nurse, and, in the case of a complete facility closure, the Centers for Medicare and Medicaid Services regional office designated representative. The notice must include the following:

(1) the date of the proposed closure, reduction, or change in operations;

(2) the contact information of the individual or individuals in the facility responsible for providing assistance and information;

(3) notification of upcoming meetings for residents, responsible parties, and resident and family councils to discuss the plan for relocation of residents;

(4) the contact information of the county social services agency contact person; and

(5) the contact information of the Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental Health and Developmental Disabilities.

Sec. 59. Minnesota Statutes 2018, section 144A.161, subdivision 5e, is amended to read:

Subd. 5e. **Licensee responsibility for site visits.** The licensee shall assist residents desiring to make site visits to facilities with available beds or other appropriate living options to which the resident may relocate, unless it is medically inadvisable, as documented by the attending physician or advanced practice registered nurse in the resident's care record. The licensee shall make available to the resident at no charge transportation for up to three site visits to facilities or other living options within the county or contiguous counties.

Sec. 60. Minnesota Statutes 2018, section 144A.161, subdivision 5g, is amended to read:

Subd. 5g. **Licensee responsibilities for final written discharge notice and records transfer.** (a) The licensee shall provide the resident, the resident's responsible parties, the resident's managed care organization, if known, and the resident's attending physician or advanced practice registered nurse with a final written discharge notice prior to the relocation of the resident. The notice must:

(1) be provided prior to the actual relocation; and

(2) identify the effective date of the anticipated relocation and the destination to which the resident is being relocated.

(b) The licensee shall provide the receiving facility or other health, housing, or care entity with complete and accurate resident records including contact information for family members, responsible parties, social service or other caseworkers, and managed care coordinators. These records must also include all information necessary to provide appropriate medical care and social services. This includes, but is not limited to, information on preadmission screening, Level I and Level II screening, minimum data set (MDS), all other assessments, current resident diagnoses, social, behavioral, and medication information, required forms, and discharge summaries.

(c) For residents with special care needs, the licensee shall consult with the receiving facility or other placement entity and provide staff training or other preparation as needed to assist in providing for the special needs.

Sec. 61. Minnesota Statutes 2018, section 144A.75, subdivision 3, is amended to read:

Subd. 3. **Core services.** "Core services" means physician services, registered nursing services, advanced practice registered nurse services, medical social services, and counseling services. A hospice must ensure that at least two core services are regularly provided directly by hospice employees. A hospice provider may use contracted staff if necessary to supplement hospice employees in order to meet the needs of patients during peak patient loads or under extraordinary circumstances.

Sec. 62. Minnesota Statutes 2018, section 144A.75, subdivision 6, is amended to read:

Subd. 6. **Hospice patient.** "Hospice patient" means an individual whose illness has been documented by the individual's attending physician or advanced practice registered nurse and hospice medical director, who alone or, when unable, through the individual's family has voluntarily consented to and received admission to a hospice provider, and who:

(1) has been diagnosed as terminally ill, with a probable life expectancy of under one year; or

(2) is 21 years of age or younger; has been diagnosed with a chronic, complex, and life-threatening illness contributing to a shortened life expectancy; and is not expected to survive to adulthood.

Sec. 63. Minnesota Statutes 2018, section 144A.752, subdivision 1, is amended to read:

Subdivision 1. **Rules.** The commissioner shall adopt rules for the regulation of hospice providers according to sections 144A.75 to 144A.755. The rules shall include the following:

(1) provisions to ensure, to the extent possible, the health, safety, well-being, and appropriate treatment of persons who receive hospice care;

(2) requirements that hospice providers furnish the commissioner with specified information necessary to implement sections 144A.75 to 144A.755;

(3) standards of training of hospice provider personnel;

(4) standards for medication management, which may vary according to the nature of the hospice care provided, the setting in which the hospice care is provided, or the status of the patient;

(5) standards for hospice patient and hospice patient's family evaluation or assessment, which may vary according to the nature of the hospice care provided or the status of the patient; and

(6) requirements for the involvement of a patient's physician or advanced practice registered nurse; documentation of physicians' or advanced practice registered nurses' orders, if required, and the patient's hospice plan of care; and maintenance of accurate, current clinical records.

Sec. 64. Minnesota Statutes 2018, section 145.853, subdivision 5, is amended to read:

Subd. 5. **Notification; medical care.** A law enforcement officer who determines or has reason to believe that a disabled person is suffering from an illness causing the person's condition shall promptly notify the person's physician or advanced practice registered nurse, if practicable. If the officer is unable to ascertain the physician's or advanced practice registered nurse's identity or to communicate with the physician or advanced practice registered nurse, the officer shall make a reasonable effort to cause the disabled person to be transported immediately to a medical practitioner or to a facility where medical treatment is available. If the officer believes it unduly dangerous to move the disabled person, the officer shall make a reasonable effort to obtain the assistance of a medical practitioner.

Sec. 65. Minnesota Statutes 2018, section 145.892, subdivision 3, is amended to read:

Subd. 3. **Pregnant woman.** "Pregnant woman" means an individual determined by a licensed physician, advanced practice registered nurse, midwife, or appropriately trained registered nurse to have one or more fetuses in utero.

Sec. 66. Minnesota Statutes 2018, section 145.94, subdivision 2, is amended to read:

Subd. 2. **Disclosure of information.** The commissioner may disclose to individuals or to the community, information including data made nonpublic by law, relating to the hazardous properties and health hazards of hazardous substances released from a workplace if the commissioner finds:

(1) evidence that a person requesting the information may have suffered or is likely to suffer illness or injury from exposure to a hazardous substance; or

(2) evidence of a community health risk and if the commissioner seeks to have the employer cease an activity which results in release of a hazardous substance.

Nonpublic data obtained under subdivision 1 is subject to handling, use, and storage according to established standards to prevent unauthorized use or disclosure. If the nonpublic data is required for the diagnosis, treatment, or prevention of illness or injury, a personal physician or advanced practice registered nurse may be provided with this information if the physician or advanced practice registered nurse agrees to preserve the confidentiality of the information, except for patient health records subject to sections 144.291 to 144.298. After the disclosure of any hazardous substance information relating to a particular workplace, the commissioner shall advise the employer of the information disclosed, the date of the disclosure, and the person who received the information.

Sec. 67. Minnesota Statutes 2018, section 145B.13, is amended to read:

**145B.13 REASONABLE MEDICAL PRACTICE REQUIRED.**

In reliance on a patient's living will, a decision to administer, withhold, or withdraw medical treatment after the patient has been diagnosed by the attending physician or advanced practice registered nurse to be in a terminal condition must always be based on reasonable medical practice, including:

(1) continuation of appropriate care to maintain the patient's comfort, hygiene, and human dignity and to alleviate pain;

(2) oral administration of food or water to a patient who accepts it, except for clearly documented medical reasons; and

(3) in the case of a living will of a patient that the attending physician or advanced practice registered nurse knows is pregnant, the living will must not be given effect as long as it is possible that the fetus could develop to the point of live birth with continued application of life-sustaining treatment.

Sec. 68. Minnesota Statutes 2018, section 145C.02, is amended to read:

**145C.02 HEALTH CARE DIRECTIVE.**

A principal with the capacity to do so may execute a health care directive. A health care directive may include one or more health care instructions to direct health care providers, others assisting with health care, family members, and a health care agent. A health care directive may include a health care power of attorney to appoint a health care agent to make health care decisions for the principal when the principal, in the judgment of the principal's attending physician or advanced practice registered nurse, lacks decision-making capacity, unless otherwise specified in the health care directive.

Sec. 69. Minnesota Statutes 2019 Supplement, section 145C.05, subdivision 2, is amended to read:

Subd. 2. **Provisions that may be included.** (a) A health care directive may include provisions consistent with this chapter, including, but not limited to:

(1) the designation of one or more alternate health care agents to act if the named health care agent is not reasonably available to serve;

(2) directions to joint health care agents regarding the process or standards by which the health care agents are to reach a health care decision for the principal, and a statement whether joint health care agents may act independently of one another;

(3) limitations, if any, on the right of the health care agent or any alternate health care agents to receive, review, obtain copies of, and consent to the disclosure of the principal's medical records or to visit the principal when the principal is a patient in a health care facility;

(4) limitations, if any, on the nomination of the health care agent as guardian for purposes of sections 524.5-202, 524.5-211, 524.5-302, and 524.5-303;

(5) a document of gift for the purpose of making an anatomical gift, as set forth in chapter 525A, or an amendment to, revocation of, or refusal to make an anatomical gift;

(6) a declaration regarding intrusive mental health treatment under section 253B.03, subdivision 6d, or a statement that the health care agent is authorized to give consent for the principal under section 253B.04, subdivision 1a;

(7) a funeral directive as provided in section 149A.80, subdivision 2;

(8) limitations, if any, to the effect of dissolution or annulment of marriage or termination of domestic partnership on the appointment of a health care agent under section 145C.09, subdivision 2;

(9) specific reasons why a principal wants a health care provider or an employee of a health care provider attending the principal to be eligible to act as the principal's health care agent;

(10) health care instructions by a woman of child bearing age regarding how she would like her pregnancy, if any, to affect health care decisions made on her behalf;

(11) health care instructions regarding artificially administered nutrition or hydration; and

(12) health care instructions to prohibit administering, dispensing, or prescribing an opioid, except that these instructions must not be construed to limit the administering, dispensing, or prescribing an opioid to treat substance abuse, opioid dependence, or an overdose, unless otherwise prohibited in the health care directive.

(b) A health care directive may include a statement of the circumstances under which the directive becomes effective other than upon the judgment of the principal's attending physician or advanced practice registered nurse in the following situations:

(1) a principal who in good faith generally selects and depends upon spiritual means or prayer for the treatment or care of disease or remedial care and does not have an attending physician or advanced practice registered nurse, may include a statement appointing an individual who may determine the principal's decision-making capacity; and

(2) a principal who in good faith does not generally select a physician, advanced practice registered nurse, or ~~a~~ health care facility for the principal's health care needs may include a statement appointing an individual who may determine the principal's decision-making capacity, provided that if the need to determine the principal's capacity arises when the principal is receiving care under the direction of an attending physician or advanced practice registered nurse in a health care facility, the determination must be made by an attending physician or advanced practice registered nurse after consultation with the appointed individual.

If a person appointed under clause (1) or (2) is not reasonably available and the principal is receiving care under the direction of an attending physician or advanced practice registered nurse in a health care facility, an attending physician or advanced practice registered nurse shall determine the principal's decision-making capacity.

(c) A health care directive may authorize a health care agent to make health care decisions for a principal even though the principal retains decision-making capacity.

Sec. 70. Minnesota Statutes 2018, section 145C.06, is amended to read:

**145C.06 WHEN EFFECTIVE.**

A health care directive is effective for a health care decision when:

(1) it meets the requirements of section 145C.03, subdivision 1; and

(2) the principal, in the determination of the attending physician or advanced practice registered nurse of the principal, lacks decision-making capacity to make the health care decision; or if other conditions for effectiveness otherwise specified by the principal have been met.

A health care directive is not effective for a health care decision when the principal, in the determination of the attending physician or advanced practice registered nurse of the principal, recovers decision-making capacity; or if other conditions for effectiveness otherwise specified by the principal have been met.

Sec. 71. Minnesota Statutes 2018, section 145C.07, subdivision 1, is amended to read:

Subdivision 1. **Authority.** The health care agent has authority to make any particular health care decision only if the principal lacks decision-making capacity, in the determination of the attending physician or advanced practice registered nurse, to make or communicate that health care decision; or if other conditions for effectiveness otherwise specified by the principal have been met. The physician, advanced practice registered nurse, or other health care provider shall continue to obtain the principal's informed consent to all health care decisions for which the principal has decision-making capacity, unless other conditions for effectiveness otherwise specified by the principal have been met. An alternate health care agent has authority to act if the primary health care agent is not reasonably available to act.

Sec. 72. Minnesota Statutes 2018, section 145C.16, is amended to read:

**145C.16 SUGGESTED FORM.**

The following is a suggested form of a health care directive and is not a required form.

HEALTH CARE DIRECTIVE

I, ....., understand this document allows me to do ONE OR BOTH of the following:

PART I: Name another person (called the health care agent) to make health care decisions for me if I am unable to decide or speak for myself. My health care agent must make health care decisions for me based on the instructions I provide in this document (Part II), if any, the wishes I have made known to him or her, or must act in my best interest if I have not made my health care wishes known.

AND/OR

PART II: Give health care instructions to guide others making health care decisions for me. If I have named a health care agent, these instructions are to be used by the agent. These instructions may also be used by my health care providers, others assisting with my health care and my family, in the event I cannot make decisions for myself.

PART I: APPOINTMENT OF HEALTH CARE AGENT
THIS IS WHO I WANT TO MAKE HEALTH CARE DECISIONS
FOR ME IF I AM UNABLE TO DECIDE OR SPEAK FOR MYSELF

(I know I can change my agent or alternate agent at any time and I know I do not have to appoint an agent or an alternate agent)

NOTE: If you appoint an agent, you should discuss this health care directive with your agent and give your agent a copy. If you do not wish to appoint an agent, you may leave Part I blank and go to Part II.

When I am unable to decide or speak for myself, I trust and appoint ..... to make health care decisions for me. This person is called my health care agent.

Relationship of my health care agent to me:……...

Telephone number of my health care agent:……...

Address of my health care agent:……

(OPTIONAL) APPOINTMENT OF ALTERNATE HEALTH CARE AGENT: If my health care agent is not reasonably available, I trust and appoint ..... to be my health care agent instead.

Relationship of my alternate health care agent to me:……

Telephone number of my alternate health care agent:……

Address of my alternate health care agent:…….

THIS IS WHAT I WANT MY HEALTH CARE AGENT TO BE ABLE TO
DO IF I AM UNABLE TO DECIDE OR SPEAK FOR MYSELF

(I know I can change these choices)

My health care agent is automatically given the powers listed below in (A) through (D). My health care agent must follow my health care instructions in this document or any other instructions I have given to my agent. If I have not given health care instructions, then my agent must act in my best interest.

Whenever I am unable to decide or speak for myself, my health care agent has the power to:

(A) Make any health care decision for me. This includes the power to give, refuse, or withdraw consent to any care, treatment, service, or procedures. This includes deciding whether to stop or not start health care that is keeping me or might keep me alive, and deciding about intrusive mental health treatment.

(B) Choose my health care providers.

(C) Choose where I live and receive care and support when those choices relate to my health care needs.

(D) Review my medical records and have the same rights that I would have to give my medical records to other people.

If I DO NOT want my health care agent to have a power listed above in (A) through (D) OR if I want to LIMIT any power in (A) through (D), I MUST say that here:

……...
……...
……...

My health care agent is NOT automatically given the powers listed below in (1) and (2). If I WANT my agent to have any of the powers in (1) and (2), I must INITIAL the line in front of the power; then my agent WILL HAVE that power.

….. (1) To decide whether to donate any parts of my body, including organs, tissues, and eyes, when I die.
….. (2) To decide what will happen with my body when I die (burial, cremation).

If I want to say anything more about my health care agent's powers or limits on the powers, I can say it here:

……...
……...
……...

PART II: HEALTH CARE INSTRUCTIONS

NOTE: Complete this Part II if you wish to give health care instructions. If you appointed an agent in Part I, completing this Part II is optional but would be very helpful to your agent. However, if you chose not to appoint an agent in Part I, you MUST complete some or all of this Part II if you wish to make a valid health care directive.

These are instructions for my health care when I am unable to decide or speak for myself. These instructions must be followed (so long as they address my needs).

THESE ARE MY BELIEFS AND VALUES ABOUT MY HEALTH CARE

(I know I can change these choices or leave any of them blank)

I want you to know these things about me to help you make decisions about my health care:

My goals for my health care:……..
……...
……...

My fears about my health care:……...
……...
……...

My spiritual or religious beliefs and traditions:……..
……...
……...

My beliefs about when life would be no longer worth living:……
……...
……...

My thoughts about how my medical condition might affect my family:……
……...
……...

THIS IS WHAT I WANT AND DO NOT WANT FOR MY HEALTH CARE

(I know I can change these choices or leave any of them blank)

Many medical treatments may be used to try to improve my medical condition or to prolong my life. Examples include artificial breathing by a machine connected to a tube in the lungs, artificial feeding or fluids through tubes, attempts to start a stopped heart, surgeries, dialysis, antibiotics, and blood transfusions. Most medical treatments can be tried for a while and then stopped if they do not help.

I have these views about my health care in these situations:

(Note: You can discuss general feelings, specific treatments, or leave any of them blank)

If I had a reasonable chance of recovery, and were temporarily unable to decide or speak for myself, I would want:……..
……...
……...

If I were dying and unable to decide or speak for myself, I would want:……...
……...
……...

If I were permanently unconscious and unable to decide or speak for myself, I would want:……...
……...
……...

If I were completely dependent on others for my care and unable to decide or speak for myself, I would want:….
……...
……...

In all circumstances, my doctors or advanced practice registered nurses will try to keep me comfortable and reduce my pain. This is how I feel about pain relief if it would affect my alertness or if it could shorten my life:……
……...
……...

There are other things that I want or do not want for my health care, if possible:

Who I would like to be my doctor or advanced practice registered nurse:…….
……...
……...

Where I would like to live to receive health care:……..
……...
……...

Where I would like to die and other wishes I have about dying:……
……...
……...

My wishes about donating parts of my body when I die:……...
……...
……...

My wishes about what happens to my body when I die (cremation, burial):…….
……...
……...

Any other things:……
……...
……...

PART III: MAKING THE DOCUMENT LEGAL

This document must be signed by me. It also must either be verified by a notary public (Option 1) OR witnessed by two witnesses (Option 2). It must be dated when it is verified or witnessed.

I am thinking clearly, I agree with everything that is written in this document, and I have made this document willingly.

…….
My Signature
Date signed: ……
Date of birth: ……...
Address: ……..
……..
If I cannot sign my name, I can ask someone to sign this document for me.
…….
Signature of the person who I asked to sign this document for me.
…….
Printed name of the person who I asked to sign this document for me.

Option 1: Notary Public

In my presence on ..... (date), ..... (name) acknowledged his/her signature on this document or acknowledged that he/she authorized the person signing this document to sign on his/her behalf. I am not named as a health care agent or alternate health care agent in this document.

……
(Signature of Notary) (Notary Stamp)

Option 2: Two Witnesses

Two witnesses must sign. Only one of the two witnesses can be a health care provider or an employee of a health care provider giving direct care to me on the day I sign this document.

Witness One:

(i) In my presence on ..... (date), ..... (name) acknowledged his/her signature on this document or acknowledged that he/she authorized the person signing this document to sign on his/her behalf.

(ii) I am at least 18 years of age.

(iii) I am not named as a health care agent or an alternate health care agent in this document.

(iv) If I am a health care provider or an employee of a health care provider giving direct care to the person listed above in (A), I must initial this box: [ ]

I certify that the information in (i) through (iv) is true and correct.

……..
(Signature of Witness One)
Address: ……
……

Witness Two:

(i) In my presence on ..... (date), ..... (name) acknowledged his/her signature on this document or acknowledged that he/she authorized the person signing this document to sign on his/her behalf.

(ii) I am at least 18 years of age.

(iii) I am not named as a health care agent or an alternate health care agent in this document.

(iv) If I am a health care provider or an employee of a health care provider giving direct care to the person listed above in (A), I must initial this box: [ ]

I certify that the information in (i) through (iv) is true and correct.

……..
(Signature of Witness Two)
Address: ……
……

REMINDER: Keep this document with your personal papers in a safe place (not in a safe deposit box). Give signed copies to your doctors or advanced practice registered nurses, family, close friends, health care agent, and alternate health care agent. Make sure your doctor or advanced practice registered nurse is willing to follow your wishes. This document should be part of your medical record at your physician's or advanced practice registered nurse's office and at the hospital, home care agency, hospice, or nursing facility where you receive your care.

Sec. 73. Minnesota Statutes 2018, section 148.6438, subdivision 1, is amended to read:

Subdivision 1. **Required notification.** In the absence of a physician or advanced practice registered nurse referral or prior authorization, and before providing occupational therapy services for remuneration or expectation of payment from the client, an occupational therapist must provide the following written notification in all capital letters of 12-point or larger boldface type, to the client, parent, or guardian:

"Your health care provider, insurer, or plan may require a physician or advanced practice registered nurse referral or prior authorization and you may be obligated for partial or full payment for occupational therapy services rendered."

Information other than this notification may be included as long as the notification remains conspicuous on the face of the document. A nonwritten disclosure format may be used to satisfy the recipient notification requirement when necessary to accommodate the physical condition of a client or client's guardian.

Sec. 74. Minnesota Statutes 2018, section 151.19, subdivision 4, is amended to read:

Subd. 4. **Licensing of physicians and advanced practice registered nurses to dispense drugs; renewals.** (a) The board may grant a license to any physician licensed under chapter 147 or advanced practice registered nurse licensed under chapter 148 who provides services in a health care facility located in a designated health professional shortage area authorizing the physician or advanced practice registered nurse to dispense drugs to individuals for whom pharmaceutical care is not reasonably available. The license may be renewed annually. Any physician or advanced practice registered nurse licensed under this subdivision shall be limited to dispensing drugs in a limited service pharmacy and shall be governed by the rules adopted by the board when dispensing drugs.

(b) For the purposes of this subdivision, pharmaceutical care is not reasonably available if the limited service pharmacy in which the physician or advanced practice registered nurse is dispensing drugs is located in a health professional shortage area, and no other licensed pharmacy is located within 15 miles of the limited service pharmacy.

(c) For the purposes of this subdivision, section 151.15, subdivision 2, shall not apply, and section 151.215 shall not apply provided that a physician or advanced practice registered nurse granted a license under this subdivision certifies each filled prescription in accordance with Minnesota Rules, part 6800.3100, subpart 3.

(d) Notwithstanding section 151.102, a physician or advanced practice registered nurse granted a license under this subdivision may be assisted by a pharmacy technician if the technician holds a valid certification from the Pharmacy Technician Certification Board or from another national certification body for pharmacy technicians that requires passage of a nationally recognized psychometrically valid certification examination for certification as determined by the board. The physician or advanced practice registered nurse may supervise the pharmacy technician as long as the physician or advanced practice registered nurse assumes responsibility for all functions performed by the technician. For purposes of this subdivision, supervision does not require the physician or advanced practice registered nurse to be physically present if the physician, advanced practice registered nurse, or a licensed pharmacist is available, either electronically or by telephone.

(e) Nothing in this subdivision shall be construed to prohibit a physician or advanced practice registered nurse from dispensing drugs pursuant to section 151.37 and Minnesota Rules, parts 6800.9950 to 6800.9954.

Sec. 75. Minnesota Statutes 2018, section 151.21, subdivision 4a, is amended to read:

Subd. 4a. **Sign.** A pharmacy must post a sign in a conspicuous location and in a typeface easily seen at the counter where prescriptions are dispensed stating: "In order to save you money, this pharmacy will substitute whenever possible an FDA-approved, less expensive, generic drug product, which is therapeutically equivalent to and safely interchangeable with the one prescribed by your doctor or advanced practice registered nurse, unless you object to this substitution."

Sec. 76. Minnesota Statutes 2018, section 152.32, subdivision 3, is amended to read:

Subd. 3. **Discrimination prohibited.** (a) No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for the person's status as a patient enrolled in the registry program under sections 152.22 to 152.37, unless failing to do so would violate federal law or regulations or cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulations.

(b) For the purposes of medical care, including organ transplants, a registry program enrollee's use of medical cannabis under sections 152.22 to 152.37 is considered the equivalent of the authorized use of any other medication used at the discretion of a physician or advanced practice registered nurse and does not constitute the use of an illicit substance or otherwise disqualify a patient from needed medical care.

(c) Unless a failure to do so would violate federal law or regulations or cause an employer to lose a monetary or licensing-related benefit under federal law or regulations, an employer may not discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalize a person, if the discrimination is based upon either of the following:

(1) the person's status as a patient enrolled in the registry program under sections 152.22 to 152.37; or

(2) a patient's positive drug test for cannabis components or metabolites, unless the patient used, possessed, or was impaired by medical cannabis on the premises of the place of employment or during the hours of employment.

(d) An employee who is required to undergo employer drug testing pursuant to section 181.953 may present verification of enrollment in the patient registry as part of the employee's explanation under section 181.953, subdivision 6.

(e) A person shall not be denied custody of a minor child or visitation rights or parenting time with a minor child solely based on the person's status as a patient enrolled in the registry program under sections 152.22 to 152.37. There shall be no presumption of neglect or child endangerment for conduct allowed under sections 152.22 to 152.37, unless the person's behavior is such that it creates an unreasonable danger to the safety of the minor as established by clear and convincing evidence.

Sec. 77. Minnesota Statutes 2018, section 245A.143, subdivision 8, is amended to read:

Subd. 8. **Nutritional services.** (a) The license holder shall ensure that food served is nutritious and meets any special dietary needs of the participants as prescribed by the participant's physician, advanced practice registered nurse, or dietitian as specified in the service delivery plan.

(b) Food and beverages must be obtained, handled, and properly stored to prevent contamination, spoilage, or a threat to the health of a resident.

Sec. 78. Minnesota Statutes 2018, section 245A.1435, is amended to read:

**245A.1435 REDUCTION OF RISK OF SUDDEN UNEXPECTED INFANT DEATH IN LICENSED PROGRAMS.**

(a) When a license holder is placing an infant to sleep, the license holder must place the infant on the infant's back, unless the license holder has documentation from the infant's physician or advanced practice registered nurse directing an alternative sleeping position for the infant. The physician or advanced practice registered nurse directive must be on a form approved by the commissioner and must remain on file at the licensed location. An infant who independently rolls onto its stomach after being placed to sleep on its back may be allowed to remain sleeping on its stomach if the infant is at least six months of age or the license holder has a signed statement from the parent indicating that the infant regularly rolls over at home.

(b) The license holder must place the infant in a crib directly on a firm mattress with a fitted sheet that is appropriate to the mattress size, that fits tightly on the mattress, and overlaps the underside of the mattress so it cannot be dislodged by pulling on the corner of the sheet with reasonable effort. The license holder must not place anything in the crib with the infant except for the infant's pacifier, as defined in Code of Federal Regulations, title 16, part 1511. The requirements of this section apply to license holders serving infants younger than one year of age. Licensed child care providers must meet the crib requirements under section 245A.146. A correction order shall not be issued under this paragraph unless there is evidence that a violation occurred when an infant was present in the license holder's care.

(c) If an infant falls asleep before being placed in a crib, the license holder must move the infant to a crib as soon as practicable, and must keep the infant within sight of the license holder until the infant is placed in a crib. When an infant falls asleep while being held, the license holder must consider the supervision needs of other children in care when determining how long to hold the infant before placing the infant in a crib to sleep. The sleeping infant must not be in a position where the airway may be blocked or with anything covering the infant's face.

(d) Placing a swaddled infant down to sleep in a licensed setting is not recommended for an infant of any age and is prohibited for any infant who has begun to roll over independently. However, with the written consent of a parent or guardian according to this paragraph, a license holder may place the infant who has not yet begun to roll over on its own down to sleep in a one-piece sleeper equipped with an attached system that fastens securely only across the upper torso, with no constriction of the hips or legs, to create a swaddle. Prior to any use of swaddling for sleep by a provider licensed under this chapter, the license holder must obtain informed written consent for the use of swaddling from the parent or guardian of the infant on a form provided by the commissioner and prepared in partnership with the Minnesota Sudden Infant Death Center.

Sec. 79. Minnesota Statutes 2018, section 245C.02, subdivision 18, is amended to read:

Subd. 18. **Serious maltreatment.** (a) "Serious maltreatment" means sexual abuse, maltreatment resulting in death, neglect resulting in serious injury which reasonably requires the care of a physician or advanced practice registered nurse whether or not the care of a physician or advanced practice registered nurse was sought, or abuse resulting in serious injury.

(b) For purposes of this definition, "care of a physician or advanced practice registered nurse" is treatment received or ordered by a physician, physician assistant, advanced practice registered nurse, or nurse practitioner, but does not include:

(1) diagnostic testing, assessment, or observation;

(2) the application of, recommendation to use, or prescription solely for a remedy that is available over the counter without a prescription; or

(3) a prescription solely for a topical antibiotic to treat burns when there is no follow-up appointment.

(c) For purposes of this definition, "abuse resulting in serious injury" means: bruises, bites, skin laceration, or tissue damage; fractures; dislocations; evidence of internal injuries; head injuries with loss of consciousness; extensive second-degree or third-degree burns and other burns for which complications are present; extensive second-degree or third-degree frostbite and other frostbite for which complications are present; irreversible mobility or avulsion of teeth; injuries to the eyes; ingestion of foreign substances and objects that are harmful; near drowning; and heat exhaustion or sunstroke.

(d) Serious maltreatment includes neglect when it results in criminal sexual conduct against a child or vulnerable adult.

Sec. 80. Minnesota Statutes 2018, section 245C.04, subdivision 1, is amended to read:

Subdivision 1. **Licensed programs; other child care programs.** (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, at least upon application for initial license for all license types.

(b) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, including a child care background study subject as defined in section 245C.02, subdivision 6a, in a family child care program, licensed child care center, certified license-exempt child care center, or legal nonlicensed child care provider, on a schedule determined by the commissioner. Except as provided in section 245C.05, subdivision 5a, a child care background study must include submission of fingerprints for a national criminal history record check and a review of the information under section 245C.08. A background study for a child care program must be repeated within five years from the most recent study conducted under this paragraph.

(c) At reapplication for a family child care license:

(1) for a background study affiliated with a licensed family child care center or legal nonlicensed child care provider, the individual shall provide information required under section 245C.05, subdivision 1, paragraphs (a), (b), and (d), to the county agency, and be fingerprinted and photographed under section 245C.05, subdivision 5;

(2) the county agency shall verify the information received under clause (1) and forward the information to the commissioner to complete the background study; and

(3) the background study conducted by the commissioner under this paragraph must include a review of the information required under section 245C.08.

(d) The commissioner is not required to conduct a study of an individual at the time of reapplication for a license if the individual's background study was completed by the commissioner of human services and the following conditions are met:

(1) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder;

(2) the individual has been continuously affiliated with the license holder since the last study was conducted; and

(3) the last study of the individual was conducted on or after October 1, 1995.

(e) The commissioner of human services shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with a child foster care license holder:

(1) the county or private agency shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1 and 5, when the child foster care applicant or license holder resides in the home where child foster care services are provided;

(2) the child foster care license holder or applicant shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1 and 5, when the applicant or license holder does not reside in the home where child foster care services are provided; and

(3) the background study conducted by the commissioner of human services under this paragraph must include a review of the information required under section 245C.08, subdivisions 1, 3, and 4.

(f) The commissioner shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with an adult foster care or family adult day services and with a family child care license holder or a legal nonlicensed child care provider authorized under chapter 119B and:

(1) except as provided in section 245C.05, subdivision 5a, the county shall collect and forward to the commissioner the information required under section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a), (b), and (d), for background studies conducted by the commissioner for all family adult day services, for adult foster care when the adult foster care license holder resides in the adult foster care residence, and for family child care and legal nonlicensed child care authorized under chapter 119B;

(2) the license holder shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs (a) and (b), for background studies conducted by the commissioner for adult foster care when the license holder does not reside in the adult foster care residence; and

(3) the background study conducted by the commissioner under this paragraph must include a review of the information required under section 245C.08, subdivision 1, paragraph (a), and subdivisions 3 and 4.

(g) Applicants for licensure, license holders, and other entities as provided in this chapter must submit completed background study requests to the commissioner using the electronic system known as NETStudy before individuals specified in section 245C.03, subdivision 1, begin positions allowing direct contact in any licensed program.

(h) For an individual who is not on the entity's active roster, the entity must initiate a new background study through NETStudy when:

(1) an individual returns to a position requiring a background study following an absence of 120 or more consecutive days; or

(2) a program that discontinued providing licensed direct contact services for 120 or more consecutive days begins to provide direct contact licensed services again.

The license holder shall maintain a copy of the notification provided to the commissioner under this paragraph in the program's files. If the individual's disqualification was previously set aside for the license holder's program and the new background study results in no new information that indicates the individual may pose a risk of harm to persons receiving services from the license holder, the previous set-aside shall remain in effect.

(i) For purposes of this section, a physician licensed under chapter 147 or advanced practice registered nurse licensed under chapter 148 is considered to be continuously affiliated upon the license holder's receipt from the commissioner of health or human services of the physician's or advanced practice registered nurse's background study results.

(j) For purposes of family child care, a substitute caregiver must receive repeat background studies at the time of each license renewal.

(k) A repeat background study at the time of license renewal is not required if the family child care substitute caregiver's background study was completed by the commissioner on or after October 1, 2017, and the substitute caregiver is on the license holder's active roster in NETStudy 2.0.

(l) Before and after school programs authorized under chapter 119B, are exempt from the background study requirements under section 123B.03, for an employee for whom a background study under this chapter has been completed.

Sec. 81. Minnesota Statutes 2018, section 245D.02, subdivision 11, is amended to read:

Subd. 11. **Incident.** "Incident" means an occurrence which involves a person and requires the program to make a response that is not a part of the program's ordinary provision of services to that person, and includes:

(1) serious injury of a person as determined by section 245.91, subdivision 6;

(2) a person's death;

(3) any medical emergency, unexpected serious illness, or significant unexpected change in an illness or medical condition of a person that requires the program to call 911, physician or advanced practice registered nurse treatment, or hospitalization;

(4) any mental health crisis that requires the program to call 911, a mental health crisis intervention team, or a similar mental health response team or service when available and appropriate;

(5) an act or situation involving a person that requires the program to call 911, law enforcement, or the fire department;

(6) a person's unauthorized or unexplained absence from a program;

(7) conduct by a person receiving services against another person receiving services that:

(i) is so severe, pervasive, or objectively offensive that it substantially interferes with a person's opportunities to participate in or receive service or support;

(ii) places the person in actual and reasonable fear of harm;

(iii) places the person in actual and reasonable fear of damage to property of the person; or

(iv) substantially disrupts the orderly operation of the program;

(8) any sexual activity between persons receiving services involving force or coercion as defined under section 609.341, subdivisions 3 and 14;

(9) any emergency use of manual restraint as identified in section 245D.061 or successor provisions; or

(10) a report of alleged or suspected child or vulnerable adult maltreatment under section 626.556 or 626.557.

Sec. 82. Minnesota Statutes 2018, section 245D.11, subdivision 2, is amended to read:

Subd. 2. **Health and welfare.** The license holder must establish policies and procedures that promote health and welfare by ensuring:

(1) use of universal precautions and sanitary practices in compliance with section 245D.06, subdivision 2, clause (5);

(2) if the license holder operates a residential program, health service coordination and care according to the requirements in section 245D.05, subdivision 1;

(3) safe medication assistance and administration according to the requirements in sections 245D.05, subdivisions 1a, 2, and 5, and 245D.051, that are established in consultation with a registered nurse, ~~nurse practitioner~~ advanced practice registered nurse, physician assistant, or medical doctor and require completion of medication administration training according to the requirements in section 245D.09, subdivision 4a, paragraph (d). Medication assistance and administration includes, but is not limited to:

(i) providing medication-related services for a person;

(ii) medication setup;

(iii) medication administration;

(iv) medication storage and security;

(v) medication documentation and charting;

(vi) verification and monitoring of effectiveness of systems to ensure safe medication handling and administration;

(vii) coordination of medication refills;

(viii) handling changes to prescriptions and implementation of those changes;

(ix) communicating with the pharmacy; and

(x) coordination and communication with prescriber;

(4) safe transportation, when the license holder is responsible for transportation of persons, with provisions for handling emergency situations according to the requirements in section 245D.06, subdivision 2, clauses (2) to (4);

(5) a plan for ensuring the safety of persons served by the program in emergencies as defined in section 245D.02, subdivision 8, and procedures for staff to report emergencies to the license holder. A license holder with a community residential setting or a day service facility license must ensure the policy and procedures comply with the requirements in section 245D.22, subdivision 4;

(6) a plan for responding to all incidents as defined in section 245D.02, subdivision 11; and reporting all incidents required to be reported according to section 245D.06, subdivision 1. The plan must:

(i) provide the contact information of a source of emergency medical care and transportation; and

(ii) require staff to first call 911 when the staff believes a medical emergency may be life threatening, or to call the mental health crisis intervention team or similar mental health response team or service when such a team is available and appropriate when the person is experiencing a mental health crisis; and

(7) a procedure for the review of incidents and emergencies to identify trends or patterns, and corrective action if needed. The license holder must establish and maintain a record-keeping system for the incident and emergency reports. Each incident and emergency report file must contain a written summary of the incident. The license holder must conduct a review of incident reports for identification of incident patterns, and implementation of corrective action as necessary to reduce occurrences. Each incident report must include:

(i) the name of the person or persons involved in the incident. It is not necessary to identify all persons affected by or involved in an emergency unless the emergency resulted in an incident;

(ii) the date, time, and location of the incident or emergency;

(iii) a description of the incident or emergency;

(iv) a description of the response to the incident or emergency and whether a person's coordinated service and support plan addendum or program policies and procedures were implemented as applicable;

(v) the name of the staff person or persons who responded to the incident or emergency; and

(vi) the determination of whether corrective action is necessary based on the results of the review.

Sec. 83. Minnesota Statutes 2018, section 245D.22, subdivision 7, is amended to read:

Subd. 7. **Telephone and posted numbers.** A facility must have a non-coin-operated telephone that is readily accessible. A list of emergency numbers must be posted in a prominent location. When an area has a 911 number or a mental health crisis intervention team number, both numbers must be posted and 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. The names and telephone numbers of each person's representative, physician or advanced practice registered nurse, and dentist must be readily available.

Sec. 84. Minnesota Statutes 2018, section 245D.25, subdivision 2, is amended to read:

Subd. 2. **Food.** Food served must meet any special dietary needs of a person as prescribed by the person's physician, advanced practice registered nurse, or dietitian. Three nutritionally balanced meals a day must be served or made available to persons, and nutritious snacks must be available between meals.

Sec. 85. Minnesota Statutes 2018, section 245G.08, subdivision 2, is amended to read:

Subd. 2. **Procedures.** The applicant or license holder must have written procedures for obtaining a medical intervention for a client, that are approved in writing by a physician who is licensed under chapter 147 or advanced practice registered nurse who is licensed under chapter 148, unless:

(1) the license holder does not provide a service under section 245G.21; and

(2) a medical intervention is referred to 911, the emergency telephone number, or the client's physician or advanced practice registered nurse.

Sec. 86. Minnesota Statutes 2019 Supplement, section 245G.08, subdivision 3, is amended to read:

Subd. 3. **Standing order protocol.** A license holder that maintains a supply of naloxone available for emergency treatment of opioid overdose must have a written standing order protocol by a physician who is licensed under chapter 147 or an advanced practice registered nurse who is licensed under chapter 148, that permits the license holder to maintain a supply of naloxone on site. A license holder must require staff to undergo training in the specific mode of administration used at the program, which may include intranasal administration, intramuscular injection, or both.

Sec. 87. Minnesota Statutes 2018, section 245G.08, subdivision 5, is amended to read:

Subd. 5. **Administration of medication and assistance with self-medication.** (a) A license holder must meet the requirements in this subdivision if a service provided includes the administration of medication.

(b) A staff member, other than a licensed practitioner or nurse, who is delegated by a licensed practitioner or a registered nurse the task of administration of medication or assisting with self-medication, must:

(1) successfully complete a medication administration training program for unlicensed personnel through an accredited Minnesota postsecondary educational institution. A staff member's completion of the course must be documented in writing and placed in the staff member's personnel file;

(2) be trained according to a formalized training program that is taught by a registered nurse and offered by the license holder. The training must include the process for administration of naloxone, if naloxone is kept on site. A staff member's completion of the training must be documented in writing and placed in the staff member's personnel records; or

(3) demonstrate to a registered nurse competency to perform the delegated activity. A registered nurse must be employed or contracted to develop the policies and procedures for administration of medication or assisting with self-administration of medication, or both.

(c) A registered nurse must provide supervision as defined in section 148.171, subdivision 23. The registered nurse's supervision must include, at a minimum, monthly on-site supervision or more often if warranted by a client's health needs. The policies and procedures must include:

(1) a provision that a delegation of administration of medication is limited to the administration of a medication that is administered orally, topically, or as a suppository, an eye drop, an ear drop, or an inhalant;

(2) a provision that each client's file must include documentation indicating whether staff must conduct the administration of medication or the client must self-administer medication, or both;

(3) a provision that a client may carry emergency medication such as nitroglycerin as instructed by the client's physician or advanced practice registered nurse;

(4) a provision for the client to self-administer medication when a client is scheduled to be away from the facility;

(5) a provision that if a client self-administers medication when the client is present in the facility, the client must self-administer medication under the observation of a trained staff member;

(6) a provision that when a license holder serves a client who is a parent with a child, the parent may only administer medication to the child under a staff member's supervision;

(7) requirements for recording the client's use of medication, including staff signatures with date and time;

(8) guidelines for when to inform a nurse of problems with self-administration of medication, including a client's failure to administer, refusal of a medication, adverse reaction, or error; and

(9) procedures for acceptance, documentation, and implementation of a prescription, whether written, verbal, telephonic, or electronic.

Sec. 88. Minnesota Statutes 2018, section 245G.21, subdivision 2, is amended to read:

Subd. 2. **Visitors.** A client must be allowed to receive visitors at times prescribed by the license holder. The license holder must set and post a notice of visiting rules and hours, including both day and evening times. A client's right to receive visitors other than a personal physician or advanced practice registered nurse, religious adviser, county case manager, parole or probation officer, or attorney may be subject to visiting hours established by the license holder for all clients. The treatment director or designee may impose limitations as necessary for the welfare of a client provided the limitation and the reasons for the limitation are documented in the client's file. A client must be allowed to receive visits at all reasonable times from the client's personal physician or advanced practice registered nurse, religious adviser, county case manager, parole or probation officer, and attorney.

Sec. 89. Minnesota Statutes 2018, section 245G.21, subdivision 3, is amended to read:

Subd. 3. **Client property management.** A license holder who provides room and board and treatment services to a client in the same facility, and any license holder that accepts client property must meet the requirements for handling client funds and property in section 245A.04, subdivision 13. License holders:

(1) may establish policies regarding the use of personal property to ensure that treatment activities and the rights of other clients are not infringed upon;

(2) may take temporary custody of a client's property for violation of a facility policy;

(3) must retain the client's property for a minimum of seven days after the client's service termination if the client does not reclaim property upon service termination, or for a minimum of 30 days if the client does not reclaim property upon service termination and has received room and board services from the license holder; and

(4) must return all property held in trust to the client at service termination regardless of the client's service termination status, except that:

(i) a drug, drug paraphernalia, or drug container that is subject to forfeiture under section 609.5316, must be given to the custody of a local law enforcement agency. If giving the property to the custody of a local law enforcement agency violates Code of Federal Regulations, title 42, sections 2.1 to 2.67, or title 45, parts 160 to 164, a drug, drug paraphernalia, or drug container must be destroyed by a staff member designated by the program director; and

(ii) a weapon, explosive, and other property that can cause serious harm to the client or others must be given to the custody of a local law enforcement agency, and the client must be notified of the transfer and of the client's right to reclaim any lawful property transferred; and

(iii) a medication that was determined by a physician or advanced practice registered nurse to be harmful after examining the client must be destroyed, except when the client's personal physician or advanced practice registered nurse approves the medication for continued use.

Sec. 90. Minnesota Statutes 2019 Supplement, section 245H.11, is amended to read:

**245H.11 REPORTING.**

(a) The certification holder must comply and must have written policies for staff to comply with the reporting requirements for abuse and neglect specified in section 626.556. A person mandated to report physical or sexual child abuse or neglect occurring within a certified center shall report the information to the commissioner.

(b) The certification holder must inform the commissioner within 24 hours of:

(1) the death of a child in the program; and

(2) any injury to a child in the program that required treatment by a physician or advanced practice registered nurse.

Sec. 91. Minnesota Statutes 2018, section 246.711, subdivision 2, is amended to read:

Subd. 2. **Conditions.** The secure treatment facility shall follow the procedures in sections 246.71 to 246.722 when all of the following conditions are met:

(1) a licensed physician or advanced practice registered nurse determines that a significant exposure has occurred following the protocol under section 246.721;

(2) the licensed physician or advanced practice registered nurse for the employee needs the patient's blood-borne pathogens test results to begin, continue, modify, or discontinue treatment in accordance with the most current guidelines of the United States Public Health Service, because of possible exposure to a blood-borne pathogen; and

(3) the employee consents to providing a blood sample for testing for a blood-borne pathogen.

Sec. 92. Minnesota Statutes 2018, section 246.715, subdivision 2, is amended to read:

Subd. 2. **Procedures without consent.** If the patient has provided a blood sample, but does not consent to blood-borne pathogens testing, the secure treatment facility shall ensure that the blood is tested for blood-borne pathogens if the employee requests the test, provided all of the following criteria are met:

(1) the employee and secure treatment facility have documented exposure to blood or body fluids during performance of the employee's work duties;

(2) a licensed physician or advanced practice registered nurse has determined that a significant exposure has occurred under section 246.711 and has documented that blood-borne pathogen test results are needed for beginning, modifying, continuing, or discontinuing medical treatment for the employee as recommended by the most current guidelines of the United States Public Health Service;

(3) the employee provides a blood sample for testing for blood-borne pathogens as soon as feasible;

(4) the secure treatment facility asks the patient to consent to a test for blood-borne pathogens and the patient does not consent;

(5) the secure treatment facility has provided the patient and the employee with all of the information required by section 246.712; and

(6) the secure treatment facility has informed the employee of the confidentiality requirements of section 246.719 and the penalties for unauthorized release of patient information under section 246.72.

Sec. 93. Minnesota Statutes 2018, section 246.716, subdivision 2, is amended to read:

Subd. 2. **Procedures without consent.** (a) A secure treatment facility or an employee of a secure treatment facility may bring a petition for a court order to require a patient to provide a blood sample for testing for blood-borne pathogens. The petition shall be filed in the district court in the county where the patient is receiving treatment from the secure treatment facility. The secure treatment facility shall serve the petition on the patient three days before a hearing on the petition. The petition shall include one or more affidavits attesting that:

(1) the secure treatment facility followed the procedures in sections 246.71 to 246.722 and attempted to obtain blood-borne pathogen test results according to those sections;

(2) a licensed physician or advanced practice registered nurse knowledgeable about the most current recommendations of the United States Public Health Service has determined that a significant exposure has occurred to the employee of a secure treatment facility under section 246.721; and

(3) a physician or advanced practice registered nurse has documented that the employee has provided a blood sample and consented to testing for blood-borne pathogens and blood-borne pathogen test results are needed for beginning, continuing, modifying, or discontinuing medical treatment for the employee under section 246.721.

(b) Facilities shall cooperate with petitioners in providing any necessary affidavits to the extent that facility staff can attest under oath to the facts in the affidavits.

(c) The court may order the patient to provide a blood sample for blood-borne pathogen testing if:

(1) there is probable cause to believe the employee of a secure treatment facility has experienced a significant exposure to the patient;

(2) the court imposes appropriate safeguards against unauthorized disclosure that must specify the persons who have access to the test results and the purposes for which the test results may be used;

(3) a licensed physician or advanced practice registered nurse for the employee of a secure treatment facility needs the test results for beginning, continuing, modifying, or discontinuing medical treatment for the employee; and

(4) the court finds a compelling need for the test results. In assessing compelling need, the court shall weigh the need for the court-ordered blood collection and test results against the interests of the patient, including, but not limited to, privacy, health, safety, or economic interests. The court shall also consider whether involuntary blood collection and testing would serve the public interests.

(d) The court shall conduct the proceeding in camera unless the petitioner or the patient requests a hearing in open court and the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

(e) The patient may arrange for counsel in any proceeding brought under this subdivision.

Sec. 94. Minnesota Statutes 2018, section 246.721, is amended to read:

**246.721 PROTOCOL FOR EXPOSURE TO BLOOD-BORNE PATHOGENS.**

(a) A secure treatment facility shall follow applicable Occupational Safety and Health Administration guidelines under Code of Federal Regulations, title 29, part 1910.1030, for blood-borne pathogens.

(b) Every secure treatment facility shall adopt and follow a postexposure protocol for employees at a secure treatment facility who have experienced a significant exposure. The postexposure protocol must adhere to the most current recommendations of the United States Public Health Service and include, at a minimum, the following:

(1) a process for employees to report an exposure in a timely fashion;

(2) a process for an infectious disease specialist, or a licensed physician or advanced practice registered nurse who is knowledgeable about the most current recommendations of the United States Public Health Service in consultation with an infectious disease specialist, (i) to determine whether a significant exposure to one or more blood-borne pathogens has occurred, and (ii) to provide, under the direction of a licensed physician or advanced practice registered nurse, a recommendation or recommendations for follow-up treatment appropriate to the particular blood-borne pathogen or pathogens for which a significant exposure has been determined;

(3) if there has been a significant exposure, a process to determine whether the patient has a blood-borne pathogen through disclosure of test results, or through blood collection and testing as required by sections 246.71 to 246.722;

(4) a process for providing appropriate counseling prior to and following testing for a blood-borne pathogen regarding the likelihood of blood-borne pathogen transmission and follow-up recommendations according to the most current recommendations of the United States Public Health Service, recommendations for testing, and treatment;

(5) a process for providing appropriate counseling under clause (4) to the employee of a secure treatment facility and to the patient; and

(6) compliance with applicable state and federal laws relating to data practices, confidentiality, informed consent, and the patient bill of rights.

Sec. 95. Minnesota Statutes 2018, section 246.722, is amended to read:

**246.722 IMMUNITY.**

A secure treatment facility, licensed physician or advanced practice registered nurse, and designated health care personnel are immune from liability in any civil, administrative, or criminal action relating to the disclosure of test results of a patient to an employee of a secure treatment facility and the testing of a blood sample from the patient for blood-borne pathogens if a good faith effort has been made to comply with sections 246.71 to 246.722.

Sec. 96. Minnesota Statutes 2018, section 251.043, subdivision 1, is amended to read:

Subdivision 1. **Duty to seek treatment.** If upon the evidence mentioned in the preceding section, the workers' compensation division finds that an employee is suffering from tuberculosis contracted in the institution or department by contact with inmates or patients therein or by contact with tuberculosis contaminated material therein, it shall order the employee to seek the services of a physician, advanced practice registered nurse, or medical care facility. There shall be paid to the physician, advanced practice registered nurse, or facility where the employee may be received, the same fee for the maintenance and care of the person as is received by the institution for the maintenance and care of a nonresident patient. If the employee worked in a state hospital or nursing home, payment for the care shall be made by the commissioner of human services. If employed in any other institution or department the payment shall be made from funds allocated or appropriated for the operation of the institution or department. If the employee dies from the effects of the disease of tuberculosis and if the tuberculosis was the primary infection and the authentic cause of death, the workers' compensation division shall order payment to dependents as provided for under the general provisions of the workers' compensation law.

Sec. 97. Minnesota Statutes 2018, section 252A.02, subdivision 12, is amended to read:

Subd. 12. **Comprehensive evaluation.** "Comprehensive evaluation" shall consist of:

(1) a medical report on the health status and physical condition of the proposed ward, prepared under the direction of a licensed physician or advanced practice registered nurse;

(2) a report on the proposed ward's intellectual capacity and functional abilities, specifying the tests and other data used in reaching its conclusions, prepared by a psychologist who is qualified in the diagnosis of developmental disability; and

(3) a report from the case manager that includes:

(i) the most current assessment of individual service needs as described in rules of the commissioner;

(ii) the most current individual service plan under section 256B.092, subdivision 1b; and

(iii) a description of contacts with and responses of near relatives of the proposed ward notifying them that a nomination for public guardianship has been made and advising them that they may seek private guardianship.

Each report shall contain recommendations as to the amount of assistance and supervision required by the proposed ward to function as independently as possible in society. To be considered part of the comprehensive evaluation, reports must be completed no more than one year before filing the petition under section 252A.05.

Sec. 98. Minnesota Statutes 2018, section 252A.04, subdivision 2, is amended to read:

Subd. 2. **Medication; treatment.** A proposed ward who, at the time the comprehensive evaluation is to be performed, has been under medical care shall not be so under the influence or so suffer the effects of drugs, medication, or other treatment as to be hampered in the testing or evaluation process. When in the opinion of the licensed physician or advanced practice registered nurse attending the proposed ward, the discontinuance of medication or other treatment is not in the proposed ward's best interest, the physician or advanced practice registered nurse shall record a list of all drugs, medication or other treatment which the proposed ward received 48 hours immediately prior to any examination, test or interview conducted in preparation for the comprehensive evaluation.

Sec. 99. Minnesota Statutes 2018, section 252A.20, subdivision 1, is amended to read:

Subdivision 1. **Witness and attorney fees.** In each proceeding under sections 252A.01 to 252A.21, the court shall allow and order paid to each witness subpoenaed the fees and mileage prescribed by law; to each physician, advanced practice registered nurse, psychologist, or social worker who assists in the preparation of the comprehensive evaluation and who is not in the employ of the local agency or the state Department of Human Services, a reasonable sum for services and for travel; and to the ward's counsel, when appointed by the court, a reasonable sum for travel and for each day or portion of a day actually employed in court or actually consumed in preparing for the hearing. Upon order the county auditor shall issue a warrant on the county treasurer for payment of the amount allowed.

Sec. 100. Minnesota Statutes 2018, section 253B.03, subdivision 4, is amended to read:

Subd. 4. **Special visitation; religion.** A patient has the right to meet with or call a personal physician or advanced practice registered nurse, spiritual advisor, and counsel at all reasonable times. The patient has the right to continue the practice of religion.

Sec. 101. Minnesota Statutes 2018, section 253B.03, subdivision 6d, is amended to read:

Subd. 6d. **Adult mental health treatment.** (a) A competent adult may make a declaration of preferences or instructions regarding intrusive mental health treatment. These preferences or instructions may include, but are not limited to, consent to or refusal of these treatments.

(b) A declaration may designate a proxy to make decisions about intrusive mental health treatment. A proxy designated to make decisions about intrusive mental health treatments and who agrees to serve as proxy may make decisions on behalf of a declarant consistent with any desires the declarant expresses in the declaration.

(c) A declaration is effective only if it is signed by the declarant and two witnesses. The witnesses must include a statement that they believe the declarant understands the nature and significance of the declaration. A declaration becomes operative when it is delivered to the declarant's physician, advanced practice registered nurse, or other mental health treatment provider. The physician, advanced practice registered nurse, or provider must comply with it to the fullest extent possible, consistent with reasonable medical practice, the availability of treatments requested, and applicable law. The physician, advanced practice registered nurse, or provider shall continue to obtain the declarant's informed consent to all intrusive mental health treatment decisions if the declarant is capable of informed consent. A treatment provider may not require a person to make a declaration under this subdivision as a condition of receiving services.

(d) The physician, advanced practice registered nurse, or other provider shall make the declaration a part of the declarant's medical record. If the physician, advanced practice registered nurse, or other provider is unwilling at any time to comply with the declaration, the physician, advanced practice registered nurse, or provider must promptly notify the declarant and document the notification in the declarant's medical record. If the declarant has been committed as a patient under this chapter, the physician, advanced practice registered nurse, or provider may subject a declarant to intrusive treatment in a manner contrary to the declarant's expressed wishes, only upon order of the committing court. If the declarant is not a committed patient under this chapter, the physician, advanced practice registered nurse, or provider may subject the declarant to intrusive treatment in a manner contrary to the declarant's expressed wishes, only if the declarant is committed as mentally ill or mentally ill and dangerous to the public and a court order authorizing the treatment has been issued.

(e) A declaration under this subdivision may be revoked in whole or in part at any time and in any manner by the declarant if the declarant is competent at the time of revocation. A revocation is effective when a competent declarant communicates the revocation to the attending physician, advanced practice registered nurse, or other provider. The attending physician, advanced practice registered nurse, or other provider shall note the revocation as part of the declarant's medical record.

(f) A provider who administers intrusive mental health treatment according to and in good faith reliance upon the validity of a declaration under this subdivision is held harmless from any liability resulting from a subsequent finding of invalidity.

(g) In addition to making a declaration under this subdivision, a competent adult may delegate parental powers under section 524.5-211 or may nominate a guardian under sections 524.5-101 to 524.5-502.

Sec. 102. Minnesota Statutes 2018, section 253B.06, subdivision 2, is amended to read:

Subd. 2. **Chemically dependent persons.** Patients hospitalized as chemically dependent pursuant to section 253B.04 or 253B.05 shall also be examined within 48 hours of admission. At a minimum, the examination shall consist of a physical evaluation by facility staff according to procedures established by a physician or advanced practice registered nurse and an evaluation by staff knowledgeable and trained in the diagnosis of the alleged disability related to the need for admission as a chemically dependent person.

Sec. 103. Minnesota Statutes 2018, section 253B.23, subdivision 4, is amended to read:

Subd. 4. **Immunity.** All persons acting in good faith, upon either actual knowledge or information thought by them to be reliable, who act pursuant to any provision of this chapter or who procedurally or physically assist in the commitment of any individual, pursuant to this chapter, are not subject to any civil or criminal liability under this chapter. Any privilege otherwise existing between patient and physician, patient and registered nurse, patient and psychologist, patient and examiner, or patient and social worker, is waived as to any physician, registered nurse, psychologist, examiner, or social worker who provides information with respect to a patient pursuant to any provision of this chapter.

Sec. 104. Minnesota Statutes 2018, section 254A.08, subdivision 2, is amended to read:

Subd. 2. **Program requirements.** For the purpose of this section, a detoxification program means a social rehabilitation program licensed by the Department of Human Services under chapter 245A, and governed by the standards of Minnesota Rules, parts 9530.6510 to 9530.6590, and established for the purpose of facilitating access into care and treatment by detoxifying and evaluating the person and providing entrance into a comprehensive program. Evaluation of the person shall include verification by a professional, after preliminary examination, that

the person is intoxicated or has symptoms of substance misuse or substance use disorder and appears to be in imminent danger of harming self or others. A detoxification program shall have available the services of a licensed physician or advanced practice registered nurse for medical emergencies and routine medical surveillance. A detoxification program licensed by the Department of Human Services to serve both adults and minors at the same site must provide for separate sleeping areas for adults and minors.

Sec. 105. Minnesota Statutes 2018, section 256.9685, subdivision 1a, is amended to read:

Subd. 1a. **Administrative reconsideration.** Notwithstanding section 256B.04, subdivision 15, the commissioner shall establish an administrative reconsideration process for appeals of inpatient hospital services determined to be medically unnecessary. A physician, advanced practice registered nurse, or hospital may request a reconsideration of the decision that inpatient hospital services are not medically necessary by submitting a written request for review to the commissioner within 30 days after receiving notice of the decision. The reconsideration process shall take place prior to the procedures of subdivision 1b and shall be conducted by the medical review agent that is independent of the case under reconsideration.

Sec. 106. Minnesota Statutes 2018, section 256.9685, subdivision 1b, is amended to read:

Subd. 1b. **Appeal of reconsideration.** Notwithstanding section 256B.72, the commissioner may recover inpatient hospital payments for services that have been determined to be medically unnecessary after the reconsideration and determinations. A physician, advanced practice registered nurse, or hospital may appeal the result of the reconsideration process by submitting a written request for review to the commissioner within 30 days after receiving notice of the action. The commissioner shall review the medical record and information submitted during the reconsideration process and the medical review agent's basis for the determination that the services were not medically necessary for inpatient hospital services. The commissioner shall issue an order upholding or reversing the decision of the reconsideration process based on the review.

Sec. 107. Minnesota Statutes 2018, section 256.9685, subdivision 1c, is amended to read:

Subd. 1c. **Judicial review.** A hospital ~~or,~~ physician, or advanced practice registered nurse aggrieved by an order of the commissioner under subdivision 1b may appeal the order to the district court of the county in which the physician, advanced practice registered nurse, or hospital is located by:

(1) serving a written copy of a notice of appeal upon the commissioner within 30 days after the date the commissioner issued the order; and

(2) filing the original notice of appeal and proof of service with the court administrator of the district court. The appeal shall be treated as a dispositive motion under the Minnesota General Rules of Practice, rule 115. The district court scope of review shall be as set forth in section 14.69.

Sec. 108. Minnesota Statutes 2018, section 256.975, subdivision 7a, is amended to read:

Subd. 7a. **Preadmission screening activities related to nursing facility admissions.** (a) All individuals seeking admission to Medicaid-certified nursing facilities, including certified boarding care facilities, must be screened prior to admission regardless of income, assets, or funding sources for nursing facility care, except as described in subdivision 7b, paragraphs (a) and (b). The purpose of the screening is to determine the need for nursing facility level of care as described in section 256B.0911, subdivision 4e, and to complete activities required under federal law related to mental illness and developmental disability as outlined in paragraph (b).

(b) A person who has a diagnosis or possible diagnosis of mental illness or developmental disability must receive a preadmission screening before admission regardless of the exemptions outlined in subdivision 7b, paragraphs (a) and (b), to identify the need for further evaluation and specialized services, unless the admission prior to screening is authorized by the local mental health authority or the local developmental disabilities case manager, or unless authorized by the county agency according to Public Law 101-508.

(c) The following criteria apply to the preadmission screening:

(1) requests for preadmission screenings must be submitted via an online form developed by the commissioner;

(2) the Senior LinkAge Line must use forms and criteria developed by the commissioner to identify persons who require referral for further evaluation and determination of the need for specialized services; and

(3) the evaluation and determination of the need for specialized services must be done by:

(i) a qualified independent mental health professional, for persons with a primary or secondary diagnosis of a serious mental illness; or

(ii) a qualified developmental disability professional, for persons with a primary or secondary diagnosis of developmental disability. For purposes of this requirement, a qualified developmental disability professional must meet the standards for a qualified developmental disability professional under Code of Federal Regulations, title 42, section 483.430.

(d) The local county mental health authority or the state developmental disability authority under Public Laws 100-203 and 101-508 may prohibit admission to a nursing facility if the individual does not meet the nursing facility level of care criteria or needs specialized services as defined in Public Laws 100-203 and 101-508. For purposes of this section, "specialized services" for a person with developmental disability means active treatment as that term is defined under Code of Federal Regulations, title 42, section 483.440 (a)(1).

(e) In assessing a person's needs, the screener shall:

(1) use an automated system designated by the commissioner;

(2) consult with care transitions coordinators ~~or~~, physician, or advanced practice registered nurse; and

(3) consider the assessment of the individual's physician or advanced practice registered nurse.

Other personnel may be included in the level of care determination as deemed necessary by the screener.

Sec. 109. Minnesota Statutes 2018, section 256.975, subdivision 11, is amended to read:

Subd. 11. **Regional and local dementia grants.** (a) The Minnesota Board on Aging shall award competitive grants to eligible applicants for regional and local projects and initiatives targeted to a designated community, which may consist of a specific geographic area or population, to increase awareness of Alzheimer's disease and other dementias, increase the rate of cognitive testing in the population at risk for dementias, promote the benefits of early diagnosis of dementias, or connect caregivers of persons with dementia to education and resources.

(b) The project areas for grants include:

(1) local or community-based initiatives to promote the benefits of physician or advanced practice registered nurse consultations for all individuals who suspect a memory or cognitive problem;

(2) local or community-based initiatives to promote the benefits of early diagnosis of Alzheimer's disease and other dementias; and

(3) local or community-based initiatives to provide informational materials and other resources to caregivers of persons with dementia.

(c) Eligible applicants for local and regional grants may include, but are not limited to, community health boards, school districts, colleges and universities, community clinics, tribal communities, nonprofit organizations, and other health care organizations.

(d) Applicants must:

(1) describe the proposed initiative, including the targeted community and how the initiative meets the requirements of this subdivision; and

(2) identify the proposed outcomes of the initiative and the evaluation process to be used to measure these outcomes.

(e) In awarding the regional and local dementia grants, the Minnesota Board on Aging must give priority to applicants who demonstrate that the proposed project:

(1) is supported by and appropriately targeted to the community the applicant serves;

(2) is designed to coordinate with other community activities related to other health initiatives, particularly those initiatives targeted at the elderly;

(3) is conducted by an applicant able to demonstrate expertise in the project areas;

(4) utilizes and enhances existing activities and resources or involves innovative approaches to achieve success in the project areas; and

(5) strengthens community relationships and partnerships in order to achieve the project areas.

(f) The board shall divide the state into specific geographic regions and allocate a percentage of the money available for the local and regional dementia grants to projects or initiatives aimed at each geographic region.

(g) The board shall award any available grants by January 1, 2016, and each July 1 thereafter.

(h) Each grant recipient shall report to the board on the progress of the initiative at least once during the grant period, and within two months of the end of the grant period shall submit a final report to the board that includes the outcome results.

(i) The Minnesota Board on Aging shall:

(1) develop the criteria and procedures to allocate the grants under this subdivision, evaluate all applicants on a competitive basis and award the grants, and select qualified providers to offer technical assistance to grant applicants and grantees. The selected provider shall provide applicants and grantees assistance with project design, evaluation methods, materials, and training; and

(2) submit by January 15, 2017, and on each January 15 thereafter, a progress report on the dementia grants programs under this subdivision to the chairs and ranking minority members of the senate and house of representatives committees and divisions with jurisdiction over health finance and policy. The report shall include:

(i) information on each grant recipient;

(ii) a summary of all projects or initiatives undertaken with each grant;

(iii) the measurable outcomes established by each grantee, an explanation of the evaluation process used to determine whether the outcomes were met, and the results of the evaluation; and

(iv) an accounting of how the grant funds were spent.

Sec. 110. Minnesota Statutes 2018, section 256B.04, subdivision 14a, is amended to read:

Subd. 14a. **Level of need determination.** Nonemergency medical transportation level of need determinations must be performed by a physician, a registered nurse working under direct supervision of a physician, a physician assistant, ~~a nurse practitioner~~ an advanced practice registered nurse, a licensed practical nurse, or a discharge planner. Nonemergency medical transportation level of need determinations must not be performed more than annually on any individual, unless the individual's circumstances have sufficiently changed so as to require a new level of need determination. Individuals residing in licensed nursing facilities are exempt from a level of need determination and are eligible for special transportation services until the individual no longer resides in a licensed nursing facility. If a person authorized by this subdivision to perform a level of need determination determines that an individual requires stretcher transportation, the individual is presumed to maintain that level of need until otherwise determined by a person authorized to perform a level of need determination, or for six months, whichever is sooner.

Sec. 111. Minnesota Statutes 2018, section 256B.043, subdivision 2, is amended to read:

Subd. 2. **Access to care.** (a) The commissioners of human services and health, as part of their ongoing duties, shall consider the adequacy of the current system of community health clinics and centers both statewide and in urban areas with significant disparities in health status and access to services across racial and ethnic groups, including:

(1) methods to provide 24-hour availability of care through the clinics and centers;

(2) methods to expand the availability of care through the clinics and centers;

(3) the use of grants to expand the number of clinics and centers, the services provided, and the availability of care; and

(4) the extent to which increased use of physician assistants, ~~nurse practitioners~~ advanced practice registered nurses, medical residents and interns, and other allied health professionals in clinics and centers would increase the availability of services.

(b) The commissioners shall make departmental modifications and legislative recommendations as appropriate on the basis of their considerations under paragraph (a).

Sec. 112. Minnesota Statutes 2018, section 256B.055, subdivision 12, is amended to read:

Subd. 12. **Children with disabilities.** (a) A person is eligible for medical assistance if the person is under age 19 and qualifies as a disabled individual under United States Code, title 42, section 1382c(a), and would be eligible for medical assistance under the state plan if residing in a medical institution, and the child requires a level of care provided in a hospital, nursing facility, or intermediate care facility for persons with developmental disabilities, for whom home care is appropriate, provided that the cost to medical assistance under this section is not more than the amount that medical assistance would pay for if the child resides in an institution. After the child is determined to be eligible under this section, the commissioner shall review the child's disability under United States Code, title 42, section 1382c(a) and level of care defined under this section no more often than annually and may elect, based on the recommendation of health care professionals under contract with the state medical review team, to extend the review of disability and level of care up to a maximum of four years. The commissioner's decision on the frequency of continuing review of disability and level of care is not subject to administrative appeal under section 256.045. The county agency shall send a notice of disability review to the enrollee six months prior to the date the recertification of disability is due. Nothing in this subdivision shall be construed as affecting other redeterminations of medical assistance eligibility under this chapter and annual cost-effective reviews under this section.

(b) For purposes of this subdivision, "hospital" means an institution as defined in section 144.696, subdivision 3, 144.55, subdivision 3, or Minnesota Rules, part 4640.3600, and licensed pursuant to sections 144.50 to 144.58. For purposes of this subdivision, a child requires a level of care provided in a hospital if the child is determined by the commissioner to need an extensive array of health services, including mental health services, for an undetermined period of time, whose health condition requires frequent monitoring and treatment by a health care professional or by a person supervised by a health care professional, who would reside in a hospital or require frequent hospitalization if these services were not provided, and the daily care needs are more complex than a nursing facility level of care.

A child with serious emotional disturbance requires a level of care provided in a hospital if the commissioner determines that the individual requires 24-hour supervision because the person exhibits recurrent or frequent suicidal or homicidal ideation or behavior, recurrent or frequent psychosomatic disorders or somatopsychic disorders that may become life threatening, recurrent or frequent severe socially unacceptable behavior associated with psychiatric disorder, ongoing and chronic psychosis or severe, ongoing and chronic developmental problems requiring continuous skilled observation, or severe disabling symptoms for which office-centered outpatient treatment is not adequate, and which overall severely impact the individual's ability to function.

(c) For purposes of this subdivision, "nursing facility" means a facility which provides nursing care as defined in section 144A.01, subdivision 5, licensed pursuant to sections 144A.02 to 144A.10, which is appropriate if a person is in active restorative treatment; is in need of special treatments provided or supervised by a licensed nurse; or has unpredictable episodes of active disease processes requiring immediate judgment by a licensed nurse. For purposes of this subdivision, a child requires the level of care provided in a nursing facility if the child is determined by the commissioner to meet the requirements of the preadmission screening assessment document under section 256B.0911, adjusted to address age-appropriate standards for children age 18 and under.

(d) For purposes of this subdivision, "intermediate care facility for persons with developmental disabilities" or "ICF/DD" means a program licensed to provide services to persons with developmental disabilities under section 252.28, and chapter 245A, and a physical plant licensed as a supervised living facility under chapter 144, which together are certified by the Minnesota Department of Health as meeting the standards in Code of Federal Regulations, title 42, part 483, for an intermediate care facility which provides services for persons with developmental disabilities who require 24-hour supervision and active treatment for medical, behavioral, or habilitation needs. For purposes of this subdivision, a child requires a level of care provided in an ICF/DD if the commissioner finds that the child has a developmental disability in accordance with section 256B.092, is in need of a 24-hour plan of care and active treatment similar to persons with developmental disabilities, and there is a reasonable indication that the child will need ICF/DD services.

(e) For purposes of this subdivision, a person requires the level of care provided in a nursing facility if the person requires 24-hour monitoring or supervision and a plan of mental health treatment because of specific symptoms or functional impairments associated with a serious mental illness or disorder diagnosis, which meet severity criteria for mental health established by the commissioner and published in March 1997 as the Minnesota Mental Health Level of Care for Children and Adolescents with Severe Emotional Disorders.

(f) The determination of the level of care needed by the child shall be made by the commissioner based on information supplied to the commissioner by the parent or guardian, the child's physician or physicians or advanced practice registered nurse or advanced practice registered nurses, and other professionals as requested by the commissioner. The commissioner shall establish a screening team to conduct the level of care determinations according to this subdivision.

(g) If a child meets the conditions in paragraph (b), (c), (d), or (e), the commissioner must assess the case to determine whether:

(1) the child qualifies as a disabled individual under United States Code, title 42, section 1382c(a), and would be eligible for medical assistance if residing in a medical institution; and

(2) the cost of medical assistance services for the child, if eligible under this subdivision, would not be more than the cost to medical assistance if the child resides in a medical institution to be determined as follows:

(i) for a child who requires a level of care provided in an ICF/DD, the cost of care for the child in an institution shall be determined using the average payment rate established for the regional treatment centers that are certified as ICF's/DD;

(ii) for a child who requires a level of care provided in an inpatient hospital setting according to paragraph (b), cost-effectiveness shall be determined according to Minnesota Rules, part 9505.3520, items F and G; and

(iii) for a child who requires a level of care provided in a nursing facility according to paragraph (c) or (e), cost-effectiveness shall be determined according to Minnesota Rules, part 9505.3040, except that the nursing facility average rate shall be adjusted to reflect rates which would be paid for children under age 16. The commissioner may authorize an amount up to the amount medical assistance would pay for a child referred to the commissioner by the preadmission screening team under section 256B.0911.

Sec. 113. Minnesota Statutes 2018, section 256B.0622, subdivision 2b, is amended to read:

Subd. 2b. **Continuing stay and discharge criteria for assertive community treatment.** (a) A client receiving assertive community treatment is eligible to continue receiving services if:

(1) the client has not achieved the desired outcomes of their individual treatment plan;

(2) the client's level of functioning has not been restored, improved, or sustained over the time frame outlined in the individual treatment plan;

(3) the client continues to be at risk for relapse based on current clinical assessment, history, or the tenuous nature of the functional gains; or

(4) the client is functioning effectively with this service and discharge would otherwise be indicated but without continued services the client's functioning would decline; and

(5) one of the following must also apply:

(i) the client has achieved current individual treatment plan goals but additional goals are indicated as evidenced by documented symptoms;

(ii) the client is making satisfactory progress toward meeting goals and there is documentation that supports that continuation of this service shall be effective in addressing the goals outlined in the individual treatment plan;

(iii) the client is making progress, but the specific interventions in the individual treatment plan need to be modified so that greater gains, which are consistent with the client's potential level of functioning, are possible; or

(iv) the client fails to make progress or demonstrates regression in meeting goals through the interventions outlined in the individual treatment plan.

(b) Clients receiving assertive community treatment are eligible to be discharged if they meet at least one of the following criteria:

(1) the client and the ACT team determine that assertive community treatment services are no longer needed based on the attainment of goals as identified in the individual treatment plan and a less intensive level of care would adequately address current goals;

(2) the client moves out of the ACT team's service area and the ACT team has facilitated the referral to either a new ACT team or other appropriate mental health service and has assisted the individual in the transition process;

(3) the client, or the client's legal guardian when applicable, chooses to withdraw from assertive community treatment services and documented attempts by the ACT team to re-engage the client with the service have not been successful;

(4) the client has a demonstrated need for a medical nursing home placement lasting more than three months, as determined by a physician or advanced practice registered nurse;

(5) the client is hospitalized, in residential treatment, or in jail for a period of greater than three months. However, the ACT team must make provisions for the client to return to the ACT team upon their discharge or release from the hospital or jail if the client still meets eligibility criteria for assertive community treatment and the team is not at full capacity;

(6) the ACT team is unable to locate, contact, and engage the client for a period of greater than three months after persistent efforts by the ACT team to locate the client; or

(7) the client requests a discharge, despite repeated and proactive efforts by the ACT team to engage the client in service planning. The ACT team must develop a transition plan to arrange for alternate treatment for clients in this situation who have a history of suicide attempts, assault, or forensic involvement.

(c) For all clients who are discharged from assertive community treatment to another service provider within the ACT team's service area there is a three-month transfer period, from the date of discharge, during which a client who does not adjust well to the new service, may voluntarily return to the ACT team. During this period, the ACT team must maintain contact with the client's new service provider.

Sec. 114. Minnesota Statutes 2018, section 256B.0623, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "Adult rehabilitative mental health services" means mental health services which are rehabilitative and enable the recipient to develop and enhance psychiatric stability, social competencies, personal and emotional adjustment, independent living, parenting skills, and community skills, when these abilities are impaired by the symptoms of mental illness. Adult rehabilitative mental health services are also appropriate when provided to enable a recipient to retain stability and functioning, if the recipient would be at risk of significant functional decompensation or more restrictive service settings without these services.

(1) Adult rehabilitative mental health services instruct, assist, and support the recipient in areas such as: interpersonal communication skills, community resource utilization and integration skills, crisis assistance, relapse prevention skills, health care directives, budgeting and shopping skills, healthy lifestyle skills and practices, cooking and nutrition skills, transportation skills, medication education and monitoring, mental illness symptom management skills, household management skills, employment-related skills, parenting skills, and transition to community living services.

(2) These services shall be provided to the recipient on a one-to-one basis in the recipient's home or another community setting or in groups.

(b) "Medication education services" means services provided individually or in groups which focus on educating the recipient about mental illness and symptoms; the role and effects of medications in treating symptoms of mental illness; and the side effects of medications. Medication education is coordinated with medication management services and does not duplicate it. Medication education services are provided by physicians, advanced practice registered nurses, pharmacists, physician assistants, or registered nurses.

(c) "Transition to community living services" means services which maintain continuity of contact between the rehabilitation services provider and the recipient and which facilitate discharge from a hospital, residential treatment program under Minnesota Rules, chapter 9505, board and lodging facility, or nursing home. Transition to community living services are not intended to provide other areas of adult rehabilitative mental health services.

Sec. 115. Minnesota Statutes 2018, section 256B.0625, subdivision 12, is amended to read:

Subd. 12. **Eyeglasses, dentures, and prosthetic devices.** (a) Medical assistance covers eyeglasses, dentures, and prosthetic and orthotic devices if prescribed by a licensed practitioner.

(b) For purposes of prescribing prosthetic and orthotic devices, "licensed practitioner" includes a physician, an advanced practice registered nurse, or a podiatrist.

Sec. 116. Minnesota Statutes 2019 Supplement, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. **Drugs.** (a) Medical assistance covers drugs, except for fertility drugs when specifically used to enhance fertility, if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, by a physician enrolled in the medical assistance program as a dispensing physician, or by a physician, physician assistant, or ~~a nurse practitioner~~ advanced practice registered nurse employed by or under contract with a community health board as defined in section 145A.02, subdivision 5, for the purposes of communicable disease control.

(b) The dispensed quantity of a prescription drug must not exceed a 34-day supply, unless authorized by the commissioner.

(c) For the purpose of this subdivision and subdivision 13d, an "active pharmaceutical ingredient" is defined as a substance that is represented for use in a drug and when used in the manufacturing, processing, or packaging of a drug becomes an active ingredient of the drug product. An "excipient" is defined as an inert substance used as a diluent or vehicle for a drug. The commissioner shall establish a list of active pharmaceutical ingredients and excipients which are included in the medical assistance formulary. Medical assistance covers selected active pharmaceutical ingredients and excipients used in compounded prescriptions when the compounded combination is specifically approved by the commissioner or when a commercially available product:

(1) is not a therapeutic option for the patient;

(2) does not exist in the same combination of active ingredients in the same strengths as the compounded prescription; and

(3) cannot be used in place of the active pharmaceutical ingredient in the compounded prescription.

(d) Medical assistance covers the following over-the-counter drugs when prescribed by a licensed practitioner or by a licensed pharmacist who meets standards established by the commissioner, in consultation with the board of pharmacy: antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, vitamins for children under the age of seven and pregnant or nursing women, and any other over-the-counter drug identified by the commissioner, in consultation with the Formulary Committee, as necessary, appropriate, and cost-effective for the treatment of certain specified chronic diseases, conditions, or disorders, and this determination shall not be subject to the requirements of chapter 14. A pharmacist may prescribe over-the-counter medications as provided under this paragraph for purposes of receiving reimbursement under Medicaid. When prescribing over-the-counter drugs under this paragraph, licensed pharmacists must consult with the recipient to determine necessity, provide drug counseling, review drug therapy for potential adverse interactions, and make referrals as needed to other health care professionals.

(e) Effective January 1, 2006, medical assistance shall not cover drugs that are coverable under Medicare Part D as defined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, section 1860D-2(e), for individuals eligible for drug coverage as defined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, section 1860D-1(a)(3)(A). For these individuals, medical assistance may cover drugs from the drug classes listed in United States Code, title 42, section 1396r-8(d)(2), subject to this subdivision and subdivisions 13a to 13g, except that drugs listed in United States Code, title 42, section 1396r-8(d)(2)(E), shall not be covered.

(f) Medical assistance covers drugs acquired through the federal 340B Drug Pricing Program and dispensed by 340B covered entities and ambulatory pharmacies under common ownership of the 340B covered entity. Medical assistance does not cover drugs acquired through the federal 340B Drug Pricing Program and dispensed by 340B contract pharmacies.

Sec. 117. Minnesota Statutes 2019 Supplement, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. **Transportation costs.** (a) "Nonemergency medical transportation service" means motor vehicle transportation provided by a public or private person that serves Minnesota health care program beneficiaries who do not require emergency ambulance service, as defined in section 144E.001, subdivision 3, to obtain covered medical services.

(b) Medical assistance covers medical transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by eligible persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, nonemergency medical transportation company, or other recognized providers of transportation services. Medical transportation must be provided by:

(1) nonemergency medical transportation providers who meet the requirements of this subdivision;

(2) ambulances, as defined in section 144E.001, subdivision 2;

(3) taxicabs that meet the requirements of this subdivision;

(4) public transit, as defined in section 174.22, subdivision 7; or

(5) not-for-hire vehicles, including volunteer drivers.

(c) Medical assistance covers nonemergency medical transportation provided by nonemergency medical transportation providers enrolled in the Minnesota health care programs. All nonemergency medical transportation providers must comply with the operating standards for special transportation service as defined in sections 174.29 to 174.30 and Minnesota Rules, chapter 8840, and all drivers must be individually enrolled with the commissioner and reported on the claim as the individual who provided the service. All nonemergency medical transportation providers shall bill for nonemergency medical transportation services in accordance with Minnesota health care programs criteria. Publicly operated transit systems, volunteers, and not-for-hire vehicles are exempt from the requirements outlined in this paragraph.

(d) An organization may be terminated, denied, or suspended from enrollment if:

(1) the provider has not initiated background studies on the individuals specified in section 174.30, subdivision 10, paragraph (a), clauses (1) to (3); or

(2) the provider has initiated background studies on the individuals specified in section 174.30, subdivision 10, paragraph (a), clauses (1) to (3), and:

(i) the commissioner has sent the provider a notice that the individual has been disqualified under section 245C.14; and

(ii) the individual has not received a disqualification set-aside specific to the special transportation services provider under sections 245C.22 and 245C.23.

(e) The administrative agency of nonemergency medical transportation must:

(1) adhere to the policies defined by the commissioner in consultation with the Nonemergency Medical Transportation Advisory Committee;

(2) pay nonemergency medical transportation providers for services provided to Minnesota health care programs beneficiaries to obtain covered medical services;

(3) provide data monthly to the commissioner on appeals, complaints, no-shows, canceled trips, and number of trips by mode; and

(4) by July 1, 2016, in accordance with subdivision 18e, utilize a web-based single administrative structure assessment tool that meets the technical requirements established by the commissioner, reconciles trip information with claims being submitted by providers, and ensures prompt payment for nonemergency medical transportation services.

(f) Until the commissioner implements the single administrative structure and delivery system under subdivision 18e, clients shall obtain their level-of-service certificate from the commissioner or an entity approved by the commissioner that does not dispatch rides for clients using modes of transportation under paragraph (i), clauses (4), (5), (6), and (7).

(g) The commissioner may use an order by the recipient's attending physician, advanced practice registered nurse, or a medical or mental health professional to certify that the recipient requires nonemergency medical transportation services. Nonemergency medical transportation providers shall perform driver-assisted services for eligible individuals, when appropriate. Driver-assisted service includes passenger pickup at and return to the individual's residence or place of business, assistance with admittance of the individual to the medical facility, and assistance in passenger securement or in securing of wheelchairs, child seats, or stretchers in the vehicle.

Nonemergency medical transportation providers must take clients to the health care provider using the most direct route, and must not exceed 30 miles for a trip to a primary care provider or 60 miles for a trip to a specialty care provider, unless the client receives authorization from the local agency.

Nonemergency medical transportation providers may not bill for separate base rates for the continuation of a trip beyond the original destination. Nonemergency medical transportation providers must maintain trip logs, which include pickup and drop-off times, signed by the medical provider or client, whichever is deemed most appropriate, attesting to mileage traveled to obtain covered medical services. Clients requesting client mileage reimbursement must sign the trip log attesting mileage traveled to obtain covered medical services.

(h) The administrative agency shall use the level of service process established by the commissioner in consultation with the Nonemergency Medical Transportation Advisory Committee to determine the client's most appropriate mode of transportation. If public transit or a certified transportation provider is not available to provide the appropriate service mode for the client, the client may receive a onetime service upgrade.

(i) The covered modes of transportation are:

(1) client reimbursement, which includes client mileage reimbursement provided to clients who have their own transportation, or to family or an acquaintance who provides transportation to the client;

(2) volunteer transport, which includes transportation by volunteers using their own vehicle;

(3) unassisted transport, which includes transportation provided to a client by a taxicab or public transit. If a taxicab or public transit is not available, the client can receive transportation from another nonemergency medical transportation provider;

(4) assisted transport, which includes transport provided to clients who require assistance by a nonemergency medical transportation provider;

(5) lift-equipped/ramp transport, which includes transport provided to a client who is dependent on a device and requires a nonemergency medical transportation provider with a vehicle containing a lift or ramp;

(6) protected transport, which includes transport provided to a client who has received a prescreening that has deemed other forms of transportation inappropriate and who requires a provider: (i) with a protected vehicle that is not an ambulance or police car and has safety locks, a video recorder, and a transparent thermoplastic partition between the passenger and the vehicle driver; and (ii) who is certified as a protected transport provider; and

(7) stretcher transport, which includes transport for a client in a prone or supine position and requires a nonemergency medical transportation provider with a vehicle that can transport a client in a prone or supine position.

(j) The local agency shall be the single administrative agency and shall administer and reimburse for modes defined in paragraph (i) according to paragraphs (m) and (n) when the commissioner has developed, made available, and funded the web-based single administrative structure, assessment tool, and level of need assessment under subdivision 18e. The local agency's financial obligation is limited to funds provided by the state or federal government.

(k) The commissioner shall:

(1) in consultation with the Nonemergency Medical Transportation Advisory Committee, verify that the mode and use of nonemergency medical transportation is appropriate;

(2) verify that the client is going to an approved medical appointment; and

(3) investigate all complaints and appeals.

(l) The administrative agency shall pay for the services provided in this subdivision and seek reimbursement from the commissioner, if appropriate. As vendors of medical care, local agencies are subject to the provisions in section 256B.041, the sanctions and monetary recovery actions in section 256B.064, and Minnesota Rules, parts 9505.2160 to 9505.2245.

(m) Payments for nonemergency medical transportation must be paid based on the client's assessed mode under paragraph (h), not the type of vehicle used to provide the service. The medical assistance reimbursement rates for nonemergency medical transportation services that are payable by or on behalf of the commissioner for nonemergency medical transportation services are:

(1) $0.22 per mile for client reimbursement;

(2) up to 100 percent of the Internal Revenue Service business deduction rate for volunteer transport;

(3) equivalent to the standard fare for unassisted transport when provided by public transit, and $11 for the base rate and $1.30 per mile when provided by a nonemergency medical transportation provider;

(4) $13 for the base rate and $1.30 per mile for assisted transport;

(5) $18 for the base rate and $1.55 per mile for lift-equipped/ramp transport;

(6) $75 for the base rate and $2.40 per mile for protected transport; and

(7) $60 for the base rate and $2.40 per mile for stretcher transport, and $9 per trip for an additional attendant if deemed medically necessary.

(n) The base rate for nonemergency medical transportation services in areas defined under RUCA to be super rural is equal to 111.3 percent of the respective base rate in paragraph (m), clauses (1) to (7). The mileage rate for nonemergency medical transportation services in areas defined under RUCA to be rural or super rural areas is:

(1) for a trip equal to 17 miles or less, equal to 125 percent of the respective mileage rate in paragraph (m), clauses (1) to (7); and

(2) for a trip between 18 and 50 miles, equal to 112.5 percent of the respective mileage rate in paragraph (m), clauses (1) to (7).

(o) For purposes of reimbursement rates for nonemergency medical transportation services under paragraphs (m) and (n), the zip code of the recipient's place of residence shall determine whether the urban, rural, or super rural reimbursement rate applies.

(p) For purposes of this subdivision, "rural urban commuting area" or "RUCA" means a census-tract based classification system under which a geographical area is determined to be urban, rural, or super rural.

(q) The commissioner, when determining reimbursement rates for nonemergency medical transportation under paragraphs (m) and (n), shall exempt all modes of transportation listed under paragraph (i) from Minnesota Rules, part 9505.0445, item R, subitem (2).

Sec. 118. Minnesota Statutes 2018, section 256B.0625, subdivision 26, is amended to read:

Subd. 26. **Special education services.** (a) Medical assistance covers evaluations necessary in making a determination for eligibility for individualized education program and individualized family service plan services and for medical services identified in a recipient's individualized education program and individualized family service plan and covered under the medical assistance state plan. Covered services include occupational therapy, physical therapy, speech-language therapy, clinical psychological services, nursing services, school psychological services, school social work services, personal care assistants serving as management aides, assistive technology devices, transportation services, health assessments, and other services covered under the medical assistance state plan. Mental health services eligible for medical assistance reimbursement must be provided or coordinated through a children's mental health collaborative where a collaborative exists if the child is included in the collaborative operational target population. The provision or coordination of services does not require that the individualized education program be developed by the collaborative.

The services may be provided by a Minnesota school district that is enrolled as a medical assistance provider or its subcontractor, and only if the services meet all the requirements otherwise applicable if the service had been provided by a provider other than a school district, in the following areas: medical necessity, physician's <u>or advanced practice registered nurse's</u> orders, documentation, personnel qualifications, and prior authorization requirements. The nonfederal share of costs for services provided under this subdivision is the responsibility of the local school district as provided in section 125A.74. Services listed in a child's individualized education program are eligible for medical assistance reimbursement only if those services meet criteria for federal financial participation under the Medicaid program.

(b) Approval of health-related services for inclusion in the individualized education program does not require prior authorization for purposes of reimbursement under this chapter. The commissioner may require physician or advanced practice registered nurse review and approval of the plan not more than once annually or upon any modification of the individualized education program that reflects a change in health-related services.

(c) Services of a speech-language pathologist provided under this section are covered notwithstanding Minnesota Rules, part 9505.0390, subpart 1, item L, if the person:

(1) holds a masters degree in speech-language pathology;

(2) is licensed by the Professional Educator Licensing and Standards Board as an educational speech-language pathologist; and

(3) either has a certificate of clinical competence from the American Speech and Hearing Association, has completed the equivalent educational requirements and work experience necessary for the certificate or has completed the academic program and is acquiring supervised work experience to qualify for the certificate.

(d) Medical assistance coverage for medically necessary services provided under other subdivisions in this section may not be denied solely on the basis that the same or similar services are covered under this subdivision.

(e) The commissioner shall develop and implement package rates, bundled rates, or per diem rates for special education services under which separately covered services are grouped together and billed as a unit in order to reduce administrative complexity.

(f) The commissioner shall develop a cost-based payment structure for payment of these services. Only costs reported through the designated Minnesota Department of Education data systems in distinct service categories qualify for inclusion in the cost-based payment structure. The commissioner shall reimburse claims submitted based on an interim rate, and shall settle at a final rate once the department has determined it. The commissioner shall notify the school district of the final rate. The school district has 60 days to appeal the final rate. To appeal the final rate, the school district shall file a written appeal request to the commissioner within 60 days of the date the final rate determination was mailed. The appeal request shall specify (1) the disputed items and (2) the name and address of the person to contact regarding the appeal.

(g) Effective July 1, 2000, medical assistance services provided under an individualized education program or an individual family service plan by local school districts shall not count against medical assistance authorization thresholds for that child.

(h) Nursing services as defined in section 148.171, subdivision 15, and provided as an individualized education program health-related service, are eligible for medical assistance payment if they are otherwise a covered service under the medical assistance program. Medical assistance covers the administration of prescription medications by a licensed nurse who is employed by or under contract with a school district when the administration of medications is identified in the child's individualized education program. The simple administration of medications alone is not covered under medical assistance when administered by a provider other than a school district or when it is not identified in the child's individualized education program.

Sec. 119. Minnesota Statutes 2018, section 256B.0625, subdivision 28, is amended to read:

Subd. 28. ~~**Certified nurse practitioner**~~ **Advanced practice registered nurse services.** Medical assistance covers services performed by a certified pediatric ~~nurse practitioner~~ advanced practice registered nurse, a certified family ~~nurse practitioner~~ advanced practice registered nurse, a certified adult ~~nurse practitioner~~ advanced practice registered nurse, a certified obstetric/gynecological ~~nurse practitioner~~ advanced practice registered nurse, a certified neonatal ~~nurse practitioner~~ advanced practice registered nurse, or a certified geriatric ~~nurse practitioner~~ advanced practice registered nurse in independent practice, if:

(1) the service provided on an inpatient basis is not included as part of the cost for inpatient services included in the operating payment rate;

(2) the service is otherwise covered under this chapter as a physician service; and

(3) the service is within the scope of practice of the ~~nurse practitioner's~~ advanced practice registered nurse's license as a registered nurse, as defined in section 148.171.

Sec. 120. Minnesota Statutes 2019 Supplement, section 256B.0625, subdivision 60a, is amended to read:

Subd. 60a. **Community emergency medical technician services.** (a) Medical assistance covers services provided by a community emergency medical technician (CEMT) who is certified under section 144E.275, subdivision 7, when the services are provided in accordance with this subdivision.

(b) A CEMT may provide a postdischarge visit, after discharge from a hospital or skilled nursing facility, when ordered by a treating physician or advanced practice registered nurse. The postdischarge visit includes:

(1) verbal or visual reminders of discharge orders;

(2) recording and reporting of vital signs to the patient's primary care provider;

(3) medication access confirmation;

(4) food access confirmation; and

(5) identification of home hazards.

(c) An individual who has repeat ambulance calls due to falls or has been identified by the individual's primary care provider as at risk for nursing home placement, may receive a safety evaluation visit from a CEMT when ordered by a primary care provider in accordance with the individual's care plan. A safety evaluation visit includes:

(1) medication access confirmation;

(2) food access confirmation; and

(3) identification of home hazards.

(d) A CEMT shall be paid at $9.75 per 15-minute increment. A safety evaluation visit may not be billed for the same day as a postdischarge visit for the same individual.

Sec. 121. Minnesota Statutes 2018, section 256B.0654, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) "Complex home care nursing" means home care nursing services provided to recipients who meet the criteria for regular home care nursing and require life-sustaining interventions to reduce the risk of long-term injury or death.

(b) "Home care nursing" means ongoing ~~physician-ordered~~ hourly nursing ordered by a physician or advanced practice registered nurse and services performed by a registered nurse or licensed practical nurse within the scope of practice as defined by the Minnesota Nurse Practice Act under sections 148.171 to 148.285, in order to maintain or restore a person's health.

(c) "Home care nursing agency" means a medical assistance enrolled provider licensed under chapter 144A to provide home care nursing services.

(d) "Regular home care nursing" means home care nursing provided because:

(1) the recipient requires more individual and continuous care than can be provided during a skilled nurse visit; or

(2) the cares are outside of the scope of services that can be provided by a home health aide or personal care assistant.

(e) "Shared home care nursing" means the provision of home care nursing services by a home care nurse to two recipients at the same time and in the same setting.

Sec. 122. Minnesota Statutes 2018, section 256B.0654, subdivision 2a, is amended to read:

Subd. 2a. **Home care nursing services.** (a) Home care nursing services must be used:

(1) in the recipient's home or outside the home when normal life activities require;

(2) when the recipient requires more individual and continuous care than can be provided during a skilled nurse visit; and

(3) when the care required is outside of the scope of services that can be provided by a home health aide or personal care assistant.

(b) Home care nursing services must be:

(1) assessed by a registered nurse on a form approved by the commissioner;

(2) ordered by a physician or advanced practice registered nurse and documented in a plan of care that is reviewed by the physician at least once every 60 days; and

(3) authorized by the commissioner under section 256B.0652.

Sec. 123. Minnesota Statutes 2018, section 256B.0654, subdivision 3, is amended to read:

Subd. 3. **Shared home care nursing option.** (a) Medical assistance payments for shared home care nursing services by a home care nurse shall be limited according to this subdivision. Unless otherwise provided in this subdivision, all other statutory and regulatory provisions relating to home care nursing services apply to shared home care nursing services. Nothing in this subdivision shall be construed to reduce the total number of home care nursing hours authorized for an individual recipient.

(b) Shared home care nursing is the provision of nursing services by a home care nurse to two medical assistance eligible recipients at the same time and in the same setting. This subdivision does not apply when a home care nurse is caring for multiple recipients in more than one setting.

(c) For the purposes of this subdivision, "setting" means:

(1) the home residence or foster care home of one of the individual recipients as defined in section 256B.0651;

(2) a child care program licensed under chapter 245A or operated by a local school district or private school;

(3) an adult day care service licensed under chapter 245A; or

(4) outside the home residence or foster care home of one of the recipients when normal life activities take the recipients outside the home.

(d) The home care nursing agency must offer the recipient the option of shared or one-on-one home care nursing services. The recipient may withdraw from participating in a shared service arrangement at any time.

(e) The recipient or the recipient's legal representative, and the recipient's physician or advanced practice registered nurse, in conjunction with the home care nursing agency, shall determine:

(1) whether shared home care nursing care is an appropriate option based on the individual needs and preferences of the recipient; and

(2) the amount of shared home care nursing services authorized as part of the overall authorization of nursing services.

(f) The recipient or the recipient's legal representative, in conjunction with the home care nursing agency, shall approve the setting, grouping, and arrangement of shared home care nursing care based on the individual needs and preferences of the recipients. Decisions on the selection of recipients to share services must be based on the ages of the recipients, compatibility, and coordination of their care needs.

(g) The following items must be considered by the recipient or the recipient's legal representative and the home care nursing agency, and documented in the recipient's health service record:

(1) the additional training needed by the home care nurse to provide care to two recipients in the same setting and to ensure that the needs of the recipients are met appropriately and safely;

(2) the setting in which the shared home care nursing care will be provided;

(3) the ongoing monitoring and evaluation of the effectiveness and appropriateness of the service and process used to make changes in service or setting;

(4) a contingency plan which accounts for absence of the recipient in a shared home care nursing setting due to illness or other circumstances;

(5) staffing backup contingencies in the event of employee illness or absence; and

(6) arrangements for additional assistance to respond to urgent or emergency care needs of the recipients.

(h) The documentation for shared home care nursing must be on a form approved by the commissioner for each individual recipient sharing home care nursing. The documentation must be part of the recipient's health service record and include:

(1) permission by the recipient or the recipient's legal representative for the maximum number of shared nursing hours per week chosen by the recipient and permission for shared home care nursing services provided in and outside the recipient's home residence;

(2) revocation by the recipient or the recipient's legal representative for the shared home care nursing permission, or services provided to others in and outside the recipient's residence; and

(3) daily documentation of the shared home care nursing services provided by each identified home care nurse, including:

(i) the names of each recipient receiving shared home care nursing services;

(ii) the setting for the shared services, including the starting and ending times that the recipient received shared home care nursing care; and

(iii) notes by the home care nurse regarding changes in the recipient's condition, problems that may arise from the sharing of home care nursing services, and scheduling and care issues.

(i) The commissioner shall provide a rate methodology for shared home care nursing. For two persons sharing nursing care, the rate paid to a provider must not exceed 1.5 times the regular home care nursing rates paid for serving a single individual by a registered nurse or licensed practical nurse. These rates apply only to situations in which both recipients are present and receive shared home care nursing care on the date for which the service is billed.

Sec. 124. Minnesota Statutes 2018, section 256B.0654, subdivision 4, is amended to read:

Subd. 4. **Hardship criteria; home care nursing.** (a) Payment is allowed for extraordinary services that require specialized nursing skills and are provided by parents of minor children, family foster parents, spouses, and legal guardians who are providing home care nursing care under the following conditions:

(1) the provision of these services is not legally required of the parents, spouses, or legal guardians;

(2) the services are necessary to prevent hospitalization of the recipient; and

(3) the recipient is eligible for state plan home care or a home and community-based waiver and one of the following hardship criteria are met:

(i) the parent, spouse, or legal guardian resigns from a part-time or full-time job to provide nursing care for the recipient;

(ii) the parent, spouse, or legal guardian goes from a full-time to a part-time job with less compensation to provide nursing care for the recipient;

(iii) the parent, spouse, or legal guardian takes a leave of absence without pay to provide nursing care for the recipient; or

(iv) because of labor conditions, special language needs, or intermittent hours of care needed, the parent, spouse, or legal guardian is needed in order to provide adequate home care nursing services to meet the medical needs of the recipient.

(b) Home care nursing may be provided by a parent, spouse, family foster parent, or legal guardian who is a nurse licensed in Minnesota. Home care nursing services provided by a parent, spouse, family foster parent, or legal guardian cannot be used in lieu of nursing services covered and available under liable third-party payors, including Medicare. The home care nursing provided by a parent, spouse, family foster parent, or legal guardian must be included in the service agreement. Authorized nursing services for a single recipient or recipients with the same residence and provided by the parent, spouse, family foster parent, or legal guardian may not exceed 50 percent of the total approved nursing hours, or eight hours per day, whichever is less, up to a maximum of 40 hours per week. A parent or parents, spouse, family foster parent, or legal guardian shall not provide more than 40 hours of services in a seven-day period. For parents, family foster parents, and legal guardians, 40 hours is the total amount allowed regardless of the number of children or adults who receive services. Nothing in this subdivision precludes the parent's, spouse's, or legal guardian's obligation of assuming the nonreimbursed family responsibilities of emergency backup caregiver and primary caregiver.

(c) A parent, family foster parent, or a spouse may not be paid to provide home care nursing care if:

(1) the parent or spouse fails to pass a criminal background check according to chapter 245C;

(2) it has been determined by the home care nursing agency, the case manager, or the physician or advanced practice registered nurse that the home care nursing provided by the parent, family foster parent, spouse, or legal guardian is unsafe; or

(3) the parent, family foster parent, spouse, or legal guardian does not follow physician or advanced practice registered nurse orders.

(d) For purposes of this section, "assessment" means a review and evaluation of a recipient's need for home care services conducted in person. Assessments for home care nursing must be conducted by a registered nurse.

Sec. 125. Minnesota Statutes 2018, section 256B.0659, subdivision 2, is amended to read:

Subd. 2. **Personal care assistance services; covered services.** (a) The personal care assistance services eligible for payment include services and supports furnished to an individual, as needed, to assist in:

(1) activities of daily living;

(2) health-related procedures and tasks;

(3) observation and redirection of behaviors; and

(4) instrumental activities of daily living.

(b) Activities of daily living include the following covered services:

(1) dressing, including assistance with choosing, application, and changing of clothing and application of special appliances, wraps, or clothing;

(2) grooming, including assistance with basic hair care, oral care, shaving, applying cosmetics and deodorant, and care of eyeglasses and hearing aids. Nail care is included, except for recipients who are diabetic or have poor circulation;

(3) bathing, including assistance with basic personal hygiene and skin care;

(4) eating, including assistance with hand washing and application of orthotics required for eating, transfers, and feeding;

(5) transfers, including assistance with transferring the recipient from one seating or reclining area to another;

(6) mobility, including assistance with ambulation, including use of a wheelchair. Mobility does not include providing transportation for a recipient;

(7) positioning, including assistance with positioning or turning a recipient for necessary care and comfort; and

(8) toileting, including assistance with helping recipient with bowel or bladder elimination and care including transfers, mobility, positioning, feminine hygiene, use of toileting equipment or supplies, cleansing the perineal area, inspection of the skin, and adjusting clothing.

(c) Health-related procedures and tasks include the following covered services:

(1) range of motion and passive exercise to maintain a recipient's strength and muscle functioning;

(2) assistance with self-administered medication as defined by this section, including reminders to take medication, bringing medication to the recipient, and assistance with opening medication under the direction of the recipient or responsible party, including medications given through a nebulizer;

(3) interventions for seizure disorders, including monitoring and observation; and

(4) other activities considered within the scope of the personal care service and meeting the definition of health-related procedures and tasks under this section.

(d) A personal care assistant may provide health-related procedures and tasks associated with the complex health-related needs of a recipient if the procedures and tasks meet the definition of health-related procedures and tasks under this section and the personal care assistant is trained by a qualified professional and demonstrates competency to safely complete the procedures and tasks. Delegation of health-related procedures and tasks and all training must be documented in the personal care assistance care plan and the recipient's and personal care assistant's files. A personal care assistant must not determine the medication dose or time for medication.

(e) Effective January 1, 2010, for a personal care assistant to provide the health-related procedures and tasks of tracheostomy suctioning and services to recipients on ventilator support there must be:

(1) delegation and training by a registered nurse, advanced practice registered nurse, certified or licensed respiratory therapist, or a physician;

(2) utilization of clean rather than sterile procedure;

(3) specialized training about the health-related procedures and tasks and equipment, including ventilator operation and maintenance;

(4) individualized training regarding the needs of the recipient; and

(5) supervision by a qualified professional who is a registered nurse.

(f) Effective January 1, 2010, a personal care assistant may observe and redirect the recipient for episodes where there is a need for redirection due to behaviors. Training of the personal care assistant must occur based on the needs of the recipient, the personal care assistance care plan, and any other support services provided.

(g) Instrumental activities of daily living under subdivision 1, paragraph (i).

Sec. 126. Minnesota Statutes 2018, section 256B.0659, subdivision 4, is amended to read:

Subd. 4. **Assessment for personal care assistance services; limitations.** (a) An assessment as defined in subdivision 3a must be completed for personal care assistance services.

(b) The following limitations apply to the assessment:

(1) a person must be assessed as dependent in an activity of daily living based on the person's daily need or need on the days during the week the activity is completed for:

(i) cuing and constant supervision to complete the task; or

(ii) hands-on assistance to complete the task; and

(2) a child may not be found to be dependent in an activity of daily living if because of the child's age an adult would either perform the activity for the child or assist the child with the activity. Assistance needed is the assistance appropriate for a typical child of the same age.

(c) Assessment for complex health-related needs must meet the criteria in this paragraph. A recipient qualifies as having complex health-related needs if the recipient has one or more of the interventions that are ordered by a physician or advanced practice registered nurse, specified in a personal care assistance care plan or community support plan developed under section 256B.0911, and found in the following:

(1) tube feedings requiring:

(i) a gastrojejunostomy tube; or

(ii) continuous tube feeding lasting longer than 12 hours per day;

(2) wounds described as:

(i) stage III or stage IV;

(ii) multiple wounds;

(iii) requiring sterile or clean dressing changes or a wound vac; or

(iv) open lesions such as burns, fistulas, tube sites, or ostomy sites that require specialized care;

(3) parenteral therapy described as:

(i) IV therapy more than two times per week lasting longer than four hours for each treatment; or

(ii) total parenteral nutrition (TPN) daily;

(4) respiratory interventions, including:

(i) oxygen required more than eight hours per day;

(ii) respiratory vest more than one time per day;

(iii) bronchial drainage treatments more than two times per day;

(iv) sterile or clean suctioning more than six times per day;

(v) dependence on another to apply respiratory ventilation augmentation devices such as BiPAP and CPAP; and

(vi) ventilator dependence under section 256B.0652;

(5) insertion and maintenance of catheter, including:

(i) sterile catheter changes more than one time per month;

(ii) clean intermittent catheterization, and including self-catheterization more than six times per day; or

(iii) bladder irrigations;

(6) bowel program more than two times per week requiring more than 30 minutes to perform each time;

(7) neurological intervention, including:

(i) seizures more than two times per week and requiring significant physical assistance to maintain safety; or

(ii) swallowing disorders diagnosed by a physician or advanced practice registered nurse and requiring specialized assistance from another on a daily basis; and

(8) other congenital or acquired diseases creating a need for significantly increased direct hands-on assistance and interventions in six to eight activities of daily living.

(d) An assessment of behaviors must meet the criteria in this paragraph. A recipient qualifies as having a need for assistance due to behaviors if the recipient's behavior requires assistance at least four times per week and shows one or more of the following behaviors:

(1) physical aggression towards self or others, or destruction of property that requires the immediate response of another person;

(2) increased vulnerability due to cognitive deficits or socially inappropriate behavior; or

(3) increased need for assistance for recipients who are verbally aggressive or resistive to care so that the time needed to perform activities of daily living is increased.

Sec. 127. Minnesota Statutes 2018, section 256B.0659, subdivision 8, is amended to read:

Subd. 8. **Communication with recipient's physician or advanced practice registered nurse.** The personal care assistance program requires communication with the recipient's physician or advanced practice registered nurse about a recipient's assessed needs for personal care assistance services. The commissioner shall work with the state medical director to develop options for communication with the recipient's physician or advanced practice registered nurse.

Sec. 128. Minnesota Statutes 2019 Supplement, section 256B.0659, subdivision 11, is amended to read:

Subd. 11. **Personal care assistant; requirements.** (a) A personal care assistant must meet the following requirements:

(1) be at least 18 years of age with the exception of persons who are 16 or 17 years of age with these additional requirements:

(i) supervision by a qualified professional every 60 days; and

(ii) employment by only one personal care assistance provider agency responsible for compliance with current labor laws;

(2) be employed by a personal care assistance provider agency;

(3) enroll with the department as a personal care assistant after clearing a background study. Except as provided in subdivision 11a, before a personal care assistant provides services, the personal care assistance provider agency must initiate a background study on the personal care assistant under chapter 245C, and the personal care assistance provider agency must have received a notice from the commissioner that the personal care assistant is:

(i) not disqualified under section 245C.14; or

(ii) disqualified, but the personal care assistant has received a set aside of the disqualification under section 245C.22;

(4) be able to effectively communicate with the recipient and personal care assistance provider agency;

(5) be able to provide covered personal care assistance services according to the recipient's personal care assistance care plan, respond appropriately to recipient needs, and report changes in the recipient's condition to the supervising qualified professional ~~or,~~ physician, or advanced practice registered nurse;

(6) not be a consumer of personal care assistance services;

(7) maintain daily written records including, but not limited to, time sheets under subdivision 12;

(8) effective January 1, 2010, complete standardized training as determined by the commissioner before completing enrollment. The training must be available in languages other than English and to those who need accommodations due to disabilities. Personal care assistant training must include successful completion of the following training components: basic first aid, vulnerable adult, child maltreatment, OSHA universal precautions, basic roles and responsibilities of personal care assistants including information about assistance with lifting and transfers for recipients, emergency preparedness, orientation to positive behavioral practices, fraud issues, and completion of time sheets. Upon completion of the training components, the personal care assistant must demonstrate the competency to provide assistance to recipients;

(9) complete training and orientation on the needs of the recipient; and

(10) be limited to providing and being paid for up to 275 hours per month of personal care assistance services regardless of the number of recipients being served or the number of personal care assistance provider agencies enrolled with. The number of hours worked per day shall not be disallowed by the department unless in violation of the law.

(b) A legal guardian may be a personal care assistant if the guardian is not being paid for the guardian services and meets the criteria for personal care assistants in paragraph (a).

(c) Persons who do not qualify as a personal care assistant include parents, stepparents, and legal guardians of minors; spouses; paid legal guardians of adults; family foster care providers, except as otherwise allowed in section 256B.0625, subdivision 19a; and staff of a residential setting.

(d) Personal care assistance services qualify for the enhanced rate described in subdivision 17a if the personal care assistant providing the services:

(1) provides covered services to a recipient who qualifies for 12 or more hours per day of personal care assistance services; and

(2) satisfies the current requirements of Medicare for training and competency or competency evaluation of home health aides or nursing assistants, as provided in the Code of Federal Regulations, title 42, section 483.151 or 484.36, or alternative state-approved training or competency requirements.

Sec. 129. Minnesota Statutes 2019 Supplement, section 256B.0913, subdivision 8, is amended to read:

Subd. 8. **Requirements for individual coordinated service and support plan.** (a) The case manager shall implement the coordinated service and support plan for each alternative care client and ensure that a client's service needs and eligibility are reassessed at least every 12 months. The coordinated service and support plan must meet the requirements in section 256S.10. The plan shall include any services prescribed by the individual's attending physician or advanced practice registered nurse as necessary to allow the individual to remain in a community setting. In developing the individual's care plan, the case manager should include the use of volunteers from families and neighbors, religious organizations, social clubs, and civic and service organizations to support the formal home care services. The lead agency shall be held harmless for damages or injuries sustained through the use of volunteers under this subdivision including workers' compensation liability. The case manager shall provide documentation in each individual's plan and, if requested, to the commissioner that the most cost-effective alternatives available have been offered to the individual and that the individual was free to choose among available qualified providers, both public and private, including qualified case management or service coordination providers other than those employed by any county; however, the county or tribe maintains responsibility for prior authorizing services in accordance with statutory and administrative requirements. The case manager must give the individual a ten-day written notice of any denial, termination, or reduction of alternative care services.

(b) The county of service or tribe must provide access to and arrange for case management services, including assuring implementation of the coordinated service and support plan. "County of service" has the meaning given it in Minnesota Rules, part 9505.0015, subpart 11. The county of service must notify the county of financial responsibility of the approved care plan and the amount of encumbered funds.

Sec. 130. Minnesota Statutes 2018, section 256B.73, subdivision 5, is amended to read:

Subd. 5. **Enrollee benefits.** (a) Eligible persons enrolled by a demonstration provider shall receive a health services benefit package that includes health services which the enrollees might reasonably require to be maintained in good health, including emergency care, inpatient hospital and physician or advanced practice registered nurse care, outpatient health services, and preventive health services.

(b) Services related to chemical dependency, mental illness, vision care, dental care, and other benefits may be excluded or limited upon approval by the commissioners. The coalition may petition the commissioner of commerce or health, whichever is appropriate, for waivers that allow these benefits to be excluded or limited.

(c) The commissioners, the coalition, and demonstration providers shall work together to design a package of benefits or packages of benefits that can be provided to enrollees for an affordable monthly premium.

Sec. 131. Minnesota Statutes 2018, section 256J.08, subdivision 73a, is amended to read:

Subd. 73a. **Qualified professional.** (a) For physical illness, injury, or incapacity, a "qualified professional" means a licensed physician, a physician assistant, ~~a nurse practitioner~~ an advanced practice registered nurse, or a licensed chiropractor.

(b) For developmental disability and intelligence testing, a "qualified professional" means an individual qualified by training and experience to administer the tests necessary to make determinations, such as tests of intellectual functioning, assessments of adaptive behavior, adaptive skills, and developmental functioning. These professionals include licensed psychologists, certified school psychologists, or certified psychometrists working under the supervision of a licensed psychologist.

(c) For learning disabilities, a "qualified professional" means a licensed psychologist or school psychologist with experience determining learning disabilities.

(d) For mental health, a "qualified professional" means a licensed physician or a qualified mental health professional. A "qualified mental health professional" means:

(1) for children, in psychiatric nursing, a registered nurse or advanced practice registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist in child and adolescent psychiatric or mental health nursing by a national nurse certification organization or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) for adults, in psychiatric nursing, a registered nurse or advanced practice registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist in adult psychiatric and mental health nursing by a national nurse certification organization or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in clinical social work, a person licensed as an independent clinical social worker under chapter 148D, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(4) in psychology, an individual licensed by the Board of Psychology under sections 148.88 to 148.98, who has stated to the Board of Psychology competencies in the diagnosis and treatment of mental illness;

(5) in psychiatry, a physician licensed under chapter 147 and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry;

(6) in marriage and family therapy, the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39, with at least two years of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness; and

(7) in licensed professional clinical counseling, the mental health professional shall be a licensed professional clinical counselor under section 148B.5301 with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness.

Sec. 132. Minnesota Statutes 2019 Supplement, section 256R.44, is amended to read:

**256R.44 RATE ADJUSTMENT FOR PRIVATE ROOMS FOR MEDICAL NECESSITY.**

(a) The amount paid for a private room is 111.5 percent of the established total payment rate for a resident if the resident is a medical assistance recipient and the private room is considered a medical necessity for the resident or others who are affected by the resident's condition, except as provided in Minnesota Rules, part 9549.0060, subpart 11, item C. Conditions requiring a private room must be determined by the resident's attending physician or advanced practice registered nurse and submitted to the commissioner for approval or denial by the commissioner on the basis of medical necessity.

(b) For a nursing facility with a total property payment rate determined under section 256R.26, subdivision 8, the amount paid for a private room is 111.5 percent of the established total payment rate for a resident if the resident is a medical assistance recipient and the private room is considered a medical necessity for the resident or others who are affected by the resident's condition. Conditions requiring a private room must be determined by the resident's attending physician or advanced practice registered nurse and submitted to the commissioner for approval or denial by the commissioner on the basis of medical necessity.

Sec. 133. Minnesota Statutes 2018, section 256R.54, subdivision 1, is amended to read:

Subdivision 1. **Setting payment; monitoring use of therapy services.** (a) The commissioner shall adopt rules under the Administrative Procedure Act to set the amount and method of payment for ancillary materials and services provided to recipients residing in nursing facilities. Payment for materials and services may be made to either the vendor of ancillary services pursuant to Minnesota Rules, parts 9505.0170 to 9505.0475, or to a nursing facility pursuant to Minnesota Rules, parts 9505.0170 to 9505.0475.

(b) Payment for the same or similar service to a recipient shall not be made to both the nursing facility and the vendor. The commissioner shall ensure: (1) the avoidance of double payments through audits and adjustments to the nursing facility's annual cost report as required by section 256R.12, subdivisions 8 and 9; and (2) that charges and arrangements for ancillary materials and services are cost-effective and as would be incurred by a prudent and cost-conscious buyer.

(c) Therapy services provided to a recipient must be medically necessary and appropriate to the medical condition of the recipient. If the vendor, nursing facility, or ordering physician or advanced practice registered nurse cannot provide adequate medical necessity justification, as determined by the commissioner, the commissioner may recover or disallow the payment for the services and may require prior authorization for therapy services as a condition of payment or may impose administrative sanctions to limit the vendor, nursing facility, or ordering physician's or advanced practice registered nurse's participation in the medical assistance program. If the provider number of a nursing facility is used to bill services provided by a vendor of therapy services that is not related to the nursing facility by ownership, control, affiliation, or employment status, no withholding of payment shall be imposed against the nursing facility for services not medically necessary except for funds due the unrelated vendor of therapy services as provided in subdivision 5. For the purpose of this subdivision, no monetary recovery may be imposed against the nursing facility for funds paid to the unrelated vendor of therapy services as provided in subdivision 5, for services not medically necessary.

(d) For purposes of this section and section 256R.12, subdivisions 8 and 9, therapy includes physical therapy, occupational therapy, speech therapy, audiology, and mental health services that are covered services according to Minnesota Rules, parts 9505.0170 to 9505.0475.

(e) For purposes of this subdivision, "ancillary services" includes transportation defined as a covered service in section 256B.0625, subdivision 17.

Sec. 134. Minnesota Statutes 2018, section 256R.54, subdivision 2, is amended to read:

Subd. 2. **Certification that treatment is appropriate.** The physical therapist, occupational therapist, speech therapist, mental health professional, or audiologist who provides or supervises the provision of therapy services, other than an initial evaluation, to a medical assistance recipient must certify in writing that the therapy's nature, scope, duration, and intensity are appropriate to the medical condition of the recipient every 30 days. The therapist's statement of certification must be maintained in the recipient's medical record together with the specific orders by the physician or advanced practice registered nurse and the treatment plan. If the recipient's medical record does not include these documents, the commissioner may recover or disallow the payment for such services. If the therapist determines that the therapy's nature, scope, duration, or intensity is not appropriate to the medical condition of the recipient, the therapist must provide a statement to that effect in writing to the nursing facility for inclusion in the recipient's medical record. The commissioner shall make recommendations regarding the medical necessity of services provided.

Sec. 135. Minnesota Statutes 2018, section 257.63, subdivision 3, is amended to read:

Subd. 3. **Medical privilege.** Testimony of a physician or advanced practice registered nurse concerning the medical circumstances of the pregnancy itself and the condition and characteristics of the child upon birth is not privileged.

Sec. 136. Minnesota Statutes 2018, section 257B.01, subdivision 3, is amended to read:

Subd. 3. **Attending physician or advanced practice registered nurse.** "Attending physician or advanced practice registered nurse" means a physician or advanced practice registered nurse who has primary responsibility for the treatment and care of the designator. If physicians or advanced practice registered nurses share responsibility, another physician or advanced practice registered nurse is acting on the attending physician's or advanced practice registered nurse's behalf, or no physician or advanced practice registered nurse has primary responsibility, any physician or advanced practice registered nurse who is familiar with the designator's medical condition may act as an attending physician or advanced practice registered nurse under this chapter.

Sec. 137. Minnesota Statutes 2018, section 257B.01, subdivision 9, is amended to read:

Subd. 9. **Determination of debilitation.** "Determination of debilitation" means a written finding made by an attending physician or advanced practice registered nurse which states that the designator suffers from a physically incapacitating disease or injury. No identification of the illness in question is required.

Sec. 138. Minnesota Statutes 2018, section 257B.01, subdivision 10, is amended to read:

Subd. 10. **Determination of incapacity.** "Determination of incapacity" means a written finding made by an attending physician or advanced practice registered nurse which states the nature, extent, and probable duration of the designator's mental or organic incapacity.

Sec. 139. Minnesota Statutes 2018, section 257B.06, subdivision 7, is amended to read:

Subd. 7. **Restored capacity.** If a licensed physician or advanced practice registered nurse determines that the designator has regained capacity, the co-custodian's authority that commenced on the occurrence of a triggering event becomes inactive. Failure of a co-custodian to immediately return the child(ren) to the designator's care entitles the designator to an emergency hearing within five days of a request for a hearing.

Sec. 140. **REPEALER.**

Minnesota Rules, part 9505.0365, subpart 3, is repealed."

Delete the title and insert:

"A bill for an act relating to health; adding advanced practice registered nurses to certain statutes; expanding medical assistance coverage to orthotic devices; amending Minnesota Statutes 2018, sections 62D.09, subdivision 1; 62E.06, subdivision 1; 62J.17, subdivision 4a; 62J.495, subdivision 1a; 62J.52, subdivision 2; 62J.823, subdivision 3; 62Q.43, subdivisions 1, 2; 62Q.54; 62Q.57, subdivision 1; 62Q.73, subdivision 7; 62Q.733, subdivision 3; 62Q.74, subdivision 1; 62S.08, subdivision 3; 62S.20, subdivision 5b; 62S.21, subdivision 2; 62S.268, subdivision 1; 144.3345, subdivision 1; 144.3352; 144.34; 144.441, subdivisions 4, 5; 144.442, subdivision 1; 144.4803, subdivisions 1, 4, 10, by adding a subdivision; 144.4806; 144.4807, subdivisions 1, 2, 4; 144.50, subdivision 2; 144.55, subdivision 6; 144.6501, subdivision 7; 144.651, subdivisions 7, 8, 9, 10, 12, 14, 31, 33; 144.652, subdivision 2; 144.69; 144.7402, subdivision 2; 144.7406, subdivision 2; 144.7407, subdivision 2; 144.7414, subdivision 2; 144.7415, subdivision 2; 144.9502, subdivision 4; 144.966, subdivisions 3, 6; 144A.135; 144A.161, subdivisions 5, 5a, 5e, 5g; 144A.75, subdivisions 3, 6; 144A.752, subdivision 1; 145.853, subdivision 5; 145.892, subdivision 3; 145.94, subdivision 2; 145B.13; 145C.02; 145C.06; 145C.07, subdivision 1; 145C.16; 148.6438,

subdivision 1; 151.19, subdivision 4; 151.21, subdivision 4a; 152.32, subdivision 3; 245A.143, subdivision 8; 245A.1435; 245C.02, subdivision 18; 245C.04, subdivision 1; 245D.02, subdivision 11; 245D.11, subdivision 2; 245D.22, subdivision 7; 245D.25, subdivision 2; 245G.08, subdivisions 2, 5; 245G.21, subdivisions 2, 3; 246.711, subdivision 2; 246.715, subdivision 2; 246.716, subdivision 2; 246.721; 246.722; 251.043, subdivision 1; 252A.02, subdivision 12; 252A.04, subdivision 2; 252A.20, subdivision 1; 253B.03, subdivisions 4, 6d; 253B.06, subdivision 2; 253B.23, subdivision 4; 254A.08, subdivision 2; 256.9685, subdivisions 1a, 1b, 1c; 256.975, subdivisions 7a, 11; 256B.04, subdivision 14a; 256B.043, subdivision 2; 256B.055, subdivision 12; 256B.0622, subdivision 2b; 256B.0623, subdivision 2; 256B.0625, subdivisions 12, 26, 28; 256B.0654, subdivisions 1, 2a, 3, 4; 256B.0659, subdivisions 2, 4, 8; 256B.73, subdivision 5; 256J.08, subdivision 73a; 256R.54, subdivisions 1, 2; 257.63, subdivision 3; 257B.01, subdivisions 3, 9, 10; 257B.06, subdivision 7; Minnesota Statutes 2019 Supplement, sections 62J.23, subdivision 2; 62Q.184, subdivision 1; 144.55, subdivision 2; 145C.05, subdivision 2; 245G.08, subdivision 3; 245H.11; 256B.0625, subdivisions 13, 17, 60a; 256B.0659, subdivision 11; 256B.0913, subdivision 8; 256R.44; repealing Minnesota Rules, part 9505.0365, subpart 3."

With the recommendation that when so amended the bill be placed on the General Register.

The report was adopted.

Youakim from the Committee on Education Policy to which was referred:

H. F. No. 2383, A bill for an act relating to state lands; modifying provisions of school trust lands director; amending Minnesota Statutes 2018, section 127A.353, subdivisions 2, 4.

Reported the same back with the recommendation that the bill be placed on the General Register.

The report was adopted.

Pursuant to Joint Rule 2.03 and in accordance with Senate Concurrent Resolution No. 6, H. F. No. 2383 was re-referred to the Committee on Rules and Legislative Administration.

Halverson from the Committee on Commerce to which was referred:

H. F. No. 2475, A bill for an act relating to financial institutions; modifying provisions governing financial exploitation protections for vulnerable adults; amending Minnesota Statutes 2018, sections 45A.01, by adding a subdivision; 45A.02; 45A.03; 45A.04; 45A.05; 45A.06; 45A.07; proposing coding for new law in Minnesota Statutes, chapter 45A.

Reported the same back with the following amendments:

Page 2, lines 7 and 28, strike "or civil" and insert "<u>, civil, or criminal</u>"

Page 3, line 9, after "may" insert "<u>, but is not required to,</u>"

Page 4, line 12, after the period, insert "<u>A broker-dealer or investment adviser must notify the eligible adult or interested person of the right to appeal.</u>"

Page 4, line 29, delete "<u>or refuse</u>"

Page 5, line 4, delete "or refused"

Page 5, lines 5 and 6, delete "refusal" and insert "hold"

Page 5, line 9, delete "refused" and insert "held"

Page 5, line 10, after "point" insert "and may notify the commissioner"

Page 5, line 30, after the period, insert "A financial services provider must notify the eligible adult or interested person of the right to appeal."

Page 6, line 13, strike "or civil" and insert ", civil, or criminal"

Page 6, line 19, delete "or refusal"

Page 6, line 20, after "or" insert "placing a hold on"

Page 6, after line 20, insert:

"(c) A party that, in good faith and in compliance with section 45A.06, delays or places a hold on a disbursement or transaction directed by an attorney-in-fact shall not be deemed to have refused to accept the authority of the attorney-in-fact for purposes of section 523.20."

Page 6, delete section 8

Correct the title numbers accordingly

With the recommendation that when so amended the bill be re-referred to the Judiciary Finance and Civil Law Division.

The report was adopted.

Pursuant to Joint Rule 2.03 and in accordance with Senate Concurrent Resolution No. 6, H. F. No. 2475 was re-referred to the Committee on Rules and Legislative Administration.

Carlson, L., from the Committee on Ways and Means to which was referred:

H. F. No. 2768, A bill for an act relating to state government; restricting executive branch state agency expenditures for professional and technical services contracts during the biennium ending June 30, 2021.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **LABOR AGREEMENTS.**

Subdivision 1. **American Federation of State, County, and Municipal Employees, Council 5.** The labor agreement between the state of Minnesota and the American Federation of State, County, and Municipal Employees, Council 5, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on September 24, 2019, is ratified.

Subd. 2. **Minnesota Association of Professional Employees.** The labor agreement between the state of Minnesota and the Minnesota Association of Professional Employees, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on September 24, 2019, is ratified.

Subd. 3. **American Federation of State, County, and Municipal Employees, Unit 225, Radio Communications Operators.** The labor agreement between the state of Minnesota and the American Federation of State, County, and Municipal Employees, Unit 225, Radio Communications Operators, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on September 24, 2019, is ratified.

Subd. 4. **Middle Management Association.** The labor agreement between the state of Minnesota and the Middle Management Association, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on September 24, 2019, is ratified.

Subd. 5. **Minnesota State University Association of Administrative and Service Faculty.** The labor agreement between the state of Minnesota and the Minnesota State University Association of Administrative and Service Faculty, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on December 5, 2019, is ratified.

Subd. 6. **Inter Faculty Organization.** The labor agreement between the state of Minnesota and the Inter Faculty Organization, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on December 10, 2019, is ratified.

Subd. 7. **American Federation of State, County, and Municipal Employees, Unit 8, Corrections Officers.** The labor agreement between the state of Minnesota and the American Federation of State, County, and Municipal Employees, Unit 8, Corrections Officers, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on December 26, 2019, is ratified.

Subd. 8. **State Residential Schools Education Association.** The labor agreement between the state of Minnesota and the State Residential Schools Education Association, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on January 3, 2020, is ratified.

Subd. 9. **Minnesota State College Faculty.** The labor agreement between the state of Minnesota and the Minnesota State College Faculty, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on February 3, 2020, is ratified.

Subd. 10. **Minnesota Government Engineers Council.** The labor agreement between the state of Minnesota and the Minnesota Government Engineers Council, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on April 13, 2020, is ratified.

Subd. 11. **Minnesota Nurses Association.** The labor agreement between the state of Minnesota and the Minnesota Nurses Association, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on April 13, 2020, is ratified.

Sec. 2. **COMPENSATION PLANS.**

Subdivision 1. **MnSCU Personnel Plan for Administrators.** The MnSCU Personnel Plan for Administrators, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on December 10, 2019, is ratified.

Subd. 2. **Commissioner's plan.** The commissioner's plan for unrepresented employees, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on March 6, 2020, is ratified.

Subd. 3. **Managerial plan.** The managerial plan, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on March 2, 2020, is ratified.

Subd. 4. **Office of Higher Education compensation plan.** The Office of Higher Education Unclassified Personnel Compensation Plan, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on March 2, 2020, is ratified.

Subd. 5. **Compensation plan for MNsure.** The compensation plan for MNsure, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on March 2, 2020, is ratified.

Sec. 3. **EFFECTIVE DATE.**

Sections 1 and 2 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to state government; ratifying labor agreements and compensation plans."

With the recommendation that when so amended the bill be placed on the General Register.

The report was adopted.

Pelowski from the Greater Minnesota Jobs and Economic Development Finance Division to which was referred:

H. F. No. 3029, A bill for an act relating to telecommunications; providing an annual statutory appropriation for the broadband development grant program; appropriating money; amending Minnesota Statutes 2018, section 116J.396, subdivision 3.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **DISTANCE LEARNING BROADBAND ACCESS GRANT PROGRAM.**

Subdivision 1. **Definition.** For the purposes of this section, "commissioner" means the commissioner of education.

Subd. 2. **Establishment.** A distance learning broadband access grant program is established in the Department of Education to provide wireless or wire-line broadband access for a limited duration to students currently lacking Internet access so that the students may participate in distance learning offered by school districts and charter schools during the peacetime public health emergency period that relates to the infectious disease known as COVID-19.

Subd. 3. **Eligible expenditures.** A grant awarded under this section may be used to:

(1) provide a student with the equipment necessary for the student to use a broadband connection to access learning materials available on the Internet through a mobile wireless or wire-line broadband connection;

(2) reimburse a school district or charter school for actual costs incurred to provide emergency distance learning wireless or wire-line broadband access during the 2019-2020 school year; and

(3) reimburse a school district or charter school for the cost of wireless or wire-line broadband Internet access for households with students that did not otherwise have Internet access before March 13, 2020, for the 2019-2020 school year.

Subd. 4. **Eligible applicants.** A Minnesota school district or charter school may apply for a grant award under this section.

Subd. 5. **Application review.** (a) An applicant for a grant under this section must file an application with the commissioner on a form developed by the commissioner. The commissioner may consult with the commissioner of employment and economic development when developing the form.

(b) An application for a grant under this subdivision must describe a school district's or charter school's approach to identify and prioritize access for students unable to access the Internet for distance learning and may include a description of local or private matching grants or in-kind contributions.

(c) A school district or charter school may develop its application in cooperation with the school district's or charter school's community education department, the school district's or charter school's adult basic education program provider, a public library, an Internet service provider, or other community partner.

(d) The commissioner must award grants under this section on a first-come, first-served basis.

(e) The commissioner must develop administrative procedures governing the application and grant award process.

Subd. 6. **Grant amount.** The commissioner must establish a maximum per-pupil amount for grants awarded under this section based on (1) the number of districts and charter schools that apply for a grant, and (2) the availability of federal money for a similar purpose.

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

Sec. 2. **TELEMEDICINE EQUIPMENT REIMBURSEMENT GRANT PROGRAM.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

(b) "Commissioner" means the commissioner of employment and economic development.

(c) "Licensed health care provider" has the meaning given in Minnesota Statutes, section 256B.0625, subdivision 3b, paragraph (e).

(d) "Telemedicine" has the meaning given in Minnesota Statutes, section 62A.671, subdivision 9.

(e) "Telemedicine equipment" means multimedia communications equipment and software that facilitates the delivery of telemedicine by a licensed health care provider.

Subd. 2. **Establishment.** A grant program is established in the Department of Employment and Economic Development to award grants to reimburse licensed health care providers and counties that purchase and install telemedicine equipment in order to provide COVID-19-related health care services to Minnesotans.

Subd. 3. **Eligible applicants.** A licensed health care provider or a county is eligible to receive a grant under this section.

Subd. 4. **Eligible expenditures.** A grant may be made under this section to reimburse the cost incurred by a licensed health care provider or a county to purchase and install telemedicine equipment that enables the licensed health care provider to diagnose and evaluate patients with respect to the infectious disease known as COVID-19.

Subd. 5. **Application; review.** (a) An applicant for a grant under this section must file an application with the commissioner on a form developed by the commissioner. The commissioner may consult with the commissioners of commerce, human services, and health when developing the form.

(b) The commissioner must award grants under this section on a first-come, first-served basis.

(c) The commissioner must develop administrative procedures governing the application and grant award process.

(d) When awarding grants, the commissioner must consult with the commissioner of health to determine areas of the state with the greatest need for telemedicine equipment.

Subd. 6. **Limitation.** The commissioner may establish a maximum amount for a grant awarded under this section based on the number of applications received and the total reimbursement amount requested.

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

Sec. 3. **APPROPRIATION.**

(a) $8,000,000 in fiscal year 2020 is appropriated from the general fund to the commissioner of employment and economic development for transfer to the commissioner of education for emergency distance learning wireless or wire-line broadband access for student grants for school districts and charter schools under section 1. Up to five percent of the appropriation under this paragraph may be used to reimburse reasonable costs incurred by the Department of Education to administer section 1. This is a onetime appropriation. Any funds that remain unexpended on September 30, 2020, are transferred to the border-to-border broadband fund account established in Minnesota Statutes, section 116J.396. By December 1, 2020, the commissioner of education must report to the legislature regarding the districts and charter schools that received grants under section 1, the per-pupil amount for each grant, and the number of students that were provided Internet access. The report must also identify the costs to administer the grant program and the amount transferred to the border-to-border broadband fund.

(b) $2,000,000 in fiscal year 2020 is appropriated from the general fund to the commissioner of employment and economic development to award grants for the purchase of telemedicine equipment under section 2. Up to five percent of the appropriation under this paragraph may be used to reimburse the reasonable costs incurred by the Department of Employment and Economic Development to administer section 2. This is a onetime appropriation. Any funds that remain unexpended on September 30, 2020, are transferred to the border-to-border broadband fund account established in Minnesota Statutes, section 116J.396. By December 31, 2020, the commissioner of employment and economic development must report to the legislature regarding the number of applications received under section 2, the number of grants awarded, the maximum and minimum grant amounts awarded, and the mean and median grant amounts awarded. The report must also identify the costs to administer the grant program and the amount transferred to the border-to-border broadband fund.

(c) $10,000,000 in fiscal year 2021 is appropriated from the general fund to the commissioner of employment and economic development for deposit in the border-to-border broadband fund account established in Minnesota Statutes, section 116J.396. Before July 1, 2021, the appropriation must be used only to provide broadband service in unserved areas, except that broadband infrastructure, as defined in Minnesota Statutes, section 116J.394, for that purpose may be placed in underserved areas. Beginning July 1, 2021, the appropriation may be used for grants and the purposes described in Minnesota Statutes, section 116J.395. Notwithstanding the limitation in Minnesota Statutes, section 116J.395, subdivision 7, paragraph (a), the grants are available for 55 percent of total project cost if the grant is matched by ten percent or more from a nonstate entity. The nonstate entity providing the match may include but is not limited to organized townships, cities, counties, foundations, nonprofits, school districts, or higher education institutions. This is a onetime appropriation.

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

Delete the title and insert:

"A bill for an act relating to telecommunications; establishing a grant program for distance learning equipment; establishing a grant program for telemedicine equipment purchased to deal with COVID-19; requiring reports; appropriating money."

With the recommendation that when so amended the bill be re-referred to the Committee on Ways and Means.

The report was adopted.

Pursuant to Joint Rule 2.03 and in accordance with Senate Concurrent Resolution No. 6, H. F. No. 3029 was re-referred to the Committee on Rules and Legislative Administration.

Mariani from the Public Safety and Criminal Justice Reform Finance and Policy Division to which was referred:

H. F. No. 3109, A bill for an act relating to public safety; requiring a report on statistics for individuals convicted as an extended jurisdiction juvenile; amending Minnesota Statutes 2018, sections 241.016; 244.19, subdivision 3; 401.06.

Reported the same back with the following amendments:

Page 1, line 8, strike "Biennial" and insert "Annual"

Page 1, line 11, strike "odd-numbered"

With the recommendation that when so amended the bill be re-referred to the Committee on Ways and Means.

The report was adopted.

Pursuant to Joint Rule 2.03 and in accordance with Senate Concurrent Resolution No. 6, H. F. No. 3109 was re-referred to the Committee on Rules and Legislative Administration.

Carlson, L., from the Committee on Ways and Means to which was referred:

H. F. No. 3391, A bill for an act relating to civil law; modifying and modernizing certain provisions governing guardianship and conservatorship; amending Minnesota Statutes 2018, sections 484.76, subdivision 2; 524.5-102, subdivisions 6, 7, 13a, by adding subdivisions; 524.5-104; 524.5-110; 524.5-113; 524.5-120; 524.5-205; 524.5-211; 524.5-303; 524.5-304; 524.5-307; 524.5-310; 524.5-311; 524.5-313; 524.5-316; 524.5-317; 524.5-403; 524.5-406; 524.5-408; 524.5-409; 524.5-411; 524.5-412; 524.5-414; 524.5-415; 524.5-416; 524.5-417; 524.5-420; 524.5-423; 524.5-431; 524.5-502; 609.748, subdivision 2; 611A.01; proposing coding for new law in Minnesota Statutes, chapter 524.

Reported the same back with the recommendation that the bill be placed on the General Register.

The report was adopted.

Carlson, L., from the Committee on Ways and Means to which was referred:

H. F. No. 3429, A bill for an act relating to elections; making technical and policy changes to provisions related to elections administration including provisions related to voting, voter registration, polling places, ballots, recounts, contests, candidates, and various other election-related provisions; extending availability of election equipment grant money; amending Minnesota Statutes 2018, sections 5B.06; 201.061, subdivision 3; 201.071, subdivisions 1, 2, 3, 8; 201.12, subdivision 2; 201.121, subdivision 3; 201.13, subdivision 3; 201.1611, subdivision 1; 201.225, subdivision 2; 202A.16, subdivision 1; 203B.04, subdivision 1; 203B.081, subdivisions 1, 2; 203B.11, subdivision 1; 203B.12, subdivision 7; 203B.121, subdivision 2; 203B.16, subdivision 2; 203B.24, subdivision 1; 204B.06, subdivision 4a; 204B.09, subdivisions 1, 3; 204B.16, subdivision 1; 204B.19, subdivision 6; 204B.21, subdivision 2; 204B.36, subdivision 2; 204B.45, subdivisions 1, 2; 204B.46; 204C.05, subdivisions 1a, 1b; 204C.21, subdivision 1; 204C.27; 204C.33, subdivision 3; 204C.35, subdivision 3, by adding a subdivision; 204C.36, subdivision 1; 204D.08, subdivision 4; 204D.13, subdivision 1; 204D.19, subdivision 2; 204D.195; 204D.22, subdivision 3; 204D.23, subdivision 2; 204D.27, subdivision 5; 204D.28, subdivisions 9, 10; 205.13, subdivision 5; 205A.10, subdivision 5; 205A.12, subdivision 5; 206.805, subdivision 1; 206.89, subdivisions 4, 5; 206.90, subdivision 6; 207A.13; 207A.14, subdivision 3; 208.03; 209.021, subdivision 2; 211B.11, subdivision 1; 367.03, subdivision 6; 367.25, subdivision 1; 412.02, subdivision 2a; 447.32, subdivision 4; Minnesota Statutes 2019 Supplement, sections 203B.121, subdivision 4; 207A.12; Laws 2017, First Special Session chapter 4, article 1, section 6, subdivision 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **SAFE AND SECURE CONDUCT OF 2020 STATE PRIMARY AND STATE GENERAL ELECTIONS; SPECIAL PROCEDURES.**

Subdivision 1. **Application; definition.** (a) This section applies only to the state primary and state general elections conducted in 2020.

(b) As used in this section, "the Minnesota Election Law" has the meaning given in Minnesota Statutes, section 200.01.

Subd. 2. **Local authority.** (a) Notwithstanding any provision of the Minnesota Election Law to the contrary, a county or municipality, by ordinance or resolution of its governing body, may:

(1) designate polling places after the deadline required by Minnesota Statutes, section 204B.16, subdivision 1, but no later than July 1, 2020;

(2) train and designate employees of a health care facility or hospital to administer the absentee voting process to temporary or permanent residents or patients in those facilities under Minnesota Statutes, section 203B.11; and

(3) extend the period during which absentee ballots are processed, to include no more than three days following the date of the election, along with any corresponding delay of the local canvassing dates necessary to accommodate the extension. This clause does not authorize a county or municipality to extend the deadlines for the timely receipt of absentee ballots as provided in Minnesota Statutes, section 203B.08.

(b) Nothing in this subdivision prohibits a local election official from responding to the outbreak of the infectious disease known as COVID-19 by exercising powers granted by the Minnesota Election Law to address emergency situations that prevent the safe, secure, and full operation of a polling place on election day.

Subd. 3. **Processing of absentee ballots prior to election.** Notwithstanding Minnesota Statutes, section 203B.121, subdivisions 3 and 4, the county auditor or municipal clerk, and the applicable ballot board, must begin processing absentee ballots 14 days prior to the date of the election. After the close of business on the 14th day before the election, a voter whose record indicates that an absentee ballot has been accepted must not be permitted to cast another ballot at that election.

Subd. 4. **Electronic candidate filings.** (a) Notwithstanding Minnesota Statutes, section 325L.18, paragraph (a), or any provision of the Minnesota Election Law to the contrary, a filing officer must accept electronic mail, facsimile, or other electronic submissions of any of the following:

(1) an affidavit of candidacy under Minnesota Statutes, section 204B.06, including any applicable filing fees;

(2) a nominating petition under Minnesota Statutes, section 204B.07 or 204B.08, including petition signatures collected electronically; and

(3) a request that a write-in candidate's votes be counted, consistent with Minnesota Statutes, section 204B.09, subdivision 3, or other applicable law.

(b) Except as provided in paragraph (a), this subdivision does not waive any other requirements provided in law or rule related to the format, content, or submission of an affidavit, petition, or request.

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

Sec. 2. **NOMINATION OF 2020 PRESIDENTIAL ELECTORS AND ALTERNATES.**

Notwithstanding Minnesota Statutes, section 208.03, the chairs of each major political party may submit the names of presidential electors and alternates nominated to be elected at the 2020 state general election no fewer than 67 days prior to the date of the election.

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

Sec. 3. **HELP AMERICA VOTE ACT APPROPRIATIONS AND TRANSFER; FEDERAL CONSOLIDATED APPROPRIATIONS ACT.**

Subdivision 1. **Federal funds appropriation.** $7,389,506 in fiscal year 2020 is appropriated from the Help America Vote Act (HAVA) account established in Minnesota Statutes, section 5.30, to the secretary of state for the purposes authorized by subdivision 4.

Subd. 2. **State match transfer and appropriation.** $1,477,901 in fiscal year 2020 is transferred from the general fund to the Help America Vote Act account established in Minnesota Statutes, section 5.30, and is appropriated to the secretary of state for the purposes authorized in subdivision 4.

Subd. 3. **Accrued interest appropriated.** Any interest earned on the amounts appropriated under subdivisions 1 and 2 is appropriated from the HAVA account to the secretary of state for the purposes authorized in subdivision 4.

Subd. 4. **Authorized uses.** Amounts appropriated by this section are subject to the federal Consolidated Appropriations Act, 2020, Public Law 116-93, Title V, and may be used for any of the following purposes:

(1) modernizing, securing, and updating the statewide voter registration system and for cybersecurity upgrades as authorized by federal law;

(2) improving accessibility;

(3) preparing training materials and training local election officials;

(4) implementing security improvements for election systems;

(5) funding other activities to improve the security of elections; and

(6) any activities authorized by section 4, subdivision 4.

Subd. 5. **Further uses prohibited.** Use of funds appropriated by this section for any purpose not authorized by the federal Consolidated Appropriations Act, 2020, as further restricted by subdivision 4, is prohibited. The secretary of state, and any political subdivision receiving a grant, must cooperate with any audits related to the use of these funds conducted by the United States Election Assistance Commission, Office of the Inspector General.

Subd. 6. **Availability of appropriations.** The appropriations provided in this section are onetime and available until December 21, 2024.

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

Sec. 4. **HELP AMERICA VOTE ACT APPROPRIATION AND TRANSFER; FEDERAL CARES ACT.**

Subdivision 1. **Federal funds appropriation.** $6,930,610 in fiscal year 2020 is appropriated from the Help America Vote Act (HAVA) account established in Minnesota Statutes, section 5.30, to the secretary of state for the purposes authorized by subdivision 4.

Subd. 2. **State match transfer and appropriation.** (a) $1,386,122 in fiscal year 2021 is transferred from the general fund to the HAVA account and is appropriated to the secretary of state for the purposes authorized by subdivision 4 if, as of July 1, 2020, a state match is required to secure the amount made available to the state under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136.

(b) If, as of July 1, 2020, a state match is not required to secure the amount made available to the state under the federal CARES Act, the transfer and appropriation provided by paragraph (a) must not be made. If the requirement of a state match is waived after July 1, 2020, any unspent amounts are canceled to the general fund.

Subd. 3. **Accrued interest appropriated.** Any interest earned on the amounts appropriated under subdivisions 1 and 2 is appropriated from the HAVA account to the secretary of state for the purposes authorized in subdivision 4.

Subd. 4. **Authorized uses.** Amounts appropriated in this section are subject to the requirements of the federal CARES Act and may be used for any of the following purposes:

(1) ensuring the health and safety of election officials and in-person voters, including the purchase of sanitation and disinfectant supplies;

(2) public outreach and preparations for implementing social distancing guidelines related to voting, including additional signs and staff;

(3) facilitation, support, and preparation for increased absentee voting, including voter education materials, printing, and postage;

(4) preparation of training materials and administration of additional training of local election officials;

(5) preparation of new polling place locations;

(6) purchasing an electronic roster system meeting the technology requirements of Minnesota Statutes, section 201.225, subdivision 2, along with equipment necessary to support the system; and

(7) issuing grants authorized by the local grant program established in subdivision 6, and administering that program.

Subd. 5. **Further uses prohibited.** Use of funds appropriated by this section for any purpose not authorized by the federal CARES Act, as further restricted by subdivision 4, is prohibited. The secretary of state, and any political subdivision receiving a grant, must cooperate with any audits related to the use of these funds conducted by the United States Election Assistance Commission, Office of the Inspector General.

Subd. 6. **Local grants.** (a) The secretary of state must administer grants to political subdivisions to support the activities authorized in subdivision 4. The secretary may make a grant only after receiving an application from the county auditor or municipal clerk responsible for administering the election within that political subdivision. The application must contain the following information:

(1) the date the application is submitted;

(2) the name of the political subdivision requesting the grant;

(3) the name and title of the individual who prepared the application;

(4) a description of the purpose of the grant request;

(5) the political subdivision's anticipated cost for efforts to prevent, prepare for, and respond to the outbreak of the infectious disease known as COVID-19 at the 2020 state primary and state general elections;

(6) the total number of registered voters, as of the date of the application, in each precinct within the political subdivision;

(7) the total amount of the grant requested;

(8) a certified statement by the official responsible for the application that the grant will be used only for purposes authorized in subdivision 4; and

(9) any other information required by the secretary of state.

(b) A political subdivision is eligible to receive a grant of no more than 75 percent of the total cost of purchasing an electronic roster system and necessary support equipment and no more than 80 percent of the total cost of any other activities authorized under subdivision 4.

(c) The secretary of state must establish a deadline for receipt of grant applications, a procedure for awarding and distributing grants consistent with this subdivision, and a process for verifying the proper use of the grants after distribution. In evaluating an application, the secretary of state must consider only the information set forth in the application and is not subject to Minnesota Statutes, chapter 14. If the secretary of state determines that the application has been fully and properly completed, and there is a sufficient balance available to fund the grant, either in whole or in part, the secretary of state may approve the application.

(d) No later than January 15, 2021, the secretary of state must submit a report to the legislative committees with jurisdiction over elections policy and state government finance on the use of funds appropriated by this section. The report must detail the state's use of the funds and identify each jurisdiction receiving a grant and the amount of each grant awarded.

Subd. 7. **Availability of appropriations.** The appropriations provided in this section are onetime and available until March 27, 2022.

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

Delete the title and insert:

"A bill for an act relating to elections; providing special procedures for the safe and secure conduct of the 2020 state primary and state general elections; appropriating money for various election-related purposes, including administration, security, accessibility, training, public health and safety, and public outreach; authorizing local grants; requiring a report; transferring and appropriating money for purposes of the Help America Vote Act, the federal CARES Act, and the federal Consolidated Appropriations Act."

With the recommendation that when so amended the bill be placed on the General Register.

The report was adopted.

Hausman from the Housing Finance and Policy Division to which was referred:

H. F. No. 3625, A bill for an act relating to housing; modifying the definition of modular home; amending Minnesota Statutes 2019 Supplement, section 327.31, subdivision 23.

Reported the same back with the following amendments:

Page 1, after line 10, insert:

"Sec. 2. Minnesota Statutes 2019 Supplement, section 327C.095, subdivision 12, is amended to read:

Subd. 12. **Payment to the Minnesota manufactured home relocation trust fund.** (a) If a manufactured home owner is required to move due to the conversion of all or a portion of a manufactured home park to another use, the closure of a park, or cessation of use of the land as a manufactured home park, the manufactured park owner shall, upon the change in use, pay to the commissioner of management and budget for deposit in the Minnesota manufactured home relocation trust fund under section 462A.35, the lesser amount of the actual costs of moving or purchasing the manufactured home approved by the neutral third party and paid by the Minnesota Housing Finance

Agency under subdivision 13, paragraph (a) or (e), or $3,250 for each single section manufactured home, and $6,000 for each multisection manufactured home, for which a manufactured home owner has made application for payment of relocation costs under subdivision 13, paragraph (c). The manufactured home park owner shall make payments required under this section to the Minnesota manufactured home relocation trust fund within 60 days of receipt of invoice from the neutral third party.

(b) A manufactured home park owner is not required to make the payment prescribed under paragraph (a), nor is a manufactured home owner entitled to compensation under subdivision 13, paragraph (a) or (e), if:

(1) the manufactured home park owner relocates the manufactured home owner to another space in the manufactured home park or to another manufactured home park at the park owner's expense;

(2) the manufactured home owner is vacating the premises and has informed the manufactured home park owner or manager of this prior to the mailing date of the closure statement under subdivision 1;

(3) a manufactured home owner has abandoned the manufactured home, or the manufactured home owner is not current on the monthly lot rental, personal property taxes;

(4) the manufactured home owner has a pending eviction action for nonpayment of lot rental amount under section 327C.09, which was filed against the manufactured home owner prior to the mailing date of the closure statement under subdivision 1, and the writ of recovery has been ordered by the district court;

(5) the conversion of all or a portion of a manufactured home park to another use, the closure of a park, or cessation of use of the land as a manufactured home park is the result of a taking or exercise of the power of eminent domain by a governmental entity or public utility; or

(6) the owner of the manufactured home is not a resident of the manufactured home park, as defined in section 327C.01, subdivision 9; the owner of the manufactured home is a resident, but came to reside in the manufactured home park after the mailing date of the closure statement under subdivision 1; or the owner of the manufactured home has not paid the $15 assessment when due under paragraph (c).

(c) If the unencumbered fund balance in the manufactured home relocation trust fund is less than $2,000,000 as of June 30 of each year, the commissioner of management and budget shall assess each manufactured home park owner by mail the total amount of $15 for each licensed lot in their park, payable on or before December 15 of that year. Failure to notify and timely assess the manufactured home park owner by July 31 of any year shall waive the assessment and payment obligations of the manufactured home park owner for that year. Together with said assessment notice, each year the commissioner of management and budget shall prepare and distribute to park owners a letter explaining whether funds are being collected for that year, information about the collection, an invoice for all licensed lots, a notice for distribution to the residents, and a sample form for the park owners to collect information on which park residents and lots have been accounted for. In a font no smaller than 14-point, the notice provided by management and budget for distribution to residents by the park owner will include the payment deadline of ~~November 30~~ October 31 and the following language: "THIS IS NOT AN OPTIONAL FEE. IF YOU OWN A MANUFACTURED HOME ON A LOT YOU RENT IN A MANUFACTURED HOME PARK, AND YOU RESIDE IN THAT HOME, YOU MUST PAY WHEN PROVIDED NOTICE." If assessed under this paragraph, the park owner may recoup the cost of the $15 assessment as a lump sum or as a monthly fee of no more than $1.25 collected from park residents together with monthly lot rent as provided in section 327C.03, subdivision 6. If, by September 15, a park owner provides the notice to residents for the $15 lump sum, a park owner may adjust payment for lots in their park that are vacant or otherwise not eligible for contribution to the trust fund under section 327C.095, subdivision 12, paragraph (b), and for park residents who have not paid the $15 assessment when due to the park owner by ~~November 30~~ October 31, and deduct from the assessment accordingly. The commissioner of management and budget shall deposit any payments in the Minnesota manufactured home relocation trust fund and provide to the Minnesota Housing Finance Agency by December 31, a record for each manufactured home park of the amount received for that park and the number of deductions made for each of the following reasons: vacant lots, ineligible lots, and uncollected fees.

(d) This subdivision and subdivision 13, paragraph (c), clause (5), are enforceable by the neutral third party, on behalf of the Minnesota Housing Finance Agency, or by action in a court of appropriate jurisdiction. The court may award a prevailing party reasonable attorney fees, court costs, and disbursements."

Amend the title as follows:

Page 1, line 2, after the second semicolon, insert "modifying assessment provision for manufactured home relocation trust fund;"

Correct the title numbers accordingly

With the recommendation that when so amended the bill be re-referred to the Committee on Commerce.

The report was adopted.

Davnie from the Education Finance Division to which was referred:

H. F. No. 3642, A bill for an act relating to education finance; authorizing a payment to tribal contract or grant schools equivalent to the annual payment to school districts and charter schools from the permanent school fund endowment; appropriating money; amending Minnesota Statutes 2018, section 124D.83, by adding a subdivision; Laws 2019, First Special Session chapter 11, article 2, section 33, subdivision 5.

Reported the same back with the recommendation that the bill be re-referred to the Committee on Ways and Means.

The report was adopted.

Pursuant to Joint Rule 2.03 and in accordance with Senate Concurrent Resolution No. 6, H. F. No. 3642 was re-referred to the Committee on Rules and Legislative Administration.

Pinto from the Early Childhood Finance and Policy Division to which was referred:

H. F. No. 3737, A bill for an act relating to human services; modifying provisions regarding human services hearing procedures, human services crimes, background studies, and requirements for licensure; amending Minnesota Statutes 2018, sections 245A.02, subdivision 2c; 245A.50, as amended; 245H.08, subdivisions 4, 5; Minnesota Statutes 2019 Supplement, sections 245A.149; 245A.40, subdivision 7; repealing Minnesota Statutes 2018, sections 245A.144; 245A.175; Minnesota Rules, parts 2960.3070; 2960.3210.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2018, section 245A.02, subdivision 2c, is amended to read:

Subd. 2c. **Annual or annually; family child care training requirements.** For the purposes of ~~section~~ sections 245A.50~~, subdivisions 1 to 9~~ to 245A.53, "annual" or "annually" means the 12-month period beginning on the license effective date or the annual anniversary of the effective date and ending on the day prior to the annual anniversary of the license effective date.

**EFFECTIVE DATE.** This section is effective September 30, 2020.

Sec. 2. Minnesota Statutes 2019 Supplement, section 245A.149, is amended to read:

**245A.149 SUPERVISION OF FAMILY CHILD CARE LICENSE HOLDER'S OWN CHILD.**

(a) Notwithstanding Minnesota Rules, part 9502.0365, subpart 5, and with the license holder's consent, an individual may be present in the licensed space, may supervise the family child care license holder's own child both inside and outside of the licensed space, and is exempt from the training and supervision requirements of this chapter and Minnesota Rules, chapter 9502, if the individual:

(1) is related to the license holder or to the license holder's child, as defined in section 245A.02, subdivision 13, or is a household member who the license holder has reported to the county agency;

(2) is not a designated caregiver, helper, or substitute for the licensed program;

(3) is involved only in the care of the license holder's own child; and

(4) does not have direct, unsupervised contact with any nonrelative children receiving services.

(b) If the individual in paragraph (a) is not a household member, the individual is also exempt from background study requirements under chapter 245C.

**EFFECTIVE DATE.** This section is effective September 30, 2020.

Sec. 3. Minnesota Statutes 2019 Supplement, section 245A.40, subdivision 7, is amended to read:

Subd. 7. **In-service.** (a) A license holder must ensure that the center director, staff persons, substitutes, and unsupervised volunteers complete in-service training each calendar year.

(b) The center director and staff persons who work more than 20 hours per week must complete 24 hours of in-service training each calendar year. Staff persons who work 20 hours or less per week must complete 12 hours of in-service training each calendar year. Substitutes and unsupervised volunteers must complete the requirements of paragraphs ~~(e) to (h)~~ (d) through (g) and do not otherwise have a minimum number of hours of training to complete.

(c) The number of in-service training hours may be prorated for individuals not employed for an entire year.

(d) Each year, in-service training must include:

(1) the center's procedures for maintaining health and safety according to section 245A.41 and Minnesota Rules, part 9503.0140, and handling emergencies and accidents according to Minnesota Rules, part 9503.0110;

(2) the reporting responsibilities under section 626.556 and Minnesota Rules, part 9503.0130;

(3) at least one-half hour of training on the standards under section 245A.1435 and on reducing the risk of sudden unexpected infant death as required under subdivision 5, if applicable; and

(4) at least one-half hour of training on the risk of abusive head trauma from shaking infants and young children as required under subdivision 5a, if applicable.

(e) Each year, or when a change is made, whichever is more frequent, in-service training must be provided on: (1) the center's risk reduction plan under section 245A.66, subdivision 2; and (2) a child's individual child care program plan as required under Minnesota Rules, part 9503.0065, subpart 3.

(f) At least once every two calendar years, the in-service training must include:

(1) child development and learning training under subdivision 2;

(2) pediatric first aid that meets the requirements of subdivision 3;

(3) pediatric cardiopulmonary resuscitation training that meets the requirements of subdivision 4;

(4) cultural dynamics training to increase awareness of cultural differences; and

(5) disabilities training to increase awareness of differing abilities of children.

(g) At least once every five years, in-service training must include child passenger restraint training that meets the requirements of subdivision 6, if applicable.

(h) The remaining hours of the in-service training requirement must be met by completing training in the following content areas of the Minnesota Knowledge and Competency Framework:

(1) Content area I: child development and learning;

(2) Content area II: developmentally appropriate learning experiences;

(3) Content area III: relationships with families;

(4) Content area IV: assessment, evaluation, and individualization;

(5) Content area V: historical and contemporary development of early childhood education;

(6) Content area VI: professionalism;

(7) Content area VII: health, safety, and nutrition; and

(8) Content area VIII: application through clinical experiences.

(i) For purposes of this subdivision, the following terms have the meanings given them.

(1) "Child development and learning training" means training in understanding how children develop physically, cognitively, emotionally, and socially and learn as part of the children's family, culture, and community.

(2) "Developmentally appropriate learning experiences" means creating positive learning experiences, promoting cognitive development, promoting social and emotional development, promoting physical development, and promoting creative development.

(3) "Relationships with families" means training on building a positive, respectful relationship with the child's family.

(4) "Assessment, evaluation, and individualization" means training in observing, recording, and assessing development; assessing and using information to plan; and assessing and using information to enhance and maintain program quality.

(5) "Historical and contemporary development of early childhood education" means training in past and current practices in early childhood education and how current events and issues affect children, families, and programs.

(6) "Professionalism" means training in knowledge, skills, and abilities that promote ongoing professional development.

(7) "Health, safety, and nutrition" means training in establishing health practices, ensuring safety, and providing healthy nutrition.

(8) "Application through clinical experiences" means clinical experiences in which a person applies effective teaching practices using a range of educational programming models.

(j) The license holder must ensure that documentation, as required in subdivision 10, includes the number of total training hours required to be completed, name of the training, the Minnesota Knowledge and Competency Framework content area, number of hours completed, and the director's approval of the training.

(k) In-service training completed by a staff person that is not specific to that child care center is transferable upon a staff person's change in employment to another child care program.

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

Sec. 4. Minnesota Statutes 2018, section 245A.50, as amended by Laws 2019, First Special Session chapter 9, article 2, section 53, is amended to read:

**245A.50 FAMILY CHILD CARE TRAINING REQUIREMENTS.**

Subdivision 1. **Initial training.** (a) License holders, adult caregivers, and substitutes must comply with the training requirements in this section.

(b) Helpers who assist with care on a regular basis must complete six hours of training within one year after the date of initial employment.

(c) Training requirements established under this section that must be completed prior to initial licensure must be satisfied only by a newly licensed child care provider or by a child care provider who has not held an active child care license in Minnesota in the previous 12 months. A child care provider who voluntarily cancels a license or allows the license to lapse for a period of less than 12 months and who seeks reinstatement of the lapsed or canceled license within 12 months of the lapse or cancellation must satisfy the annual, ongoing training requirements, and is not required to satisfy the training requirements that must be completed prior to initial licensure. A child care provider who relocates within the state must (1) satisfy the annual, ongoing training requirements according to the schedules established in this section and (2) not be required to satisfy the training requirements under this section that the child care provider completed prior to initial licensure. If a licensed provider moves to a new county, the new county is prohibited from requiring the provider to complete any orientation class or training for new providers.

(d) Before an adult caregiver or substitute cares for a child or assists in the care of a child, the license holder must train the adult caregiver or substitute on:

(1) the emergency preparedness plan required under section 245A.51, subdivision 3; and

(2) allergy prevention and response required under section 245A.51, subdivision 1.

Subd. 1a. **Definitions and general provisions.** (a) For the purposes of this section, the following terms have the meanings given:

(1) "adult caregiver" means an adult other than the license holder who supervises children for a cumulative total of more than 500 hours annually;

(2) "helper" means a minor, ages 13 to 17, who assists in caring for children; and

(3) "substitute" means an adult who assumes responsibility for a provider for a cumulative total of not more than 500 hours annually.

(b) Notwithstanding other requirements of this section, courses within the identified Knowledge and Competency Areas that are specific to child care centers or legal nonlicensed providers do not fulfill the requirements of this section.

Subd. 2. **Child development and learning and behavior guidance training.** (a) For purposes of family and group family child care, the license holder and each adult caregiver ~~who provides care in the licensed setting for more than 30 days in any 12 month period~~ shall complete and document at least four hours of child growth and learning and behavior guidance training prior to initial licensure, and before caring for children. ~~For purposes of this subdivision, "child development and learning training" means training in understanding how children develop physically, cognitively, emotionally, and socially and learn as part of the children's family, culture, and community. "Behavior guidance training" means training in the understanding of the functions of child behavior and strategies for managing challenging situations. At least two hours of child development and learning or behavior guidance training must be repeated annually. Training curriculum shall be developed or approved by the commissioner of human services.~~

This requirement must be met by completing one of the following:

(1) two hours in Knowledge and Competency Area I: Child Development and Learning or Knowledge, and two hours in Knowledge and Competency Area II-C: Promoting Social and Emotional Development; or

(2) four hours in Knowledge and Competency Area II-C; or

(3) one four-hour course in both Knowledge and Competency Area I and Knowledge and Competency Area II-C.

Training curriculum shall be developed or approved by the commissioner of human services.

(b) Notwithstanding initial child development and learning and behavior guidance training requirements in paragraph (a), individuals are exempt from this requirement if they:

(1) have taken a three-credit course on early childhood development within the past five years;

(2) have received a baccalaureate or master's degree in early childhood education or school-age child care within the past five years;

(3) are licensed in Minnesota as a prekindergarten teacher, an early childhood educator, a kindergarten to grade 6 teacher with a prekindergarten specialty, an early childhood special education teacher, or an elementary teacher with a kindergarten endorsement; or

(4) have received a baccalaureate degree with a Montessori certificate within the past five years.

(c) The license holder and adult caregivers must annually take at least two hours of child development and learning or behavior guidance training. This annual training must be fulfilled by completing any course in Knowledge and Competency Area I: Child Development and Learning or Knowledge and Competency Area II-C: Promoting Social and Emotional development. Training curriculum shall be developed or approved by the commissioner of human services.

(d) A three-credit course about early childhood development meets the requirements of paragraph (c).

Subd. 3. **First aid.** (a) ~~When children are present in a family child care home governed by Minnesota Rules, parts 9502.0315 to 9502.0445, at least one staff person must be present in the home who has been trained in first aid~~ Before initial licensure and before caring for a child, license holders, adult caregivers, and substitutes must be trained in pediatric first aid. The first aid training must have been provided by an individual approved to provide first aid instruction. First aid training may be less than eight hours and persons qualified to provide first aid training include individuals approved as first aid instructors. ~~First aid training must be repeated~~ License holders, adult caregivers, and substitutes must repeat pediatric first aid training every two years.

~~(b) A family child care provider is exempt from the first aid training requirements under this subdivision related to any substitute caregiver who provides less than 30 hours of care during any 12-month period.~~

~~(c)~~ (b) Video training reviewed and approved by the county licensing agency satisfies the training requirement of this subdivision.

Subd. 4. **Cardiopulmonary resuscitation.** (a) ~~When children are present in a family child care home governed by Minnesota Rules, parts 9502.0315 to 9502.0445, at least one caregiver must be present in the home who has been trained in cardiopulmonary resuscitation (CPR)~~ Before initial licensure and before caring for a child, license holders, adult caregivers, and substitutes must be trained in pediatric cardiopulmonary resuscitation (CPR), including CPR techniques for infants and children, and in the treatment of obstructed airways. The CPR training must have been provided by an individual approved to provide CPR instruction~~,~~. License holders, adult caregivers, and substitutes must ~~be repeated~~ repeat pediatric CPR training at least once every two years, and it must be documented in the ~~caregiver's~~ license holder's records.

~~(b) A family child care provider is exempt from the CPR training requirement in this subdivision related to any substitute caregiver who provides less than 30 hours of care during any 12-month period.~~

~~(c)~~ (b) Persons providing CPR training must use CPR training that has been developed:

(1) by the American Heart Association or the American Red Cross and incorporates psychomotor skills to support the instruction; or

(2) using nationally recognized, evidence-based guidelines for CPR training and incorporates psychomotor skills to support the instruction.

Subd. 5. **Sudden unexpected infant death and abusive head trauma training.** (a) License holders must ensure and document that before ~~staff persons~~ the license holder, adult caregivers, substitutes, and helpers assist in the care of infants, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden unexpected infant death. In addition, license holders must ensure and document that before ~~staff persons~~ the license holder, adult caregivers, substitutes, and helpers assist in the care of infants and children under school age, they receive training on reducing the risk of abusive head trauma from shaking infants and young children. The training in this subdivision may be provided as initial training under subdivision 1 or ongoing annual training under subdivision 7.

(b) Sudden unexpected infant death reduction training required under this subdivision must, at a minimum, address the risk factors related to sudden unexpected infant death, means of reducing the risk of sudden unexpected infant death in child care, and license holder communication with parents regarding reducing the risk of sudden unexpected infant death.

(c) Abusive head trauma training required under this subdivision must, at a minimum, address the risk factors related to shaking infants and young children, means of reducing the risk of abusive head trauma in child care, and license holder communication with parents regarding reducing the risk of abusive head trauma.

(d) Training for family and group family child care providers must be developed by the commissioner in conjunction with the Minnesota Sudden Infant Death Center and approved by the Minnesota Center for Professional Development. Sudden unexpected infant death reduction training and abusive head trauma training may be provided in a single course of no more than two hours in length.

(e) Sudden unexpected infant death reduction training and abusive head trauma training required under this subdivision must be completed in person or as allowed under subdivision 10, clause (1) or (2), at least once every two years. On the years when the ~~license holder~~ person receiving training is not receiving training in person or as allowed under subdivision 10, clause (1) or (2), the ~~license holder~~ person receiving training in accordance with this subdivision must receive sudden unexpected infant death reduction training and abusive head trauma training through a video of no more than one hour in length. The video must be developed or approved by the commissioner.

(f) An individual who is related to the license holder as defined in section 245A.02, subdivision 13, and who is involved only in the care of the license holder's own infant or child under school age and who is not designated to be ~~a~~ an adult caregiver, helper, or substitute~~, as defined in Minnesota Rules, part 9502.0315,~~ for the licensed program, is exempt from the sudden unexpected infant death and abusive head trauma training.

Subd. 6. **Child passenger restraint systems; training requirement.** (a) A license holder must comply with all seat belt and child passenger restraint system requirements under section 169.685.

(b) Family and group family child care programs licensed by the Department of Human Services that serve a child or children under nine years of age must document training that fulfills the requirements in this subdivision.

(1) Before a license holder, ~~staff person,~~ adult caregiver, substitute, or helper transports a child or children under age nine in a motor vehicle, the person placing the child or children in a passenger restraint must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles. Training completed under this subdivision may be used to meet initial training under subdivision 1 or ongoing training under subdivision 7.

(2) Training required under this subdivision must be at least one hour in length, completed at initial training, and repeated at least once every five years. At a minimum, the training must address the proper use of child restraint systems based on the child's size, weight, and age, and the proper installation of a car seat or booster seat in the motor vehicle used by the license holder to transport the child or children.

(3) Training under this subdivision must be provided by individuals who are certified and approved by the Department of Public Safety, Office of Traffic Safety. License holders may obtain a list of certified and approved trainers through the Department of Public Safety website or by contacting the agency.

(c) Child care providers that only transport school-age children as defined in section 245A.02, subdivision 19, paragraph (f), in child care buses as defined in section 169.448, subdivision 1, paragraph (e), are exempt from this subdivision.

Subd. 7. **Training requirements for family and group family child care.** For purposes of family and group family child care, the license holder and each ~~primary~~ adult caregiver must complete 16 hours of ongoing training each year. ~~For purposes of this subdivision, a primary caregiver is an adult caregiver who provides services in the licensed setting for more than 30 days in any 12 month period.~~ Repeat of topical training requirements in subdivisions 2 to 8 shall count toward the annual 16-hour training requirement. Additional ongoing training subjects to meet the annual 16-hour training requirement must be selected from the following areas:

(1) child development and learning training ~~under subdivision 2, paragraph (a)~~ in understanding how a child develops physically, cognitively, emotionally, and socially, and how a child learns as part of the child's family, culture, and community;

(2) developmentally appropriate learning experiences, including training in creating positive learning experiences, promoting cognitive development, promoting social and emotional development, promoting physical development, promoting creative development; and behavior guidance;

(3) relationships with families, including training in building a positive, respectful relationship with the child's family;

(4) assessment, evaluation, and individualization, including training in observing, recording, and assessing development; assessing and using information to plan; and assessing and using information to enhance and maintain program quality;

(5) historical and contemporary development of early childhood education, including training in past and current practices in early childhood education and how current events and issues affect children, families, and programs;

(6) professionalism, including training in knowledge, skills, and abilities that promote ongoing professional development; and

(7) health, safety, and nutrition, including training in establishing healthy practices; ensuring safety; and providing healthy nutrition.

Subd. 8. **Other required training requirements.** (a) The training required of family and group family child care providers and staff must include training in the cultural dynamics of early childhood development and child care. The cultural dynamics and disabilities training and skills development of child care providers must be designed to achieve outcomes for providers of child care that include, but are not limited to:

(1) an understanding and support of the importance of culture and differences in ability in children's identity development;

(2) understanding the importance of awareness of cultural differences and similarities in working with children and their families;

(3) understanding and support of the needs of families and children with differences in ability;

(4) developing skills to help children develop unbiased attitudes about cultural differences and differences in ability;

(5) developing skills in culturally appropriate caregiving; and

(6) developing skills in appropriate caregiving for children of different abilities.

The commissioner shall approve the curriculum for cultural dynamics and disability training.

(b) The provider must meet the training requirement in section 245A.14, subdivision 11, paragraph (a), clause (4), to be eligible to allow a child cared for at the family child care or group family child care home to use the swimming pool located at the home.

Subd. 9. **Supervising for safety; training requirement.** (a) Courses required by this subdivision must include the following health and safety topics:

(1) preventing and controlling infectious diseases;

(2) administering medication;

(3) preventing and responding to allergies;

(4) ensuring building and physical premise safety;

(5) handling and storing biological contaminants;

(6) preventing and reporting child abuse and maltreatment; and

(7) emergency preparedness.

(b) Before initial licensure and before caring for a child, all family child care license holders and each adult caregiver ~~who provides care in the licensed family child care home for more than 30 days in any 12-month period~~ shall complete and document the completion of the six-hour Supervising for Safety for Family Child Care course developed by the commissioner.

(c) The license holder must ensure and document that, before caring for a child, all substitutes have completed the four-hour Basics of Licensed Family Child Care for Substitutes course developed by the commissioner, which must include health and safety topics as well as child development and learning.

~~(b)~~ (d) The family child care license holder and each adult caregiver ~~who provides care in the licensed family child care home for more than 30 days in any 12-month period~~ shall complete and document:

(1) the annual completion of a two-hour active supervision course developed by the commissioner, which may be fulfilled by completing any course in Knowledge and Competency Area VII-A: Establishing Healthy Practices or Knowledge and Competency area VII-B: Ensuring Safety, that is not otherwise required in this section; and

(2) the completion at least once every five years of the two-hour courses Health and Safety I and Health and Safety II. A license holder's or adult caregiver's completion of either training in a given year meets the annual active supervision training requirement in clause (1).

(e) At least once every three years, license holders must ensure and document that substitutes have completed the four-hour Basics of Licensed Family Child Care for Substitutes course.

Subd. 10. **Approved training.** County licensing staff must accept training approved by the Minnesota Center for Professional Development, including:

(1) face-to-face or classroom training;

(2) online training; and

(3) relationship-based professional development, such as mentoring, coaching, and consulting.

Subd. 11. **Provider training.** New and increased training requirements under this section must not be imposed on providers until the commissioner establishes statewide accessibility to the required provider training.

**EFFECTIVE DATE.** This section is effective September 30, 2020.

Sec. 5. **DIRECTION TO THE COMMISSIONER; EVALUATION OF CONTINUOUS LICENSES.**

By January 1, 2021, the commissioner of human services shall consult with family child care license holders and county agencies to determine whether family child care licenses should automatically renew instead of requiring license holders to reapply for licensure. If the commissioner determines that family child care licenses should automatically renew, the commissioner must propose legislation for the 2021 legislative session to make the required amendments to statute and administrative rules, as necessary.

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

Delete the title and insert:

"A bill for an act relating to human services; amending child care provider licensing and training provisions; amending Minnesota Statutes 2018, sections 245A.02, subdivision 2c; 245A.50, as amended; Minnesota Statutes 2019 Supplement, sections 245A.149; 245A.40, subdivision 7."

With the recommendation that when so amended the bill be placed on the General Register.

The report was adopted.

Pursuant to Joint Rule 2.03 and in accordance with Senate Concurrent Resolution No. 6, H. F. No. 3737 was re-referred to the Committee on Rules and Legislative Administration.

Davnie from the Education Finance Division to which was referred:

H. F. No. 3992, A bill for an act relating to education finance; authorizing Independent School District No. 709, Duluth, to transfer levy authority from the long-term facilities maintenance revenue program to the debt redemption fund; requiring a report; authorizing the sale of bonds.

Reported the same back with the recommendation that the bill be re-referred to the Committee on Ways and Means.

The report was adopted.

Pursuant to Joint Rule 2.03 and in accordance with Senate Concurrent Resolution No. 6, H. F. No. 3992 was re-referred to the Committee on Rules and Legislative Administration.

Mariani from the Public Safety and Criminal Justice Reform Finance and Policy Division to which was referred:

H. F. No. 4219, A bill for an act relating to natural resources; providing uniformity in enforcing driving under the influence provisions for certain recreational vehicles; providing criminal penalties; amending Minnesota Statutes 2018, sections 84.795, subdivision 5; 84.83, subdivision 5; 86B.705, subdivision 2; 97A.065, subdivision 2; 169A.03, subdivision 18; 169A.20, subdivision 1; 169A.52, by adding a subdivision; 169A.54, by adding a subdivision; 171.306, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 84; 86B; 171; repealing Minnesota Statutes 2018, section 169A.20, subdivisions 1a, 1b, 1c; Minnesota Statutes 2019 Supplement, sections 84.91, subdivision 1; 86B.331, subdivision 1.

Reported the same back with the recommendation that the bill be re-referred to the Committee on Ways and Means.

The report was adopted.

Pursuant to Joint Rule 2.03 and in accordance with Senate Concurrent Resolution No. 6, H. F. No. 4219 was re-referred to the Committee on Rules and Legislative Administration.

Halverson from the Committee on Commerce to which was referred:

H. F. No. 4240, A bill for an act relating to insurance; modifying the Minnesota Life and Health Insurance Guaranty Association Act; amending Minnesota Statutes 2018, sections 61B.19, subdivisions 1, 2, 3, 5, 7, by adding a subdivision; 61B.20, subdivisions 7, 11, 12, 13, 14, 15, 16, 17, 18, by adding subdivisions; 61B.21, subdivision 1; 61B.22, subdivision 1; 61B.23, subdivisions 1, 3, 4, 5, 6, 7, 8, 8a, 12, 13, 14; 61B.24, subdivisions 2, 3, 5, 7; 61B.25, subdivisions 1, 3; 61B.26; 61B.27; 61B.28, subdivisions 3, 5, 7; 61B.32; proposing coding for new law in Minnesota Statutes, chapter 61B; repealing Minnesota Statutes 2018, sections 61B.19, subdivision 4; 61B.20, subdivisions 3, 8, 10; 61B.23, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2018, section 60B.02, is amended to read:

**60B.02 PERSONS COVERED.**

The proceedings authorized by sections 60B.01 to 60B.61 may be applied to:

(1) all insurers who are doing, or have done, an insurance business in this state, and against whom claims arising from that business may exist now or in the future;

(2) all insurers who purport to do an insurance business in this state;

(3) all insurers who have insureds resident in this state;

(4) all other persons organized or in the process of organizing with the intent to do an insurance business in this state; and

(5) all nonprofit service plan corporations incorporated or operating under the Nonprofit Health Service Plan Corporation Act, all health maintenance organizations operating under chapter 62D, any health plan incorporated under chapter 317A, all fraternal benefit societies operating under chapter 64B, except those associations enumerated in section 64B.38, all township mutual or other companies operating under chapter 67A, and all reciprocals or interinsurance exchanges operating under chapter 71A.

Sec. 2. Minnesota Statutes 2018, section 61B.19, subdivision 1, is amended to read:

Subdivision 1. **Purpose.** (a) The purpose of sections 61B.18 to 61B.32 is to protect, subject to certain limitations, the persons specified in subdivision 2 against failure in the performance of contractual obligations~~,~~ under life ~~insurance policies~~, health ~~insurance policies~~, and annuity policies or contracts, and the supplemental contracts specified in subdivision 2, because of the impairment or insolvency of the member insurer that issued the policies or contracts.

(b) To provide this protection, an association of member insurers has been created and exists to pay benefits and to continue coverages, as limited in sections 61B.18 to 61B.32. Members of the association are subject to assessment to provide funds to carry out the purpose of sections 61B.18 to 61B.32.

Sec. 3. Minnesota Statutes 2018, section 61B.19, subdivision 2, is amended to read:

Subd. 2. **Scope.** (a) Sections 61B.18 to 61B.32 provide coverage for the policies and contracts specified in paragraph (b) to:

(1) persons who are owners ~~of or,~~ certificate holders, or enrollees under these policies or contracts, or, (i) in the case of unallocated annuity contracts, to the persons who are participants in a covered retirement plan, or (ii) in the case of structured settlement annuities, to persons who are payees in respect of their liability claims (or beneficiaries of such payees who are deceased) and who:

(A) are residents; or

(B) are not residents, but only under all of the following conditions: the member insurers that issued the policies or contracts are domiciled in the state of Minnesota; those insurers never held a license or certificate of authority in the states in which those persons reside; those states have associations similar to the association created by sections 61B.18 to 61B.32; and those persons are not eligible for coverage by those associations; and

(2) persons who, regardless of where they reside, except for nonresident certificate holders under group policies or contracts, are the beneficiaries, assignees, or payees of the persons covered under clause (1). This includes health care providers rendering services covered by a health insurance policy or contract.

(b) Sections 61B.18 to 61B.32 provide coverage to the persons specified in paragraph (a) for direct, nongroup life insurance, health insurance, annuity, and supplemental policies or contracts, for subscriber contracts issued by a nonprofit health service plan corporation operating under chapter 62C, for health maintenance contracts issued by a health maintenance organization under chapter 62D, for certificates under direct group policies and contracts, and for unallocated annuity contracts issued by member insurers, except as limited by sections 61B.18 to 61B.32. Except as expressly excluded under subdivision 3, annuity contracts and certificates under group annuity contracts include, but are not limited to, guaranteed investment contracts, deposit administration contracts, unallocated funding agreements, allocated funding agreements, structured settlement annuities, annuities issued to or in connection with government lotteries, and any immediate or deferred annuity contracts. Covered unallocated annuity contracts include those that fund a qualified defined contribution retirement plan under sections 401, 403(b), and 457 of the Internal Revenue Code of 1986, as amended through December 31, 1992.

Sec. 4. Minnesota Statutes 2018, section 61B.19, subdivision 3, is amended to read:

Subd. 3. **Limitation of coverage.** Sections 61B.18 to 61B.32 do not provide coverage for:

(1) a portion of a policy or contract not guaranteed by the member insurer, or under which the investment risk is borne by the policy or contract holder;

(2) a policy or contract of reinsurance, unless assumption certificates have been issued and the insured has consented to the assumption as provided under section 60A.09, subdivision 4a;

(3) a policy or contract issued by an assessment benefit association operating under section 61A.39, or a fraternal benefit society operating under chapter 64B;

(4) any obligation to nonresident participants of a covered retirement plan or to the plan sponsor, employer, trustee, or other party who owns the contract; in these cases, the association is obligated under this chapter only to participants in a covered plan who are residents of the state of Minnesota on the date of impairment or insolvency;

(5) a structured settlement annuity in situations where a liability insurer remains liable to the payee;

(6) a portion of an unallocated annuity contract which is not issued to or in connection with a specific employee, union, or association of natural persons benefit plan or a governmental lottery, including but not limited to, a contract issued to, or purchased at the direction of, any governmental bonding authority, such as a municipal guaranteed investment contract;

(7) a portion of a policy or contract issued to a plan or program of an employer, association, or similar entity to provide life, health, or annuity benefits to its employees or members to the extent that the plan or program is self-funded or uninsured, including benefits payable by an employer, association, or similar entity under:

(i) a multiple employer welfare arrangement as defined in the Employee Retirement Income Security Act of 1974, United States Code, title 29, section 1002(40)(A), as amended;

(ii) a minimum premium group insurance plan;

(iii) a stop-loss group insurance plan; or

(iv) an administrative services only contract;

(8) any policy or contract issued by an insurer at a time when it was not licensed or did not have a certificate of authority to issue the policy or contract in this state;

(9) an unallocated annuity contract issued to or in connection with a benefit plan protected under the federal Pension Benefit Guaranty Corporation, regardless of whether the federal Pension Benefit Guaranty Corporation has yet become liable to make any payments with respect to the benefit plan;

(10) a portion of a policy or contract to the extent that it provides for (i) dividends or experience rating credits except to the extent the dividends or experience rating credits have actually become due and payable or have been credited to the policy or contract before the date of impairment or insolvency, (ii) voting rights, or (iii) payment of any fees or allowances to any person, including the policy or contract holder, in connection with the service to, or administration of, the policy or contract;

(11) a contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer;

(12) a portion of a policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract, employed in calculating returns or changes in value:

(i) averaged over the period of four years prior to the date on which the member insurer becomes an impaired or insolvent insurer under sections 61B.18 to 61B.32, whichever is earlier, exceeds the rate of interest determined by subtracting two percentage points from Moody's Corporate Bond Yield Average averaged for that same four-year period or for the lesser period if the policy or contract was issued less than four years before the member insurer becomes an impaired or insolvent insurer under sections 61B.18 to 61B.32, whichever is earlier; and

(ii) on and after the date on which the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier, exceeds the rate of interest determined by subtracting three percentage points from Moody's Corporate Bond Yield Average as most recently available;

<u>this paragraph shall not apply to a contract, policy, or rider for long-term care or health insurance;</u>

(13) a portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under sections 61B.18 to 61B.32,

whichever is earlier. If a policy's or contract's interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and not subject to forfeiture under this clause, the interest or changes in value determined by using the procedures defined in the policy or contract will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture;

(14) a portion of a policy or contract to the extent that the assessments required by section 61B.24 with respect to the policy or contract are preempted by federal or state law; ~~and~~

(15) a policy or contract providing any hospital, medical, prescription drug, or other health care benefits pursuant to United States Code, title 42, chapter 7, subchapter XVIII, Part C or Part D, commonly known as Medicare Part C & D, or United States Code, title 42, chapter 7, subchapter XIX, commonly known as Medicaid, or any regulations issued under those provisions~~.~~; and

(16) structured settlement annuity benefits to which a payee or beneficiary has transferred his or her rights in a structured settlement factoring transaction, as defined in United States Code, title 26, section 5891, regardless of whether the transaction occurred before or after the effective date of section 5891.

Sec. 5. Minnesota Statutes 2018, section 61B.19, subdivision 4, is amended to read:

Subd. 4. **Limitation of benefits.** The benefits for which the association may become liable shall in no event exceed the lesser of:

(1) the contractual obligations for which the member insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(2) subject to the limitation in clause (5), with respect to any one life, regardless of the number of policies or contracts:

(i) $500,000 in life insurance death benefits, but not more than $130,000 in net cash surrender and net cash withdrawal values for life insurance;

(ii) $500,000 in health insurance, long-term care, and disability income insurance benefits, including any net cash surrender and net cash withdrawal values;

(iii) $250,000 in the present value of annuity benefits, including net cash surrender and net cash withdrawal values;

(iv) $410,000 in present value of annuity benefits for structured settlement annuities or for annuities in regard to which periodic annuity benefits, for a period of not less than the annuitant's lifetime or for a period certain of not less than ten years, have begun to be paid, on or before the date of impairment or insolvency; or

(3) subject to the limitations in clauses (5) and (6), with respect to each individual resident participating in a retirement plan, except a defined benefit plan, established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1992, covered by an unallocated annuity contract, or the beneficiaries of each such individual if deceased, in the aggregate, $250,000 in net cash surrender and net cash withdrawal values;

(4) where no coverage limit has been specified for a covered policy or benefit, the coverage limit shall be $500,000 in present value;

(5) in no event shall the association be liable to ~~expend~~ cover more than $500,000 in benefits in the aggregate with respect to any one life under clause (2), items (i), (ii), (iii), (iv), and clause (4), and any one individual under clause (3);

(6) in no event shall the association be liable to ~~expend~~ cover more than $10,000,000 in benefits with respect to all unallocated annuities of a retirement plan, except a defined benefit plan, established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1992. If total claims from a plan exceed $10,000,000, the $10,000,000 shall be prorated among the claimants;

(7) for purposes of applying clause (2)(ii) and clause (5), with respect only to health insurance benefits, the term "any one life" applies to each individual covered by a health insurance policy or contract;

(8) where covered contractual obligations are equal to or less than the limits stated in this subdivision, the association will pay the difference between the covered contractual obligations and the amount credited by the estate of the insolvent or impaired insurer, if that amount has been determined or, if it has not, the covered contractual limit, subject to the association's right of subrogation;

(9) where covered contractual obligations exceed the limits stated in this subdivision, the amount payable by the association will be determined as though the covered contractual obligations were equal to those limits. In making the determination, the estate shall be deemed to have credited the covered person the same amount as the estate would credit a covered person with contractual obligations equal to those limits; or

(10) the following illustrates how the principles stated in clauses (8) and (9) apply. The example illustrated concerns hypothetical claims subject to the limit stated in clause (2)(iii). The principles stated in clauses (8) and (9), and illustrated in this clause, apply to claims subject to any limits stated in this subdivision.

CONTRACTUAL OBLIGATIONS OF:

$100,000

| | Estate | Guaranty Association |
|---|---|---|
| 0% recovery from estate | $0 | $100,000 |
| 25% recovery from estate | $25,000 | $75,000 |
| 50% recovery from estate | $50,000 | $50,000 |
| 75% recovery from estate | $75,000 | $25,000 |

$250,000

| | Estate | Guaranty Association |
|---|---|---|
| 0% recovery from estate | $0 | $250,000 |
| 25% recovery from estate | $62,500 | $187,500 |
| 50% recovery from estate | $125,000 | $125,000 |
| 75% recovery from estate | $187,500 | $62,500 |

$300,000

| | Estate | Guaranty Association |
|---|---|---|
| 0% recovery from estate | $0 | $250,000 |
| 25% recovery from estate | $75,000 | $187,500 |
| 50% recovery from estate | $150,000 | $125,000 |
| 75% recovery from estate | $225,000 | $62,500 |

Sec. 6. Minnesota Statutes 2018, section 61B.20, subdivision 10, is amended to read:

Subd. 10. **Health insurance.** "Health insurance" means accident and health insurance as described in section 60A.06, subdivision 1, clause (5)(a), long-term care insurance as described in section 62A.46, subdivision 2, and chapter 62S, credit accident and health insurance regulated under chapter 62B, ~~and~~ subscriber contracts issued by a nonprofit health service plan corporation operating under chapter 62C, and health maintenance contracts issued by a health maintenance organization operating under chapter 62D.

Sec. 7. Minnesota Statutes 2018, section 61B.20, subdivision 13, is amended to read:

Subd. 13. **Member insurer.** "Member insurer" means an insurer or health maintenance organization licensed or holding a certificate of authority to transact in this state any kind of insurance or health maintenance organization business for which coverage is provided under section 61B.19, subdivision 2, and includes an insurer or health maintenance organization whose license or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn. The term does not include:

(1) a nonprofit hospital or medical service organization, other than a nonprofit health service plan corporation that operates under chapter 62C;

~~(2) a health maintenance organization;~~

~~(3)~~ (2) a fraternal benefit society;

~~(4)~~ (3) a mandatory state pooling plan;

~~(5)~~ (4) a mutual assessment company or an entity that operates on an assessment basis;

~~(6)~~ (5) an insurance exchange;

~~(7)~~ (6) a community integrated service network; or

~~(8)~~ (7) an entity similar to those listed in clauses (1) to ~~(7)~~ (6).

Sec. 8. Minnesota Statutes 2018, section 61B.20, subdivision 16, is amended to read:

Subd. 16. **Resident.** "Resident" means a person ~~who resides in~~ whose principal place of residence is Minnesota at the time a member insurer is initially determined by the commissioner or a court to be an impaired or insolvent insurer and to whom a contractual obligation is owed, whichever occurs first. A person may be a resident of only one state, which ~~in the case of~~ for a natural person is the person's principle place of residence, for a person other than a natural person is its principal place of business, and ~~which, in the case of~~ for a trust, is the principal place of business of the settlor or entity which established the trust. Citizens of the United States who are either (i) residents of foreign countries, or (ii) residents of United States possessions, territories, or protectorates that do not have an association similar to the association created by sections 61B.19 to 61B.32, are considered residents of this state if the insurer that issued the covered policies or contracts was domiciled in this state.

Sec. 9. Minnesota Statutes 2018, section 61B.21, subdivision 1, is amended to read:

Subdivision 1. **Functions.** The Minnesota Life and Health Insurance Guaranty Association shall perform its functions under the plan of operation established and approved under section 61B.25, and shall exercise its powers through a board of directors. The association is not a state agency for purposes of chapter 16A, 16B, 16C, or 43A. For purposes of administration and assessment, the association shall establish and maintain two accounts:

(1) the life insurance and annuity account which includes the following subaccounts:

(i) the life insurance account;

(ii) the annuity account; and

(iii) the unallocated annuity account; and

(2) the health ~~insurance~~ account.

Sec. 10. Minnesota Statutes 2018, section 61B.22, subdivision 1, is amended to read:

Subdivision 1. **Members.** The board of directors of the association consists of nine ~~members~~ member insurers serving terms as established in the plan of operation under section 61B.25. ~~Members of~~ The insurer board members must be elected by member insurers, subject to the approval of the commissioner, for the terms of office specified in their nominations. Each elected insurer board member shall designate its representative and may designate an alternate. Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members, subject to approval of the commissioner. In approving selections or in appointing ~~members to the board~~ insurer board members, the commissioner shall consider whether all member insurers are fairly represented.

Sec. 11. Minnesota Statutes 2018, section 61B.23, subdivision 1, is amended to read:

Subdivision 1. **Impaired domestic insurer.** If a member insurer is an impaired domestic insurer, the association may, in its discretion, and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer and that are approved by the commissioner, and that are, except in cases of court ordered conservation or rehabilitation, also approved by the impaired insurer:

(1) guarantee, assume, reissue, or reinsure, or cause to be guaranteed, assumed, reissued, or reinsured, any or all of the policies or contracts of the impaired insurer;

(2) provide money, pledges, notes, guarantees, or other means as are proper to exercise the power granted in clause (1) and assure payment of the contractual obligations of the impaired insurer pending action under clause (1); or

(3) loan money to the impaired insurer.

Sec. 12. Minnesota Statutes 2018, section 61B.23, subdivision 3, is amended to read:

Subd. 3. **Insolvent insurer.** If a member insurer is an insolvent insurer then, subject to any conditions imposed by the association and approved by the commissioner, the association shall, in its discretion:

(1) guaranty, assume, reissue, or reinsure, or cause to be guaranteed, assumed, reissued, or reinsured, the policies or contracts of the insolvent insurer;

(2) assure payment of the contractual obligations of the insolvent insurer which are due and owing;

(3) provide money, pledges, guarantees, or other means as are reasonably necessary to discharge its duties; or

(4) provide benefits and coverages in accordance with subdivision 4.

Sec. 13. Minnesota Statutes 2018, section 61B.23, subdivision 4, is amended to read:

Subd. 4. **Payments; alternative policies.** When proceeding under subdivision 2, paragraph (a), clause (2), or subdivision 3, clause (4), the association shall, with respect to ~~life and health insurance~~ policies and ~~annuities~~ contracts:

(a) Assure payment of benefits ~~for premiums identical to the premiums and benefits, except for terms of conversion and renewability,~~ that would have been payable under the policies of the impaired or insolvent insurer, for claims incurred:

(1) with respect to group policies, not later than the earlier of the next renewal date under those policies or contracts or 45 days, but in no event less than 30 days, after the date on which the association becomes obligated with respect to those policies; or

(2) with respect to individual policies, contracts, and annuities not later than the earlier of the next renewal date, if any, under those policies or one year, but in no event less than 30 days, from the date on which the association becomes obligated with respect to those policies.

(b) Make diligent efforts to provide all known insureds, enrollees, or annuitants for individual policies or group policy or contract owners with respect to group policies 30 days' notice of the termination pursuant to paragraph (a) of the benefits provided.

(c) With respect to individual policies and contracts, make available to each known insured, enrollee, or annuitant, or owner if other than the insured or annuitant, and with respect to an individual formerly an insured ~~or formerly an~~, enrollee, or annuitant under a group policy or contract who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in accordance with paragraph (d), if the insureds, enrollees, or annuitants had a right under law or the terminated policy, contract, or annuity to convert coverage to individual coverage or to continue an individual policy, contract, or annuity in force until a specified age or for a specified time, during which the insurer or health maintenance organization had no right unilaterally to make changes in any provision of the policy, contract, or annuity or had a right only to make changes in premium by class.

(d)(1) In providing the substitute coverage required under paragraph (c), the association may offer either to reissue the terminated coverage or to issue an alternative policy or contract at actuarially justified rates, subject to prior approval of the commissioner.

(2) Alternative or reissued policies or contracts must be offered without requiring evidence of insurability, and must not provide for any waiting period or exclusion that would not have applied under the terminated policy or contract.

(3) The association may reinsure any alternative or reissued policy or contract.

(e)(1) Alternative policies or contracts adopted by the association are subject to the approval of the commissioner. The association may adopt alternative policies or contracts of various types for future issuance without regard to any particular impairment or insolvency.

(2) Alternative policies or contracts must contain at least the minimum statutory provisions required in this state and provide benefits that are not unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates which it shall adopt. The premium must reflect the amount of insurance to be provided and the age and class of risk of each insured, but must not reflect any changes in the health of the insured after the original policy or contract was last underwritten.

(3) Any alternative policy or contract issued by the association must provide coverage of a type similar to that of the policy or contract issued by the impaired or insolvent insurer, as determined by the association.

(f) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy or contract, the premium must be actuarially justified and set by the association in accordance with the amount of insurance or coverage provided and the age and class of risk, subject to prior approval of the commissioner ~~or by a court of competent jurisdiction~~.

(g) The association's obligations with respect to coverage under any policy or contract of the impaired or insolvent insurer or under any reissued or alternative policy or contract ceases on the date the coverage, or on the date the policy or contract is replaced by another similar policy or contract by the ~~policyholder~~ policy or contract holder, the ~~insurer~~ insured, the enrollee, or the association and the preexisting condition limitations have been satisfied.

(h) When proceeding under this subdivision with respect to any policy carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with section 61B.19, subdivision 3, clause (12).

Sec. 14. Minnesota Statutes 2018, section 61B.23, subdivision 8a, is amended to read:

Subd. 8a. **Deposits in this state for insolvent or impaired insurer.** A deposit in this state, held pursuant to law or required by the commissioner for the benefit of creditors, including policy or contract owners, not turned over to the domiciliary liquidator upon the entry of a final order of liquidation or order approving a rehabilitation plan of ~~an~~ a member insurer domiciled in this state or in a reciprocal state, pursuant to section 60B.54, shall be promptly paid to the association. The association is entitled to retain a portion of any amount so paid to it equal to the percentage determined by dividing the aggregate amount of policy ~~owners~~ or contract owners' claims related to that insolvency for which the association has provided statutory benefits by the aggregate amount of all policy or contract owners' claims in this state related to that insolvency. The association shall remit to the domiciliary receiver the amount so paid to the association and not retained pursuant to this subdivision. Any amount retained by the association shall be treated as a distribution of estate assets pursuant to section 60B.46 or similar provision of the state of domicile of the impaired or insolvent insurer.

Sec. 15. Minnesota Statutes 2018, section 61B.23, subdivision 12, is amended to read:

Subd. 12. **Assignments; subrogation rights.** (a) A person receiving benefits under sections 61B.18 to 61B.32 shall be considered to have assigned the rights under, and any causes of action against any person for losses arising under, resulting from or otherwise relating to, the covered policy or contract to the association to the extent of the benefits received because of sections 61B.18 to 61B.32, whether the benefits are payments of or on account of contractual obligations, continuation of coverage, or provision of substitute or alternative policies, contracts, or coverages. The association may require an assignment to it of those rights and causes of action by ~~a~~ an enrollee, payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of rights or benefits conferred by sections 61B.18 to 61B.32 upon that person. The assignment and subrogation rights of the association include any rights that a person may have as a beneficiary of a plan covered under the Employee Retirement Income Security Act of 1974, United States Code, title 29, section 1003, as amended.

(b) The subrogation rights of the association under this subdivision against the assets of the impaired or insolvent insurer have the same priority as those of a person entitled to receive benefits under sections 61B.18 to 61B.32.

(c) In addition to paragraphs (a) and (b), the association has all common law rights of subrogation and other equitable or legal remedies that would have been available to the impaired or insolvent insurer or person receiving benefits under sections 61B.18 to 61B.32 including without limitation, in the case of a structured settlement annuity,

any rights of the owner, enrollee, beneficiary, or payee of the annuity, to the extent of benefits received pursuant to sections 61B.18 to 61B.32, against a person originally or by succession responsible for the losses arising from the personal injury relating to the annuity or payment thereof, excepting any such person responsible solely by reason of serving as an assignee in respect of a qualified assignment under section 130 of the Internal Revenue Code of 1986, as amended.

(d) If the preceding provisions of this subdivision are invalid or ineffective with respect to any person or claim for any reason, the amount payable by the association with respect to the related covered obligations shall be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies or contracts, or portion thereof, covered by the association.

(e) If the association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the association has rights as described in the preceding paragraphs of this subdivision, the person shall pay to the association the portion of the recovery attributable to the policies or contracts, or portion thereof, covered by the association.

Sec. 16. Minnesota Statutes 2018, section 61B.23, subdivision 13, is amended to read:

Subd. 13. **Permissive powers.** The association may:

(1) enter into contracts as are necessary or proper to carry out the provisions and purposes of sections 61B.18 to 61B.32;

(2) sue or be sued, including taking any legal actions necessary or proper to recover any unpaid assessments under section 61B.26 to settle claims or potential claims against it;

(3) borrow money to effect the purposes of sections 61B.18 to 61B.32 and any notes or other evidence of indebtedness of the association not in default are legal investments for domestic member insurers and may be carried as admitted assets;

(4) employ or retain persons as are necessary or appropriate to handle the financial transactions of the association, and to perform other functions as the association considers necessary or proper under sections 61B.18 to 61B.32;

(5) enter into arbitration or take legal action as may be necessary or appropriate to avoid or recover payment of improper claims;

(6) exercise, for the purposes of sections 61B.18 to 61B.32 and to the extent approved by the commissioner, the powers of a domestic life ~~or~~ insurer, health insurer, or health maintenance organization, but in no case may the association issue ~~insurance~~ policies or ~~annuity~~ contracts other than those issued to perform its obligations under sections 61B.18 to 61B.32;

(7) join an organization of one or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the association;

(8) negotiate and contract with any liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the association;

(9) participate in the organization of and/or own stock in an entity which exists or was formed for the purpose of assuming liability for contracts or policies issued by impaired or insolvent insurers; ~~and~~

(10) request information from a person seeking coverage from the association in order to aid the association in determining its obligations under sections 61B.18 to 61B.32 with respect to the person, and the person shall promptly comply with the request~~.~~;

(11) in accordance with the terms and conditions of the policy or contract, file for actuarially justified rate or premium increases for any policy or contract for which it provides coverage under this act; and

(12) take other necessary or appropriate action to discharge its duties and obligations under this act or to exercise its powers under this act.

Sec. 17. Minnesota Statutes 2018, section 61B.23, subdivision 14, is amended to read:

Subd. 14. **Association election to succeed to rights of insolvent or impaired insurer under indemnity reinsurance contracts.** (a) At any time within one year after the date on which the association becomes responsible for the obligations of a member insurer the coverage date, the association may elect to succeed to the rights and obligations of the member insurer, that accrue on or after the coverage date and that relate to policies, contracts, or annuities covered in whole or in part by the association, under any one or more indemnity reinsurance agreements entered into by the member insurer as a ceding insurer and selected by the association. However, the association may not exercise an election with respect to a reinsurance agreement if the receiver, rehabilitator, or liquidator of the member insurer has previously and expressly disaffirmed the reinsurance agreement. The election shall be effected by a notice to the receiver, rehabilitator, or liquidator, and to the affected reinsurers. If the association makes an election, clauses (1) through (4) apply with respect to the agreements selected by the association:

(1) the association is responsible for all unpaid premiums due under the agreements for periods both before and after the coverage date, and is responsible for the performance of all other obligations to be performed after the coverage date, in each case that relates to contracts covered in whole or in part by the association and the association may charge policies, contracts, or annuities covered in part by the association, through reasonable allocation methods, the costs for reinsurance in excess of the obligations of the association;

(2) the association is entitled to any amounts payable by the reinsurer under the agreements with respect to losses or events that occur in periods after the coverage date and that relate to policies, contracts, or annuities covered by the association in whole or in part, provided that, upon receipt of any such amounts, the association is obliged to pay to the beneficiary under the policy ~~or,~~ contract, or annuity on account of which the amounts were paid a portion of the amount equal to the excess of:

(i) the amount received by the association, over

(ii) the benefits paid by the association on account of the policy or contract less the retention of the impaired or insolvent member insurer applicable to the loss or event;

(3) within 30 days following the association's election, the association and each indemnity reinsurer shall calculate the net balance due to or from the association under each reinsurance agreement as of the date of the association's election, giving full credit to all items paid by either the member insurer or its receiver, rehabilitator, or liquidator or the indemnity reinsurer during the period between the coverage date and the date of the association's election and (i) either the association or indemnity reinsurer shall pay the net balance due the other within five days of the completion of the aforementioned calculation and (ii) if the receiver, rehabilitator, or liquidator has received any amounts due the association pursuant to paragraph (a), the receiver, rehabilitator, or liquidator shall remit the same to the association as promptly as practicable; and

(4) if the association, within 60 days of the election, pays the premiums due for periods both before and after the coverage date that relate to contracts covered by the association in whole or in part, the reinsurer shall not be entitled to terminate the reinsurance agreements insofar as the agreements relate to contracts covered by the association in whole or in part and shall not be entitled to set off any unpaid premium due for periods prior to the coverage date against amounts due the association.

(b) In the event the association transfers its obligations to another insurer, and if the association and the other insurer agree, the other insurer shall succeed to the rights and obligations of the association under paragraph (a) effective as of the date agreed upon by the association and the other insurer and regardless of whether the association has made the election referred to in paragraph (a) provided that:

(1) the indemnity reinsurance agreements shall automatically terminate for new reinsurance unless the indemnity reinsurer and the other insurer agree to the contrary;

(2) the obligations described in the proviso to paragraph (a), clause (2), shall no longer apply on and after the date the indemnity reinsurance agreement is transferred to the third-party insurer; and

(3) paragraph (b) does not apply if the association has previously expressly determined in writing that it will not exercise the election referred to in paragraph (a).

(c) The provisions of this subdivision shall supersede the provisions of any law of this state or of any affected reinsurance agreement that provides for or requires any payment of reinsurance proceeds, on account of losses or events that occur in periods after the coverage date, to the receiver, liquidator, or rehabilitator of the insolvent member insurer. The receiver, rehabilitator, or liquidator shall remain entitled to any amounts payable by the reinsurer under the reinsurance agreement with respect to losses or events that occur in periods prior to the coverage date subject to applicable setoff provisions.

(d) Except as otherwise expressly provided in this subdivision, nothing in this subdivision alters or modifies the terms and conditions of the indemnity reinsurance agreements of the insolvent member insurer. Nothing in this subdivision abrogates or limits any rights of any reinsurer to claim that it is entitled to rescind a reinsurance agreement. Nothing in this subdivision gives a policy owner, contract owner, enrollee, certificate holder, or beneficiary an independent cause of action against an indemnity reinsurer that is not otherwise set forth in the indemnity reinsurance agreement.

Sec. 18. Minnesota Statutes 2018, section 61B.24, subdivision 3, is amended to read:

Subd. 3. **Formula for determination.** (a) The amount of a class A assessment shall be determined by the board and may be made on a pro rata or nonpro rata basis. If pro rata, the board may provide that it be credited against future class B assessments. ~~A nonpro rata assessment shall not exceed $500 per member insurer in any one calendar year.~~

(b) The amount of any class B assessment, except for assessments related to long-term care insurance, must be allocated for assessment purposes between the accounts and among the ~~accounts or~~ subaccounts of the life insurance and annuity account pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard considered by the board in its sole discretion as being fair and reasonable under the circumstances.

(c) The amount of the Class B assessment for long-term care insurance written by the impaired or insolvent insurer shall be allocated according to a methodology included in the plan of operation and approved by the commissioner. The methodology shall provide for 50 percent of the assessment to be allocated to health insurance member insurers and 50 percent to be allocated to life and annuity member insurers.

~~(c)~~ (d) Class B assessments against member insurers for each subaccount or account must be in the proportion that the average annual premiums received on business in this state by each assessed member insurer on policies or contracts covered by each subaccount or account for the three most recent calendar years for which information is available preceding the calendar year in which the member insurer became impaired or insolvent, as the case may be, bears to the average annual premiums received on business in this state by all assessed member insurers on policies or contracts covered by that subaccount or account for those same calendar years. If the impaired insurer becomes insolvent, the date of ~~impairment~~ insolvency must be used to determine the assessment. Premiums for purposes of calculating average annual premium for calendar years prior to 1993 shall be determined in accordance with Minnesota Statutes 1992, sections 61B.01 to 61B.16.

~~(d)~~ (e) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer must not be made until necessary to implement the purposes of sections 61B.18 to 61B.32. Classification of assessments under subdivision 2 and computation of assessments under this subdivision must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

Sec. 19. Minnesota Statutes 2018, section 61B.24, subdivision 5, is amended to read:

Subd. 5. **Maximum assessment.** (a) The total of all assessments upon a member insurer for each subaccount of the life and annuity account and for the health account shall not in any one calendar year exceed two percent of that member insurer's average annual premiums as calculated in subdivision 3, paragraph ~~(c)~~ (d), on policies or contracts covered by that account or subaccount. If two or more assessments are made with respect to member insurers that become impaired or insolvent in different calendar years, average annual premiums for purposes of the assessment percentage limitation are based upon the higher of the three-year averages calculated under subdivision 3, paragraph ~~(c)~~ (d). If an impaired insurer becomes insolvent, the date of impairment must be used to determine the assessment. If the maximum assessment for any subaccount of the life and annuity account in any one calendar year will not provide an amount sufficient to carry out the responsibilities of the association, then pursuant to subdivision 3, the board of directors shall assess based on the other subaccounts of the life and annuity account for the necessary additional amount, subject to the maximum of two percent stated above for each subaccount.

(b) If the maximum assessment for an account, together with the other assets of the association in that account, does not provide in any one calendar year in that account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds must be assessed as soon as permitted by sections 61B.18 to 61B.32.

(c) The board may adopt general principles in the plan of operation for allocating funds among claims, whether relating to one or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

(d) If assessments under this section are inadequate to pay all obligations of the impaired insurer that are or become due and owing, then the association shall prepare a plan approved by the commissioner for prioritization of payments. If the association adopts general principles in the plan of operations, the association shall use the general principles in preparing the plan required under this paragraph. No formerly impaired or insolvent insurer may be reinstated until all payments of or on account of the insurer's or health maintenance organization's contractual obligations by the guaranty association, along with all expenses thereof and interest on all such payments and expenses, shall have been repaid to the guaranty association or a plan of repayment by the insurer or health maintenance organization shall have been approved by the commissioner.

Sec. 20. Minnesota Statutes 2018, section 61B.24, subdivision 6, is amended to read:

Subd. 6. **Refund.** The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each member insurer to that account or subaccount, the amount by which the assets of the account or subaccount exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account or subaccount, including assets accruing from assignment, subrogation, net realized gains, and income from investments. A reasonable amount may be retained in any account or subaccount to provide funds for the continuing expenses of the association and for future losses.

Sec. 21. Minnesota Statutes 2018, section 61B.24, subdivision 7, is amended to read:

Subd. 7. **Premium rates and dividends.** A member insurer may, in determining its premium rates and policy owner dividends as to any kind of insurance or health maintenance organization business within the scope of sections 61B.18 to 61B.32, consider the amount reasonably necessary to meet its assessment obligations under sections 61B.18 to 61B.32.

Sec. 22. Minnesota Statutes 2018, section 61B.24, subdivision 8, is amended to read:

Subd. 8. **Certificate of contribution.** The association shall issue to each member insurer paying an assessment under sections 61B.18 to 61B.32, other than a class A assessment, a certificate of contribution, in a form prescribed by the commissioner, for the amount of the assessment so paid. All outstanding certificates must be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the member insurer in its financial statement as an asset in the form and for the amount, if any, and period of time as the commissioner may approve.

Sec. 23. Minnesota Statutes 2018, section 61B.24, subdivision 10, is amended to read:

Subd. 10. **Procedure for protests regarding assessments.** (a) A member insurer that wishes to protest all or part of an assessment shall pay when due the full amount of the assessment as set forth in the notice provided by the association. The payment is available to meet association obligations during the pendency of the protest or any subsequent appeal. Payment must be accompanied by a statement in writing that the payment is made under protest and setting forth a brief statement of the grounds for the protest.

(b) Within 60 days following the payment of an assessment under protest by a member insurer, the association shall notify the member insurer in writing of its determination with respect to the protest unless the association notifies the member insurer that additional time is required to resolve the issues raised by the protest.

(c) Within 30 days after a final decision has been made, the association shall notify the protesting member insurer in writing of that final decision. Within 60 days of receipt of notice of the final decision, the protesting member insurer may appeal that final action to the commissioner.

(d) In the alternative to rendering a final decision with respect to a protest based on a question regarding the assessment base, the association may refer the protest to the commissioner for a final decision, with or without a recommendation from the association.

(e) If the protest or appeal on the assessment is upheld, the amount paid in error or excess shall be returned to the member ~~company~~ insurer. Interest on a refund due a protesting member insurer shall be paid at the rate actually earned by the association.

Sec. 24. Minnesota Statutes 2018, section 61B.26, is amended to read:

**61B.26 DUTIES AND POWERS OF COMMISSIONER.**

(a) In addition to other duties and powers in sections 61B.18 to 61B.32, the commissioner shall:

(1) notify the board of directors of the existence of an impaired or insolvent insurer within three days after a determination of impairment or insolvency is made or the commissioner receives notice of impairment or insolvency;

(2) upon request of the board of directors, provide the association with a statement of the premiums in this and any other appropriate states for each member insurer;

(3) when an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time; notice to the impaired insurer shall constitute notice to its shareholders, if any; the failure of the impaired insurer to promptly comply with the commissioner's demand shall not excuse the association from the performance of its powers and duties under sections 61B.18 to 61B.32; and

(4) in a liquidation, conservation, or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator, conservator, or rehabilitator.

(b) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact ~~insurance~~ business in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. A forfeiture shall not exceed five percent of the unpaid assessment per month, but no forfeiture shall be less than $100 per month.

(c) A final action of the board of directors or the association may be appealed to the commissioner if the appeal is taken within 60 days of the aggrieved party's receipt of notice of the final action being appealed. Any final action or order of the commissioner is subject to judicial review in a court of competent jurisdiction, in the manner provided by chapter 14. A determination or decision by the commissioner under sections 61B.18 to 61B.32 is not subject to the contested case or rulemaking provisions of chapter 14.

(d) The liquidator, rehabilitator, or conservator of an impaired insurer may notify all interested persons of the effect of sections 61B.18 to 61B.32.

(e) For the purposes of sections 61B.18 to 61B.32, the commissioner may delegate any of the powers conferred by law.

(f) Nonperformance of any of the acts specified in this section or failure to meet the specific time limits does not affect the association, its members, or any other person as to the person's duties and obligations.

Sec. 25. Minnesota Statutes 2018, section 61B.27, is amended to read:

**61B.27 PREVENTION OF INSOLVENCIES.**

(a) To aid in the detection and prevention of member insurer insolvencies or impairments the commissioner shall notify the commissioners of insurance of all the other states, territories of the United States, and the District of Columbia when the commissioner takes one of the following actions against a member insurer:

(i) revocation of license; or

(ii) suspension of license.

The notice must be mailed to all commissioners within 30 days following the action.

(b) If the commissioner deems it appropriate, the commissioner may:

(1) Report to the board of directors when the commissioner has taken any of the actions specified in paragraph (a) or has received a report from another commissioner indicating that an action specified in paragraph (a) has been taken in another state. The report to the board of directors must contain all significant details of the action taken or the report received from another commissioner.

(2) Report to the board of directors when the commissioner has reasonable cause to believe from an examination, whether completed or in process, of a member company that the company may be an impaired or insolvent insurer.

(3) Furnish to the board of directors the National Association of Insurance Commissioners insurance regulatory information system ratios and listings of companies not included in the ratios developed by the National Association of Insurance Commissioners, and the board may use the information in carrying out its duties and responsibilities under this section. The report and the information contained in it must be kept confidential by the board of directors until it has been made public by the commissioner or other lawful authority. Nothing in this provision supersedes other requirements of law.

(4) Notify the board if the commissioner makes a formal order requiring the ~~company~~ member insurer to restrict its premium writing, obtain additional contributions to surplus, withdraw from this state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policyholders, contract holders, certificate holders, or creditors.

(c) The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting the commissioner's duties and responsibilities regarding the financial condition of member insurers and of ~~companies~~ insurers or health maintenance organizations seeking admission to transact ~~insurance~~ business in this state.

(d) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon matters germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer or germane to the solvency of ~~a company~~ an insurer or health maintenance organization seeking to do ~~an insurance~~ business in this state. Those reports and recommendations shall not be considered public documents.

(e) The board of directors, upon majority vote, may notify the commissioner of information indicating that a member insurer may be an impaired or insolvent insurer.

(f) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of member insurer insolvencies.

(g) The board of directors may, at the conclusion of an insurer insolvency in which the association was obligated to pay covered claims, prepare a report to the commissioner containing the information it may have in its possession bearing on the history and causes of the insolvency. The board shall cooperate with the boards of directors of guaranty associations in other states in preparing a report on the history and causes of insolvency of a particular insurer or health maintenance organization, and may adopt by reference any report prepared by those other associations.

(h) Nonperformance by the commissioner of any of the acts specified in this section or failure to meet the specified time limits does not affect the association, its members, or any other person as to the person's duties and obligations.

Nothing in this section supersedes other requirements of law.

Sec. 26. Minnesota Statutes 2018, section 61B.28, subdivision 3, is amended to read:

Subd. 3. **Association as creditor.** For the purpose of carrying out its obligations under sections 61B.18 to 61B.32, the association is considered to be a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies, reduced by amounts which the association recovers from the assets of the impaired or insolvent insurer as subrogee under section 61B.23, subdivision 12. Recoveries by the association as subrogee under section 61B.23, subdivision 12, from assets other than from assets of the impaired or insolvent insurer shall not reduce or act as an offset to the association's claim as creditor of the impaired or insolvent insurer. Assets of the impaired or insolvent insurer attributable to covered policies or contracts must be used to continue all covered policies or contracts and pay all contractual obligations of the impaired or insolvent insurer as required by sections 61B.18 to 61B.32. Assets attributable to covered policies or contracts, as used in this subdivision, are that proportion of the assets which the reserves that should have been established for those policies bear to the reserves that should have been established for all policies of insurance written by the impaired or insolvent insurer.

Sec. 27. Minnesota Statutes 2018, section 61B.28, subdivision 3a, is amended to read:

Subd. 3a. **Association access to insolvent insurer's assets.** As a creditor of the impaired or insolvent insurer as established in subdivision 3 of this section and consistent with section 60B.46, the association and other similar associations is entitled to receive a disbursement of assets out of the marshalled assets, from time to time as the assets become available to reimburse it, as a credit against contractual obligations under sections 61B.18 to 61B.32. If the liquidator has not, within 120 days of a final determination of insolvency of ~~an~~ a member insurer by the receivership court, made an application to the court for the approval of a proposal to disburse assets out of marshalled assets to guaranty associations having obligations because of the insolvency, then the association shall be entitled to make application to the receivership court for approval of its own proposal to disburse these assets.

Sec. 28. Minnesota Statutes 2018, section 61B.28, subdivision 4, is amended to read:

Subd. 4. **Prohibited sales practice.** No person, including ~~an~~ a member insurer, agent, or affiliate of ~~an~~ a member insurer, shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, an advertisement, announcement, or statement, written or oral, which uses the existence of the Minnesota Life and Health Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance or other coverage covered by sections 61B.18 to 61B.32. The notice required by subdivision 8 is not a violation of this subdivision nor is it a violation of this subdivision to explain verbally to an applicant or potential applicant the coverage provided by the Minnesota Life and Health Insurance Guaranty Association at any time during the application process or thereafter. This subdivision does not apply to the Minnesota Life and Health Insurance Guaranty Association or an entity that does not sell or solicit insurance or coverage by a health maintenance organization.

Sec. 29. Minnesota Statutes 2018, section 61B.28, subdivision 6, is amended to read:

Subd. 6. **Reinstatement.** No member insurer may be reinstated to do business in this state until all payments of or on account of the impaired insurer's contractual obligations by the guaranty association, along with all expenses thereof and interest on all such payments and expenses, shall have been repaid to the guaranty association or a plan of repayment by the impaired insurer shall have been approved by the association.

Sec. 30. Minnesota Statutes 2018, section 61B.28, subdivision 7, is amended to read:

Subd. 7. **Notice concerning limitations and exclusions.** (a) No person, including ~~an~~ a member insurer, agent, or affiliate of ~~an~~ a member insurer or agent, shall offer for sale in this state a covered life insurance, annuity, or health insurance policy or contract without delivering, either at the time of application for that policy or contract or at the time of delivery of the policy or contract, a notice in the form specified in subdivision 8, or in a form approved by the commissioner under paragraph (b), relating to coverage provided by the Minnesota Life and Health Insurance Guaranty Association. The notice may be part of the application. A copy of the notice must be given to the applicant or the ~~policyholder~~ policy owner, contract owner, certificate holder, or enrollee. The person offering the policy or contract shall document the fact that the notice was given at the time of application or the fact that the notice was delivered at the time the policy or contract was delivered. This does not require that the receipt of the notice be acknowledged by the applicant.

(b) The association may prepare, and file with the commissioner for approval, a form of notice as an alternative to the form of notice specified in subdivision 8 describing the general purposes and limitations of this chapter. The form of notice shall:

(1) state the name, address, and telephone number of the Minnesota Life and Health Insurance Guaranty Association;

(2) prominently warn the policy ~~or~~ owner, contract owner, certificate holder, or enrollee that the Minnesota Life and Health Insurance Guaranty Association may not cover the policy or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in the state;

(3) state that the member insurer and its agents are prohibited by law from using the existence of the Minnesota Life and Health Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance or health maintenance organization coverage;

(4) emphasize that the policy ~~or~~ owner, contract, owner, certificate holder, or enrollee should not rely on coverage under the Minnesota Life and Health Insurance Guaranty Association when selecting an insurer or health maintenance organization;

(5) provide other information as directed by the commissioner. The commissioner may approve any form of notice proposed by the association and, as to the approved form of notice, the association may notify all member insurers by mail or other electronic means that the form of notice is available as an alternative to the notice specified in subdivision 8.

(c) A policy or contract not covered by the Minnesota Life and Health Insurance Guaranty Association or the Minnesota Insurance Guaranty Association must contain the following notice in ten-point type, stamped in red ink or contrasting type on the policy or contract and the application:

"THIS POLICY OR CONTRACT IS NOT PROTECTED BY THE MINNESOTA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION OR THE MINNESOTA INSURANCE GUARANTY ASSOCIATION. IN THE CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED. ONLY THE ASSETS OF THIS INSURER OR HEALTH MAINTENANCE ORGANIZATION WILL BE AVAILABLE TO PAY YOUR CLAIM."

This section does not apply to fraternal benefit societies regulated under chapter 64B.

Sec. 31. Minnesota Statutes 2018, section 61B.28, subdivision 8, is amended to read:

Subd. 8. **Form.** The form of notice referred to in subdivision 7, paragraph (a), is as follows:

"....

....

....

(insert name, current address, and
telephone number of member insurer)

NOTICE CONCERNING POLICYHOLDER RIGHTS IN AN
INSOLVENCY UNDER THE MINNESOTA LIFE AND HEALTH
INSURANCE GUARANTY ASSOCIATION LAW

If the insurer or health maintenance organization that issued your life, annuity, or health insurance policy becomes impaired or insolvent, you are entitled to compensation for your policy or contract from the assets of that insurer. The amount you recover will depend on the financial condition of the insurer or health maintenance organization.

In addition, residents of Minnesota who purchase life insurance, annuities, ~~or~~ health insurance, or health maintenance organization coverage from insurance companies authorized to do business in Minnesota are protected, SUBJECT TO LIMITS AND EXCLUSIONS, in the event the insurer or health maintenance organization becomes financially impaired or insolvent. This protection is provided by the Minnesota Life and Health Insurance Guaranty Association.

For purposes of this notice, the terms "insurance company" and "insurer" include health maintenance organizations.

Minnesota Life and Health Insurance Guaranty Association

(insert current
address and telephone number)

The maximum amount the guaranty association will pay for all policies or contracts issued on one life by the same insurer or health maintenance organization is limited to $500,000. Subject to this $500,000 limit, the guaranty association will pay up to $500,000 in life insurance death benefits, $130,000 in net cash surrender and net cash withdrawal values for life insurance, $500,000 in health insurance, health maintenance organization, and long-term care benefits, including any net cash surrender and net cash withdrawal values, $500,000 in disability income insurance, $250,000 in annuity net cash surrender and net cash withdrawal values, $410,000 in present value of annuity benefits for annuities which are part of a structured settlement or for annuities in regard to which periodic annuity benefits, for a period of not less than the annuitant's lifetime or for a period certain of not less than ten years, have begun to be paid on or before the date of impairment or insolvency, or if no coverage limit has been specified for a covered policy or benefit, the coverage limit shall be $500,000 in present value. Unallocated annuity contracts issued to retirement plans, other than defined benefit plans, established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1992, are covered up to $250,000 in net cash surrender and net cash withdrawal values, for Minnesota residents covered by the plan provided, however, that the association shall not be responsible for more than $10,000,000 in claims from all Minnesota residents covered by the plan. If total claims exceed $10,000,000, the $10,000,000 shall be prorated among all claimants. These are the maximum claim amounts. Coverage by the guaranty association is also subject to other substantial limitations and exclusions and requires continued residency in Minnesota. If your claim exceeds the guaranty association's limits, you may still recover a part or all of that amount from the proceeds of the liquidation of the insolvent insurer, if any exist. Funds to pay claims may not be immediately available. The guaranty association assesses insurers and health maintenance organizations licensed to sell life and health insurance in Minnesota after the insolvency occurs. Claims are paid from this assessment.

Benefits provided by a long-term care rider to a life insurance policy or annuity contract shall be considered the same type of benefits as the base life insurance policy or annuity contract to which it relates.

THE COVERAGE PROVIDED BY THE GUARANTY ASSOCIATION IS NOT A SUBSTITUTE FOR USING CARE IN SELECTING INSURANCE COMPANIES THAT ARE WELL MANAGED AND FINANCIALLY STABLE. IN SELECTING AN INSURANCE COMPANY, CONTRACT, OR POLICY, YOU SHOULD NOT RELY ON COVERAGE BY THE GUARANTY ASSOCIATION.

THIS NOTICE IS REQUIRED BY MINNESOTA STATE LAW TO ADVISE POLICYHOLDERS OF LIFE, ANNUITY, ~~OR~~ HEALTH INSURANCE, OR HEALTH MAINTENANCE ORGANIZATION POLICIES AND CONTRACTS OF THEIR RIGHTS IN THE EVENT THEIR INSURANCE CARRIER BECOMES FINANCIALLY IMPAIRED OR INSOLVENT. THIS NOTICE IN NO WAY IMPLIES THAT THE COMPANY CURRENTLY HAS ANY TYPE OF FINANCIAL PROBLEMS. ALL LIFE, ANNUITY, ~~AND~~ HEALTH INSURANCE, AND HEALTH MAINTENANCE ORGANIZATION POLICIES AND CONTRACTS ARE REQUIRED TO PROVIDE THIS NOTICE."

Additional language may be added to the notice if approved by the commissioner prior to its use in the form. This section does not apply to fraternal benefit societies regulated under chapter 64B.

Sec. 32. **[61B.33] RIGHTS AND OBLIGATIONS OF ASSOCIATION.**

Notwithstanding any other provision of law, the provisions of the Minnesota Life and Health Insurance Guaranty Association Act in effect on the date the association first becomes obligated for the policies or contracts of an insolvent or impaired member insurer govern the association's rights or obligations to the policy owners, contract owners, or enrollees of the insolvent or impaired member insurer.

Sec. 33. Minnesota Statutes 2018, section 62D.18, subdivision 1, is amended to read:

Subdivision 1. **Commissioner of health; order.** The commissioner of health may apply by verified petition to the district court of Ramsey County or the county in which the principal office of the health maintenance organization is located for an order directing the commissioner of health to rehabilitate or liquidate a health maintenance organization. The rehabilitation or liquidation of a health maintenance organization shall be conducted under the supervision of the commissioner of health under the procedures, and with the powers granted to a rehabilitator or liquidator, in chapter 60B, except to the extent that the nature of health maintenance organizations renders the procedures or powers clearly inappropriate and as provided in this subdivision or in chapter 60B. A health maintenance organization shall be considered an insurance company for the purposes of rehabilitation or liquidation as provided in subdivisions 4, 6, and 7. For health maintenance organizations that will be liquidated on or after August 1, 2020, chapters 60B and 61B apply.

Sec. 34. Minnesota Statutes 2018, section 297I.20, subdivision 1, is amended to read:

Subdivision 1. **Guaranty association assessment offsets.** (a) An insurance company or health maintenance organization may offset against its premium tax liability to this state any amount paid for assessments made for insolvencies ~~which occur after July 31, 1994,~~ under sections 60C.01 to 60C.22; and any amount paid for assessments ~~made after July 31, 1994,~~ under Minnesota Statutes 1992, sections 61B.01 to 61B.16, or under sections 61B.18 to 61B.32 as follows:

(1) Each such assessment shall give rise to an amount of offset equal to 20 percent of the amount of the assessment for each of the five calendar years following the year in which the assessment was paid.

(2) The amount of offset initially determined for each taxable year is the sum of the amounts determined under clause (1) for that taxable year.

(b)(1) Each year the commissioner shall compare total guaranty association assessments levied over the preceding five calendar years to the sum of all premium tax and corporate franchise tax revenues collected from insurance companies and health maintenance organizations, without reduction for any guaranty association assessment offset in the preceding calendar year, referred to in this subdivision as "preceding year insurance tax revenues."

(2) If total guaranty association assessments levied over the preceding five years exceed the preceding year insurance tax revenues, insurance companies and health maintenance organizations must be allowed only a proportionate part of the premium tax offset calculated under paragraph (a) for the current calendar year.

(3) The proportionate part of the premium tax offset allowed in the current calendar year is determined by multiplying the amount calculated under paragraph (a) by a fraction. The numerator of the fraction equals the preceding year insurance tax revenues, and its denominator equals total guaranty association assessments levied over the preceding five-year period.

(4) The proportionate part of the premium tax offset that is not allowed must be carried forward to subsequent tax years and added to the amount of premium tax offset calculated under paragraph (a) prior to application of the limitation imposed by this paragraph.

(5) Any amount carried forward from prior years must be allowed before allowance of the offset for the current year calculated under paragraph (a).

(6) The premium tax offset limitation must be calculated separately for (i) insurance companies subject to assessment under sections 60C.01 to 60C.22, and (ii) insurance companies or health maintenance organizations subject to assessment under Minnesota Statutes 1992, sections 61B.01 to 61B.16, or 61B.18 to 61B.32.

(7) When the premium tax offset is limited by this provision, the commissioner shall notify affected insurance companies or health maintenance organizations on a timely basis for purposes of completing premium and corporate franchise tax returns.

(8) The guaranty associations created under sections 60C.01 to 60C.22, Minnesota Statutes 1992, sections 61B.01 to 61B.16, and 61B.18 to 61B.32, shall provide the commissioner with the necessary information on guaranty association assessments.

(c)(1) If the offset determined by the application of paragraphs (a) and (b) exceeds the insurance company's or health maintenance organization's premium tax liability under this section prior to allowance of the credit for premium taxes, then the insurance company or health maintenance organization may carry forward the excess, referred to in this subdivision as the "carryforward credit" to subsequent taxable years.

(2) The carryforward credit is allowed as an offset against premium tax liability for the first succeeding year to the extent that the premium tax liability for that year exceeds the amount of the allowable offset for the year determined under paragraphs (a) and (b).

(3) The carryforward credit must be reduced, but not below zero, by the amount of the carryforward credit allowed as an offset against the premium tax under this paragraph. The remainder, if any, of the carryforward credit must be carried forward to succeeding taxable years until the entire carryforward credit has been credited against the insurance company's or health maintenance organization's liability for premium tax under this chapter if applicable for that taxable year.

(d) When an insurer or health maintenance organization has offset against taxes its payment of an assessment of the Minnesota Life and Health Guaranty Association, and the association pays the insurer or health maintenance organization a refund with respect to the assessment under Minnesota Statutes 1992, section 61B.07, subdivision 6, or 61B.24, subdivision 6, then the refund reduces the insurer's or health maintenance organization's carryforward credit under paragraph (c). If the refund exceeds the amount of the carryforward credit, the excess amount must be repaid to the state by the insurers or health maintenance organizations to the extent of the offset in the manner the commissioner requires.

Sec. 35. **EFFECTIVE DATE.**

Sections 1 to 34 are effective the day following final enactment."

Correct the title numbers accordingly

With the recommendation that when so amended the bill be placed on the General Register.

The report was adopted.

Pursuant to Joint Rule 2.03 and in accordance with Senate Concurrent Resolution No. 6, H. F. No. 4240 was re-referred to the Committee on Rules and Legislative Administration.

Davnie from the Education Finance Division to which was referred:

H. F. No. 4407, A bill for an act relating to education finance; authorizing a fund transfer for Independent School District No. 333, Ogilvie.

Reported the same back with the recommendation that the bill be re-referred to the Committee on Ways and Means.

The report was adopted.

Pursuant to Joint Rule 2.03 and in accordance with Senate Concurrent Resolution No. 6, H. F. No. 4407 was re-referred to the Committee on Rules and Legislative Administration.

Carlson, L., from the Committee on Ways and Means to which was referred:

H. F. No. 4415, A bill for an act relating to education; providing for compensation for school employees during distance learning periods during the 2019-2020 school year due to COVID-19; making exceptions for probationary teachers and truancy during the 2019-2020 school year due to COVID-19; making formula adjustments for school aid and revenue calculations and providing for fund transfers due to COVID-19; granting emergency powers to the commissioner of education and Professional Educator Licensing and Standards Board due to COVID-19; requiring a report; amending Minnesota Statutes 2018, section 134.355, subdivision 8.

Reported the same back with the following amendments:

Page 4, after line 31, insert:

"Sec. 2. Laws 2019, First Special Session chapter 11, article 2, section 33, subdivision 2, is amended to read:

Subd. 2. **Achievement and integration aid.** For achievement and integration aid under Minnesota Statutes, section 124D.862:

| | | |
|---|---|---|
| $ ~~80,424,000~~ 77,247,000 | . . . . . | 2020 |
| $ ~~83,256,000~~ 81,233,000 | . . . . . | 2021 |

The 2020 appropriation includes $7,058,000 for 2019 and ~~$73,366,000~~ $70,189,000 for 2020.

The 2021 appropriation includes ~~$8,151,000~~ $7,763,000 for 2020 and ~~$75,105,000~~ $73,470,000 for 2021.

Sec. 3. Laws 2019, First Special Session chapter 11, article 2, section 33, subdivision 4, is amended to read:

Subd. 4. **Literacy incentive aid.** For literacy incentive aid under Minnesota Statutes, section 124D.98:

| | | |
|---|---|---|
| $ ~~45,304,000~~ 44,976,000 | . . . . . | 2020 |
| $ ~~45,442,000~~ 44,566,000 | . . . . . | 2021 |

The 2020 appropriation includes ~~$4,582,000~~ $4,573,000 for 2019 and ~~$40,722,000~~ $40,403,000 for 2020.

The 2021 appropriation includes ~~$4,524,000~~ $4,490,000 for 2020 and ~~$40,918,000~~ $40,076,000 for 2021.

Sec. 4. Laws 2019, First Special Session chapter 11, article 8, section 13, subdivision 6, is amended to read:

Subd. 6. **Developmental screening aid.** (a) For developmental screening aid under Minnesota Statutes, sections 121A.17 and 121A.19:

| | | |
|---|---|---|
| $ ~~3,639,000~~ 3,608,000 | . . . . . | 2020 |
| $ ~~3,625,000~~ 3,608,000 | . . . . . | 2021 |

(b) The 2020 appropriation includes ~~$363,000~~ $360,000 for 2019 and ~~$3,276,000~~ $3,248,000 for 2020.

(c) The 2021 appropriation includes ~~$364,000~~ $360,000 for 2020 and ~~$3,261,000~~ $3,248,000 for 2021.

Sec. 5. Laws 2019, First Special Session chapter 11, article 10, section 8, subdivision 1, is amended to read:

Subdivision 1. **Professional Educator Licensing and Standards Board.** (a) The sums indicated in this section are appropriated from the general fund to the Professional Educator Licensing and Standards Board for the fiscal years designated:

| | | |
|---|---|---|
| $2,744,000 | . . . . . | 2020 |
| $ ~~2,719,000~~ 2,768,000 | . . . . . | 2021 |

(b) Any balance in the first year does not cancel but is available in the second year.

(c) This appropriation includes funds for information technology project services and support subject to Minnesota Statutes, section 16E.0466. Any ongoing information technology costs will be incorporated into an interagency agreement and will be paid to the Office of MN.IT Services by the Professional Educator Licensing and Standards Board under the mechanism specified in that agreement.

(d) The base for fiscal year 2022 and later is $2,719,000."

Renumber the sections in sequence and correct the internal references

Correct the title numbers accordingly

With the recommendation that when so amended the bill be placed on the General Register.

The report was adopted.

## SECOND READING OF HOUSE BILLS

H. F. Nos. 331, 1513, 1914, 2768, 3391, 3429 and 4415 were read for the second time.

## SECOND READING OF SENATE BILLS

S. F. Nos. 2939, 3017 and 3197 were read for the second time.

## INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Freiberg and Bahner introduced:

H. F. No. 4605, A bill for an act relating to local government; authorizing counties, cities, and townships to accept certain documents or signatures electronically, by mail, or by facsimile.

The bill was read for the first time and referred to the Committee on Government Operations.

Gruenhagen introduced:

H. F. No. 4606, A bill for an act relating to economic development; authorizing reopening of businesses for safe operation during the COVID-19 pandemic if certain safety guidance is followed.

The bill was read for the first time and referred to the Committee on Labor.

Koegel and Mekeland introduced:

H. F. No. 4607, A bill for an act relating to human services; appropriating money for live well at home grants.

The bill was read for the first time and referred to the Health and Human Services Finance Division.

Bennett and Anderson introduced:

H. F. No. 4608, A bill for an act relating to health care; authorizing construction of or modification to a hospital in a medically underserved county outside the seven-county metropolitan area; amending Minnesota Statutes 2018, section 144.553, subdivisions 1, 2, 3; Minnesota Statutes 2019 Supplement, sections 144.551, subdivision 1; 144.552.

The bill was read for the first time and referred to the Committee on Health and Human Services Policy.

Nelson, M., introduced:

H. F. No. 4609, A bill for an act relating to retirement; volunteer firefighter relief associations; authorizing relief associations to convert from a defined benefit plan to a defined contribution plan; amending Minnesota Statutes 2018, section 424B.01, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 424B.

The bill was read for the first time and referred to the Committee on Government Operations.

Heinrich introduced:

H. F. No. 4610, A bill for an act relating to taxation; property and local; tax increment financing; extending the five-year rule.

The bill was read for the first time and referred to the Property and Local Tax Division.

Gomez; Xiong, J.; Mariani; Lee; Mann; Hassan; Kunesh-Podein; Becker-Finn; Vang; Moran; Noor; Her; Richardson; Howard; Tabke; Xiong, T.; Wagenius; Dehn; Cantrell; Long; Hornstein; Davnie; Lippert and Jordan introduced:

H. F. No. 4611, A bill for an act relating to economic development; establishing a program for emergency community relief grants; appropriating money.

The bill was read for the first time and referred to the Jobs and Economic Development Finance Division.

Lucero and Runbeck introduced:

H. F. No. 4612, A bill for an act relating to elections; modifying statewide voter registration system maintenance procedures; establishing a procedure for provisional balloting; amending Minnesota Statutes 2018, sections 201.12, subdivision 4; 201.121, subdivision 1; 204C.12, subdivision 3; 204C.14, subdivision 1; Minnesota Statutes 2019 Supplement, section 204C.10; proposing coding for new law in Minnesota Statutes, chapter 204C.

The bill was read for the first time and referred to the Committee on Government Operations.

Bierman and Huot introduced:

H. F. No. 4613, A bill for an act relating to elections; specifying that counties and municipalities must not designate school buildings as polling places unless no other building is available; amending Minnesota Statutes 2018, section 204B.16, subdivision 1.

The bill was read for the first time and referred to the Committee on Government Operations.

Layman introduced:

H. F. No. 4614, A bill for an act relating to taxation; property; establishing a moratorium on reclassifying short-term rental properties.

The bill was read for the first time and referred to the Property and Local Tax Division.

Layman introduced:

H. F. No. 4615, A bill for an act relating to taxation; providing sales tax exemptions and grants for disaster recovery related to properties destroyed or damaged by fire in the city of Grand Rapids; appropriating money; amending Minnesota Statutes 2018, section 297A.71, by adding a subdivision; Minnesota Statutes 2019 Supplement, section 297A.75, subdivision 1.

The bill was read for the first time and referred to the Committee on Taxes.

Davids introduced:

H. F. No. 4616, A bill for an act relating to taxation; provider taxes; establishing a credit for certain COVID-19-related purchases.

The bill was read for the first time and referred to the Committee on Taxes.

Davids introduced:

H. F. No. 4617, A bill for an act relating to public health; appropriating money to be awarded as a grant to advance research, development, and implementation of tests necessary to respond to the COVID-19 pandemic.

The bill was read for the first time and referred to the Health and Human Services Finance Division.

Davids introduced:

H. F. No. 4618, A bill for an act relating to taxation; provider taxes; providing a temporary suspension of the provider tax.

The bill was read for the first time and referred to the Committee on Taxes.

Fischer introduced:

H. F. No. 4619, A bill for an act relating to elections; allowing a minor party or independent candidate to pay a fee in place of filing a nominating petition or a minor political party recognition nominating petition; authorizing electronic signatures on petitions.

The bill was read for the first time and referred to the Committee on Government Operations.

Winkler moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by the Speaker.

There being no objection, the order of business reverted to Reports of Standing Committees and Divisions.

## REPORTS OF STANDING COMMITTEES AND DIVISIONS

Winkler from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 2475, A bill for an act relating to financial institutions; modifying provisions governing financial exploitation protections for vulnerable adults; amending Minnesota Statutes 2018, sections 45A.01, by adding a subdivision; 45A.02; 45A.03; 45A.04; 45A.05; 45A.06; 45A.07.

Reported the same back with the recommendation that the bill be re-referred to the Judiciary Finance and Civil Law Division.

Joint Rule 2.03 has been waived for any subsequent committee action on this bill.

The report was adopted.

Winkler from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 3192, A bill for an act relating to education finance; authorizing Independent School District No. 441, Marshall County Central Schools, to transfer money from the early childhood and family education reserve account to its school readiness reserve account in the community service fund.

Reported the same back with the recommendation that the bill be placed on the General Register.

Joint Rule 2.03 has been waived for any subsequent committee action on this bill.

The report was adopted.

Winkler from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 3678, A bill for an act relating to human services; extending the expiration date of an income and asset exclusion for certain public assistance program eligibility as part of the income and child development in the first three years of life demonstration project; amending Laws 2016, chapter 189, article 15, section 29.

Reported the same back with the recommendation that the bill be placed on the General Register.

Joint Rule 2.03 has been waived for any subsequent committee action on this bill.

The report was adopted.

Winkler from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 3954, A bill for an act relating to education; modifying Head Start funding allocation; appropriating money; amending Minnesota Statutes 2018, section 119A.52; Laws 2019, First Special Session chapter 11, article 8, section 13, subdivision 4.

Reported the same back with the recommendation that the bill be re-referred to the Education Finance Division.

Joint Rule 2.03 has been waived for any subsequent committee action on this bill.

The report was adopted.

Winkler from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 4058, A bill for an act relating to environment; modifying provisions for priority qualified facilities; modifying authority to acquire property interests; amending Minnesota Statutes 2018, sections 115B.17, subdivision 13; 115B.406, subdivisions 1, 9; 115B.407; 116.07, by adding a subdivision; repealing Minnesota Rules, part 7044.0350.

Reported the same back with the recommendation that the bill be placed on the General Register.

Joint Rule 2.03 has been waived for any subsequent committee action on this bill.

The report was adopted.

Winkler from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 4221, A bill for an act relating to veterans; providing a veterans stable housing initiative; making technical changes to the GI Bill; authorizing the provision of dental services to veterans homes residents; classifying certain data; amending Minnesota Statutes 2018, sections 197.791, subdivisions 4, 5, 5a, 5b; 198.006; proposing coding for new law in Minnesota Statutes, chapter 196.

Reported the same back with the recommendation that the bill be placed on the General Register.

Joint Rule 2.03 has been waived for any subsequent committee action on this bill.

The report was adopted.

Winkler from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 4222, A bill for an act relating to veterans; authorizing the provision of dental services for residents of veterans homes; amending Minnesota Statutes 2018, section 198.006.

Reported the same back with the recommendation that the bill be placed on the General Register.

Joint Rule 2.03 has been waived for any subsequent committee action on this bill.

The report was adopted.

Winkler from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 4223, A bill for an act relating to veterans; authorizing the commissioner of veteran's affairs to establish veteran adult day care programs; amending Minnesota Statutes 2018, section 198.006.

Reported the same back with the recommendation that the bill be placed on the General Register.

Joint Rule 2.03 has been waived for any subsequent committee action on this bill.

The report was adopted.

Winkler from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 4374, A bill for an act relating to human services; amending the definition of provider; modifying the child care assistance provider reimbursement rates; amending Minnesota Statutes 2018, section 119B.13, subdivision 1; Minnesota Statutes 2019 Supplement, section 119B.011, subdivision 19.

Reported the same back with the recommendation that the bill be re-referred to the Health and Human Services Finance Division.

Joint Rule 2.03 has been waived for any subsequent committee action on this bill.

The report was adopted.

Winkler from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 4498, A bill for an act relating to natural resources; appropriating money from environment and natural resources trust fund; modifying previous appropriations; amending Laws 2017, chapter 96, section 2, subdivision 9, as amended; Laws 2018, chapter 214, article 4, section 2, subdivision 6.

Reported the same back with the recommendation that the bill be re-referred to the Committee on Ways and Means.

Joint Rule 2.03 has been waived for any subsequent committee action on this bill.

The report was adopted.

Winkler from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 4502, A bill for an act relating to energy; establishing the Energy Conservation and Optimization Act of 2020; amending Minnesota Statutes 2018, sections 216B.2401; 216B.241, subdivisions 1a, 1c, 1d, 1f, 1g, 2, 2b, 3, 5, 7, 8, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 216B; repealing Minnesota Statutes 2018, section 216B.241, subdivisions 1, 1b, 2c, 4, 10.

Reported the same back with the recommendation that the bill be placed on the General Register.

Joint Rule 2.03 has been waived for any subsequent committee action on this bill.

The report was adopted.

## SECOND READING OF HOUSE BILLS

H. F. Nos. 3192, 3678, 4058, 4221, 4222, 4223 and 4502 were read for the second time.

### REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Winkler from the Committee on Rules and Legislative Administration, pursuant to rules 1.21 and 3.33, designated the following bills to be placed on the Calendar for the Day for Monday, May 4, 2020 and established a prefiling requirement for amendments offered to the following bills:

H. F. Nos. 3429 and 4415.

## MOTIONS AND RESOLUTIONS

Boe moved that his name be stricken as an author on H. F. No. 14. The motion prevailed.

Schultz moved that the name of Noor be added as an author on H. F. No. 168. The motion prevailed.

Stephenson moved that the name of Noor be added as an author on H. F. No. 1507. The motion prevailed.

Cantrell moved that the name of Bierman be added as an author on H. F. No. 1805. The motion prevailed.

Dehn moved that the name of Moran be added as an author on H. F. No. 2701. The motion prevailed.

Lillie moved that the name of Sundin be added as an author on H. F. No. 2768. The motion prevailed.

Ecklund moved that the name of Bierman be added as an author on H. F. No. 3029. The motion prevailed.

Kunesh-Podein moved that the name of Bahner be added as an author on H. F. No. 3322. The motion prevailed.

Wazlawik moved that the name of Persell be added as an author on H. F. No. 3376. The motion prevailed.

Schultz moved that the name of Bahner be added as an author on H. F. No. 3402. The motion prevailed.

Nelson, M., moved that the name of Becker-Finn be added as an author on H. F. No. 3429. The motion prevailed.

Nelson, M., moved that the name of Becker-Finn be added as an author on H. F. No. 3499. The motion prevailed.

Her moved that the name of Christensen be added as an author on H. F. No. 3753. The motion prevailed.

Edelson moved that the name of Robbins be added as an author on H. F. No. 3852. The motion prevailed.

Dehn moved that the name of Koznick be added as an author on H. F. No. 3976. The motion prevailed.

Kresha moved that the name of Vang be added as an author on H. F. No. 4443. The motion prevailed.

Hansen moved that the names of Becker-Finn; Moller; Lee; Bierman; Brand; Hassan; Long; Fischer; Youakim; Schultz; Lippert; Sauke; Morrison; Edelson; Stephenson; Davnie; Poppe; Nelson, M.; Klevorn; Liebling; Noor; Ecklund; Persell; Lislegard; Bahner; Jordan; Richardson; Kunesh-Podein and Claflin be added as authors on H. F. No. 4498. The motion prevailed.

Poppe moved that the name of Brand be added as an author on H. F. No. 4538. The motion prevailed.

Lesch moved that the name of Lucero be added as an author on H. F. No. 4571. The motion prevailed.

Sauke moved that the name of Quam be added as an author on H. F. No. 4575. The motion prevailed.

Halverson moved that the names of Becker-Finn, Noor and Jordan be added as authors on H. F. No. 4582. The motion prevailed.

Hassan moved that the names of Noor, Persell, Lee and Davnie be added as authors on H. F. No. 4594. The motion prevailed.

Lippert moved that the name of Brand be added as an author on H. F. No. 4599. The motion prevailed.

Ecklund moved that the name of Becker-Finn be added as an author on H. F. No. 4600. The motion prevailed.

## ADJOURNMENT

Winkler moved that when the House adjourns today it adjourn until 1:30 p.m., Monday, May 4, 2020. The motion prevailed.

Winkler moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 1:30 p.m., Monday, May 4, 2020.

PATRICK D. MURPHY, Chief Clerk, House of Representatives