Minnesota Department of Human Services

Rule 40 Advisory Committee Meeting
Handout Table of Contents
August 6, 2012, 9:00-3:30
444 Lafayette Road, Room 3148

Minnesota Department of **Human Services**

Rule 40 Advisory Committee
444 Lafayette Road, Room 3148
August 6, 2012
Agenda

I. Opening (9:00-9:15) — Gail Dekker
   A. Introductions
   B. Agenda review and handouts (Handout 1)

II. Update and October meeting — Alex Bartolic

III. MnCHOICES demo — Nancy Jurgensen

IV. BREAK (10:00-10:15)

V. Review Positive Support Strategies work group work (Handout 2) — Committee
   a. Work group representative reports to committee — Kelly Ruiz, Tim Moore
   b. Committee discusses to move to final recommendation

VI. LUNCH (11:45-12:30)

VII. Review Person-Centered Planning work group work (Handout 3) — Committee
   a. Work group representative reports to committee — Sue McGuigan, Sandra Newbauer
   b. Committee discusses to move to final recommendation

VIII. BREAK (1:45-2:00)

IX. Review Emergency Restraint work group work (Handout 4) — Committee
   a. Work group representative reports to committee — Kay Hendrikson, Barb Kleist
   b. Committee discusses to move to final recommendation

X. Closing — Gail Dekker
   A. Meeting evaluation: What worked well for this meeting? What would you suggest to improve for future meetings?
   B. Future meeting agenda items: What do you suggest?
   C. Next meeting: September 7, 9:00-3:30, Lafayette room 3148

Minnesota Department of **Human Services**

Rule 40: Positive Support Strategies

Attended one, two, or three work group meetings:
Rick Amado, DHS-SOS; **Maria Anderson,** DHS-AMH; **Jane Brink**, LTC Ombudsman**; Stacy Danov**, DHS-SOS; **Renee Jensen**, Barbara Schneider Foundation; **Jill Johnson,** DHS-CMH; **Bob Klukas**, DHS-Rules; **Sue McGuigan,** TBI Advisory Council; **Tim Moore,** Rule 40 Advisory Committee; **Dean Ritzman**, DHS-DSD; **Kelly Ruiz,** Rule 40 Advisory Committee; **Lauren Siegel**, DHS-DSD; **Mike Tessneer,** DHS-Office of Compliance; **Suzanne Todnem**, DHS-DSD; **Cheryl Turcotte**, MH-DD Ombudsman; **Charles Young**, DHS-DSD; **Gail Dekker**, DHS-DSD, facilitator;

I. Context and reminders
   A. The charge of the work group was to recommend standards that will apply to persons with disabilities
   B. The standards will be expressed in statute, rule, and manual

II. Positive Supports Framework has these components:
   A. Contextual values (person-centered values)
   B. Assessment
   C. Bridge between assessment and intervention plan
   D. Intervention plan: one plan across disciplines; plan focuses on skill building across disciplines
   E. Data, reporting and monitoring
   F. Consultation support for providers
   G. Professional credentials
   H. Reference to manual for guidelines and standards

III. What should be included in a further assessment (beyond the MnCHOICES assessment that all people who seek long-term care services will receive, beginning in 2013)?
   A. Rule out medical and psychological causes first.
   B. The mental health assessment:
      1. A psych work-up should be completed by a licensed psychologies or psychiatrist.
      2. Include mental health history, not just current mental health assessment.
      3. Include trauma history.
      4. Genetic expression of mental illness should not be treated with Positive Behavior Supports (PBS).
   C. The medical assessment:
      1. Should assess for the presence of pain or discomfort.
      2. The medical assessment must be related to the challenging behavior or symptom. It is not sufficient simply to refer to a prior physical.
   D. Then a functional behavior assessment (FBA) should be conducted.
   E. Need to integrate all findings.

F. Assume challenging behavior is intended to control the person's environment or to communicate something.
G. Regarding the current Rule 40: Maintain section 5 of current Rule 40 that speaks to keeping person's records, medical and other histories for five years.

IV. When would a functional behavior assessment (FBA) be needed or triggered?
A. When emergency restraints are used.
B. When someone has a history of having restraints used on them.
C. When a person is asked to leave the place they're living in or the day program or service due to challenging behaviors or if this is being considered.
D. When a person engages in criminal conduct or potentially criminal conduct.
E. When a person is taking psychotropic medications.
F. At the person's annual review.

V. The intervention plan must include:
A. Desired outcomes should drive the intervention plan.
B. A clear and measurable description of the challenging behavior, description of events, times and situations that predict the occurrence and non-occurrence of the challenging behavior, and a description of consequences that maintain the challenging or problem behavior: reinforcement, punishment.
C. The planner must develop multiple hypotheses about why this behavior happens (what is being communicated or controlled) and what sustains it.
D. Through direct observation, the planner identifies and confirms the function of the challenging behavior noting the specifics about what is being controlled and/or what is being communicated and the function of the challenging behavior.
E. Others, in addition to the planner, can be trained to gather the data that either supports or does not support the hypothesis.

VI. What positive support strategies look like:
A. Training for case managers and providers – e.g., de-escalation, crisis services instead of calling 911
C. Quality of life improvement; not just whether target symptom alleviated
D. Not disability-specific language or approach
E. Providers and counties need screening tool or checklists to determine the need for functional behavior analysis (FBA). Considered in the development of the intervention plan.

VII. Credentials of person doing assessment and creating plan
A. Both formal training and experience. Assessor must have formal training in behavior analysis by a recognized training group.
B. Assessor must have demonstrated competency to develop and implement a plan. It's more important to have quality checks than qualifications.
C. Concern about bleed-over from other professionals who claim the qualification with little training or experience

VIII. Outcomes
A. Use evidence-based practices
B. The person is growing and developing/gaining skills
C. Implement changes one at a time and evaluate outcome

IX. Crisis response

A. Remember that CCS and MCCP provide crisis services in Minnesota. A lot of funding goes into this. We should use the existing structure.

B. But we need to make sure they collect data to ensure their plans are working.

X. External review (for monitoring, reporting, etc. work group)

A. When and to whom?

B. Recommendation or mandatory instruction from external reviewer

C. Reporting – what, when and to whom?

XI. Concern about similar terms, which need to be defined

A. Mental Health: Functional Assessment

B. Developmental Disabilities: Functional Behavior Assessment

C. Education: Behavior Plan for IEP school services

D. Minnesota Health Care Programs (MHCP): Individual Behavior Plan (IBP)

XII. Recommendations

A. Item II.A-H Components of Positive Supports Framework

B. Item III.A-G Components of a Functional Behavior Assessment

C. Item V: Components of the Intervention Plan

D. Item VI: What positive strategies look like

E. Item VII. Credentials of person doing the FBA and creating the intervention plan

F. Item VIII. Outcomes focus

G. Item IX: Crisis Response

XIII. Need Decision:

A. Sect. IV: What triggers a positive support plan?

XIV. Other work groups

A. Monitoring, reporting, oversight (See Sect. X.A-C)

Minnesota Department of **Human Services**

Rule 40: Person-Centered Planning- July 16th and 27th from 1-3pm

Attending one or both work group meetings: Gloria Steinbring, self-advocate; **Erwin Concepcion**, DHS-State Operated Services**; Mark Anderson,** Barbara Schneider Foundation; **Rick Amado**, DHS-State Operated Services; **Stacy Danov**, DHS-State Operated Services; **Sue McGuigan,** Traumatic Brain Injury Advisory Committee ; **Sandra Newbauer,** Office of Ombudsman- Long-term Care; **Maria Anderson,** DHS-Adult Mental Health; **Jill West**- People Incorporated**; Cheryl Turcotte**, Office of Ombudsman DD/MH; **Brad Hansen**, ARC, by phone; **Renee Jensen**, Barbara Schneider Foundation**; Jill Johnson**, DHS-Children's Mental Health; **Bob Klukas**, DHS-Rules; **Lauren Siegel**, DHS-DSD; **Bonnie Jean Smith**, Rule 40 Advisory Committee, **Suzanne Todnem**, DHS-DSD; **Gail Dekker**, DHS-DSD facilitator; **Mike Tessneer**, DHS-Compliance Office

I. Context and reminders
   A. The charge of the work group was to recommend standards that will apply to persons with disabilities
   B. The standards will be expressed in statute, rule, and manual
II. Main Discussion Points- Components of a Person-Centered Plan
   A. Facilitation of a Person-Centered Plan (PCP)
      1. The PCP facilitator must be independent and certified. This facilitator must use agreed upon, evidence-based PCP tools and keep documentation of the PCP process (the county case manager would have a list of certified facilitators).
      2. The person must be involved and at the center of the planning process, as well as invited to identify their circle of support to also be included in the process.
      3. The planning process and an established grievance and dispute resolution process must be communicated to the person in a way they can understand.
   B. Demonstrators that the plan is person-centered. The plan must:
      1. Encompass the person's quality of life, not just quality of care
      2. Gather and consider history of the person from family, friends and certain professionals, as well as by truly listening to the person and their needs
      3. Be individualized based on the person's strengths, needs, culture and preferences
      4. Build on the person's natural skills, talents and interests
      5. Be reflective of the person's goals (e.g.at one year, five years and beyond) and dreams for the future, as well as written in first-person.
      6. Address skill development to achieve the person's goals
      7. Take into account what should be avoided/what the person doesn't want in their life
      8. Collectively find a balance between the person's desires and safety concerns.
      9. Be an action plan with steps to be taken, along with realistic timelines and measurement for goals.
      10. Have a "dignity of risk" or risk management plan.
      11. Have a budget controlled by the person.
   C. Review/Evaluation of Person-Centered Plan

1. The provider would translate how they express the values or choices from the PCP in any of the other plans for that individual.
2. There would be a checklist for the PCP facilitator with PCP elements/values, complete with a list of minimum requirements.
3. The person is interviewed by the PCP facilitator to see if they feel respected, satisfied with the outcomes so far, engaged in planning, happy and if there needs to be changes made to the plan.
4. Routinely measure the progress made on the plan's goals and adjust the plan's goals based on the person's development.
5. Kansas has a process satisfaction survey that can guide evaluation of a PCP meeting process- this can be done by a third party or as a facilitator self-check.

D. The Role of the Provider in Person-Centered Planning
1. It is most important to respect the person's preferences about who is involved in creating the PCP.
2. This is a rule for providers and if they can't be involved in plan creation, how would they be able to provide the best care and utilize the plan appropriately?
3. Because of the crisis prevention component of a PCP, if a person doesn't want a PCP, there should be another plan that addresses crisis prevention that is person-centered.
4. All other plans should be person-centered; if a PCP is not done, there are other plans that will ensure the quality of life for the person. Ideally, the PCP is the contextual representation of the lifestyle of the person that guides other plans and leads to better outcomes.
5. If the person refuses to have the provider involved in the PCP process, it is the provider's responsibility to honor that wish and utilize the PCP when creating all other required plans.

III. Rejections
A. Medically-necessary is not a sufficient minimum. There was consensus as to the absolute importance of a person-centered approach to all service and lifestyle planning.

IV. Recommendations
A. All persons receiving services covered by this rule have or have available a person-centered plan (Yes-8, No-0, person's choice-1).
1. A person-centered lifestyle plan is less expensive than a crisis intervention, so there is value in suggesting all clients have a PCPC, complete with a crisis prevention plan.

B. All persons receiving services covered by this rule have or have available a person-centered program plan and a person-centered service plan, both guided by the PCP, if one is available (Yes-10, No-0, maybe-1).

C. There needs to be safeguards to protect against provider/system takeover and to ensure that an individual knows their rights regarding the PCP.

V. Special Considerations for Further Discussion
A. What safeguards can be put into place to ensure a balance of what the person wants and what the provider sees as important for the person?
B. There are special considerations when it comes to civil commitment and criminal sanctions.
C. How do you measure values and client satisfaction as outlined? Michigan has created a checklist of indicators that may be helpful.
D. The above recommendations have not yet been differentiated based on "essential components" versus "recommended components".

Minnesota Department of Human Services

Rule 40: Emergency Use of Restraints

Attended one or both work group meetings:
Rick Amado, DHS-SOS; **Maria Anderson,** DHS-AMH; **Steve Anderson**, Rule 40 Advisory Committee; **Jane Brink**, LTC Ombudsman**; Stacy Danov**, DHS-SOS; **Alicia Donahue**, MH-DD Ombudsman; **Kay Hendrickson,** Rule 40 Advisory Committee; **Anne Henry**, Rule 40 Advisory Committee; **Dan Hohmann**, MSOCS; **Renee Jensen**, Barbara Schneider Foundation; **Jill Johnson,** DHS-CMH; **Barbara Kleist**, Rule 40 Advisory Committee; **Bob Klukas**, DHS-Rules; **Annie Mullin**, Plaintiffs' counsel; **Michelle Ness,** MN Dept. of Health; **Dean Ritzman**, DHS-DSD; **Lauren Siegel**, DHS-DSD; **Mike Tessneer,** DHS-Office of Compliance; **Suzanne Todnem**, DHS-DSD; **Cheryl Turcotte**, MH-DD Ombudsman; **Charles Young**, DHS-DSD; **Gail Dekker**, DHS-DSD, facilitator

I. Context and reminders
   A. The charge of the work group is to recommend standards that will apply to persons with disabilities
   B. The standards will be expressed in statute, rule, and manual
   C. The department presented a preliminary rule draft at the July Advisory Committee meeting that included this definition of emergency based on the Jensen Settlement definition: "Emergency" means situations when the person's conduct poses an 2 imminent risk of physical harm to self or others and less restrictive strategies would not achieve 3 safety. Person's refusal to receive and participate in treatment shall not constitute an emergency

II. Main discussion points
   A. Definition of emergency – in addition to "imminent danger to self or others"
      1. Whether to include property damage
      2. Only unpredicted events or include "somewhat predictable" situations?
      3. Customized "emergency" definition for each individual – personalized crisis plan
      4. Narrow view (danger to self or others) vs. broad view (includes property damage, risk of criminal repercussions, and risk of loss of housing)
      5. Includes modifying usual use of equipment such as slowing down a person's electric wheelchair
      6. Replace with other terminology such as "behavioral crisis" to coordinate with 245D
      7. Not left to individual staff discretion
      8. If provider calls for police assistance in a situation, then it must be treated as any other emergency that triggers reporting, documentation, review, etc.
   B. Emergency techniques permitted, criteria
      1. Not medically contraindicated
      2. Proven to be safe and effective (data required)
      3. Short period of time; not necessarily based on "when person is calm"
      4. First-time event for the person with that provider, then the provider must create a plan to address the type of incident in the future.
   C. "As approved by the commissioner" to keep standards current
      1. This would be a list of permissible emergency techniques referred to in rule or statute; would be updated and maintained to keep standards current
      2. Would entail a process for standard review and updating
      3. Concern: too loose a standard? Sufficient transparency?
   D. Emergency deprivation, permitted?
      1. Maybe (4 yes, 1 no, 8 maybe)

2. Should be temporary
3. For person's safety

E. Role of crisis plan
    1. Broader than use of restraints; should restraints (last resort) be part of a crisis plan?
    2. Slippery slope?
    3. When must a provider develop a crisis plan for a person?
    4. Should follow the person to new providers

F. Non-emergency techniques permitted
    1. Voluntary participation, e.g., person chooses to go to his room, provider engages the person in a new activity, conversation, questions about what would be helpful
    2. Redirection, de-escalation, teaching, temporary interruption without the use of force (and well defined)
    3. Standards must include process to reintroduce the person into regular activities

G. Non-emergency techniques prohibited
    1. Involuntary participation, e.g., person sent to room (room time out)

H. Other definitions
    1. Deprivation
    2. Blocking apparatus (and its use) – prohibited but needs to be well-defined
    3. Seclusion, time out, etc. must be better defined; and allows a provider to separate two residents who are attacking each other or a resident who is attacking others

III. Rejections

A. Risk of criminal repercussions not involving physical danger to self or others
    1. Not an emergency
    2. Concern: would require staff to know what constitutes criminal behavior

IV. Recommendations

A. Definition of emergency – imminent danger to self or others, property damage is an emergency if it poses imminent danger to self or others

B. No use of deprivation as a consequence to behavior
    1. E.g., person refuses to clean his room so can't go to the movie that night

C. No use of positive punishment
    1. i.e., presenting an unfavorable outcome or event following an undesirable behavior; an aversive stimulus is added to the situation
    2. e.g., being scolded for doing something; spanking, corporal punishment

D. No deprivation that requires the person to earn everything
    1. Including token and level programs

E. No deprivation of basic rights in any situation

F. No mechanical restraints in emergencies

G. No mechanical restraints for SIB with interim process to move persons away from existing mechanical dependencies (or variance with a plan), with oversight and monitoring

H. No seclusion and time outs in emergencies (vote 0-13)

I. No use of blocking apparatuses

V. Other work groups

A. Training
    1. Crisis intervention training – need more/better
    2. Trauma-informed care – should be required training
    3. Requirements should apply to night staff and relief staff
    4. Providers need more training to reduce or eliminate the need to call law enforcement

Minnesota Department of **Human Services**

Disability Services Division

Monitoring, Reporting and Training the Use of Restrictive Procedures:

A Comparison Table of Arizona, Nebraska, Georgia and Kansas

Statues, Rules and Manual Guidelines for Monitoring and Training the Use of Restrictive Procedures **Arizona, Nebraska, Georgia and Kansas**				**Website References** **Arizona's Articles 8 and 9 http://www.azsos.gov/public_services/Title_06/6-06.htm#ARTICLE_8**			
POLICY	**PEOPLE**	**PURPOSE**	**MONITORING**	**REPORTING**	**TRAINING**	**POSITIVE BEHAVIOR**	**PROHIBITED**
Arizona-Article 8-Programmtic standards and contract monitoring for community residential settings	•Article 8-Applies to services provided in community residential settings, except licensed child developmental foster homes and adult developmental homes.	•Sets rules for reporting various incidents, obtaining consent for special procedures and emergency responses, oversight, creation of program plans and the rights of clients.	•The ISPP team will convene at least annually to develop or amend the complete ISPP for a client, using forms from DHS ("the division").	•Article 8 mandates immediate reporting of the use of emergency services-but does not explicitly include immediately reporting use of restrictive procedures in emergency setting.	•Licensee maintains documentation of successful completion of required training by each direct care staff. •Licensee implements a written training curriculum which lists required training topics- including: course outline, timeliness for completion and criteria for successful completion.	•Licensee develops and implements policies and procedures that describe positive approaches to behavior management, procedures for the documentation of maladaptive behaviors not included in the definition of incidents, procedures for BMP development and to monitor effectiveness of BTPs.	•"May not use physical restraints as a negative consequence to a behavior, for the convenience of the licensee or in lieu of a BMP"

Statues, Rules and Manual Guidelines for Monitoring and Training the Use of Restrictive Procedures Arizona, Nebraska, Georgia and Kansas				**Website References http://www.azsos.gov/public_services/Title_06/6-06.htm#ARTICLE_8**			
POLICY	**PEOPLE**	**PURPOSE**	**MONITORING**	**REPORTING**	**TRAINING**	**EMERGENCY MEASURES**	**PROHIBITED**
Article 9- Managing Inappropriate Behaviors	•All programs operated, licensed, certified, supervised or financially supported by the division. •The PRC is comprised of: district program manager (or their designee), a person directly providing habilitation services to clients, someone qualified in behavior management techniques, a parent of someone with a developmental disability (but not of the client)	• Mandates rules for creating ISPPs, BTPs, training anyone involved in the use of BTPs or ISPPS, emergency measures, and rules for behavior-modifying medications.	•PRC approves or disapproves any plans with restrictive components. •PRC must review a respond in writing within 10 working days to each BTP. •For approval, the PRC must find the procedure to be the least intrusive/restrictive option, any special considerations for monitoring, and recommendations. •The ISPP team monitors BTPs by designating a supervisor not involved to ensure it is implemented as approved, ensure all involved staff have received appropriate training, ensure	•Each PRC issues written reports monthly and annually to the appropriate point person within DD services. •The ISPP either approves and implements the PRC's recommendations or creates a new plan and submits it to PRC for approval. •A summary of the training plan with all components, documentation of training to manage inappropriate behaviors, and a list of persons that have completed the initial and refresher courses (and dates) should be maintained for 5 years for public inspection. •ISPP team submits to the PRC and	•Any person involved in using the BTP should be trained by the division or trained by an instructor approved by the division. •Training should include: interventions related to this topic, legally mandated rights of individuals with DD, confidentiality, abuse and neglect prohibitions. Should also include intervention techniques, treatment and services, risks and side effects, and orientation to division goals and related policies of division. •Training should include hands-on experience that is	•Physical management techniques employed in an emergency must: use the least amount of intervention necessary to safely manage an individual, used when less restrictive measures were unsuccessful or inappropriate, only used when necessary to prevent an individual from harming self or others or severe damage to property, be used concurrently with behavior and only lasting as long as needed to bring behavior under control, be appropriate for situation to ensure safety.	•The use of seclusion (locked time-out rooms), the use of overcorrection, application of noxious stimuli, physical restraints including mechanical restraints when used as a negative consequence to a behavior. •A person implementing a BTP that is not included as part of the ISPP or without approval of the Program Review Committee.

			objective and accurate data is recorded, have monthly evaluations to measure the BTP's effectiveness and to conduct on-site observations at least twice per month with recording.	Human Rights Committee any behavior treatment plan which includes, techniques that require the use of force, that utilize response cost, programs that might infringe upon the rights of the client pursuant to applicable federal and state laws, the use of behavior-modifying medications, protective devices used to prevent a client from sustaining injury as a result of the client's self-injurious behavior.	approved by the division and have experience actually implementing the particular intervention. •Each PRC issues written reports monthly and annually to the appropriate point person within DD services. •Refresher training to maintain knowledge and keep up with technical trends. • The training plan should be reviewed every 2 years by the division to ensure compliance with the law.	•If an emergency measure is used, the person employing the measure will immediately report the circumstance to the person designated by the division and the responsible person, provide a complete written report of the measure to the responsible person, the case manager, the chair of the PRC and the HRC within one working day. •If an emergency measure is used two times in a 30 days than ISPP team meets to determine the need for new or revised BTPS.	

Statues, Rules and Manual Guidelines for Monitoring and Training the Use of Restrictive Procedures **Arizona, Nebraska, Georgia and Kansas**				**Website References** **Arizona's Articles 8 and 9- http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-404/Chapter-04.pdf**			
POLICY	**PEOPLE**	**PURPOSE**	**MONITORING**	**REPORTING**	**TRAINING**	**POSITIVE BEHAVIOR**	**PROHIBITED**
Nebraska Chapter 4 Certification of individual support options providers	•Certified specialized DD provider that is eligible to provide Individual Support Options	•Set standards for certifying community -based services, training staff, and prioritizing positive behavioral supports.	•The provider establishes a rights review committee that meets no less than semi-annually. They review any situation requiring an emergency safety intervention and any restrictive measure or when an individual's rights might have been compromised • ½ of the committee is support system (but not staff) and the rest are those without a conflict service providers.	•Article 8 mandates immediate reporting of the use of emergency services-but does not explicitly include immediately reporting use of restrictive procedures in emergency setting. •Must document all trainings in employee folders.	• New employees trained in positive support techniques, approved emergency safety intervention techniques, adaptive and augmentative devices used to support the individuals. Employees must demonstrate competency within 180 days of hire. •Training and verification of competencies conducted by person with expertise that are qualified by education, training, or expertise in those areas.	•The provider develops and implements policies, procedures that emphasize positive approaches. Assessment must define the communicative function of the behavior, the purpose of behavior in their life, a list of all supports, plan for positive meaningful activities and options that are inconsistent with the behavior, list of potential triggers, and individualized data collection and analysis that tracks progress.	•"Restraints are prohibited, but an emergency safety intervention can be used in a situation where the individual is in danger of immediate jeopardy or harm. If there are disruptive or challenging behaviors displayed by an individual then a safety and support plan must be developed utilizing the principles of positive behavioral supports. (5-003.02D)

Statues, Rules and Manual Guidelines for Monitoring and Training the Use of Restrictive Procedures **Arizona, Nebraska, Georgia, Kansas**				**Website References** **http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-404/Chapter-06.pdf**			
POLICY	**PEOPLE**	**PURPOSE**	**MONITORING**	**REPORTING**	**TRAINING**	**TRAINING (Con't)**	**PROHIBITED**
Nebraska Chapter 6- Provider operated/controlled community based residential and day service option	•For residential and day community based services for persons with DD deliver at provider operated/controlled settings.	• Rules for transition to new restraint laws-For example providers have 180 days to implement an individualized plan that will eliminate the use of restraints and the use of these restraints will be provided one year from the enactment of these regulations.	•The training plan should be reviewed every 2 years by the division to ensure compliance with the law.	•All emergency incidents must be documented and reviewed by the individual's IPP team and rights review committee to ensure the intervention was appropriate rather than an instance of mechanical or physical restraint (which is prohibited).	•any person involved in using the BTP should be trained by the division or trained by an instructor approved by the division. •Training should minimally include: interventions related to this topic, legally mandated rights of individual with DD, confidentiality, abuse and neglect prohibitions. Should also include intervention techniques,	treatment and services, risks and side effects, and orientation to division goals and related policies of division. •Training should include hands-on experience that is approved by the division with instructors that division approved and have experience actually implementing the particular intervention. •Each PRC issues written reports monthly and annually to the appropriate point person within DD services. •Refresher training should be made to maintain knowledge and keep up with technical trends.	•The provider must prohibit the use of mechanical or physical restraints, aversive stimuli, corporal punishment, seclusion, verbal abuse, physical abuse, emotional abuse, denial of basic needs, discipline, or implementation of an intervention of an individual in services by another individual in services .

Statues, Rules and Manual Guidelines for Monitoring and Training the Use of Restrictive Procedures Arizona, Nebraska, Georgia and Kansas				**Website References Georgia's Provider Manual Rules-** http://dbhdd.org/files/Provider-Manual-DD.pdf			
POLICY	**PEOPLE**	**PURPOSE**	**MONITORING**	**REPORTING**	**TRAINING**	**TRAINING (CON'T)**	**RESTRICTIVE**
Georgia-Provider Manual	•Providers of home and community based services	•Sets rules for training, certifying and obtaining oversight for services provided to clients with DD.	• Evaluation of performance of staff should occur annually and by managers who are clinically, administratively and experientially qualified to conduct evaluations. •-not as much relevance-conduct monthly site visits with extensive documentation of mandated categories. •The BSP is to be reviewed by a Behavior program	•When the Behavior support plan is used to reduce challenging behaviors, there must be evidence that the plan is individualized, based on a functional assessment of the targeted behavior, how behavior will be Identified for success, use of identified approaches, an assessment of the impact on personal choice of the individual, has monitoring plans and termination criteria, discussed with family/natural supports, and is	•Orientation must be completed before direct contact with clients-including recognizing abuse, neglect or exploitation of an individual. •Within 60 days of hire all direct service staff shall receive training on person-centered values, principles and approaches, promoting positive, appropriate, responsive relationships with clients, utilization of ABA, crisis intervention techniques to de-escalate challenging and	•All Developmental Disability Professionals must be trained in supports intensity scale and individual service planning in the first year as well. (DDPs must also have a minimum of 8 extra hours of training documented each year). •providers must have processes in place to implement crisis intervention as needed. Staff must be trained to respond with approved interventions, availability of additional resources to	•Intrusive or restrictive procedures must be clearly justified through documentation of less restrictive procedures ineffectiveness and/or the need for more intrusive procedures due to safety or health risks presented by the targeted behaviors. These are incorporated into the safety BSP, approved by the ISP interdisciplinary team, reviewed by organization's rights committee and supervised by a qualified professional.

			review committee.	in line with best practices.	unsafe behaviors, and techniques for safe utilization of emergency interventions of last resort. •A minimum of 16 hours of training must be completed annually to include these trainings. •Additional training required of professional level staff.	assist in diffusing the crisis-provide community based crisis services as an alternative to emergency room care, institutional placement or law enforcement involvement.	

Statues, Rules and Manual Guidelines for Monitoring and Training the Use of Restrictive Procedures **Arizona, Nebraska, Georgia and Kansas**				**Website References** http://www.kssos.org/pubs/KAR/2009/3%20030_30-Department%20of%20Social%20and%20Rehabilitation%20Services,%202009%20KAR%20Vol%203.pdf			
POLICY	**PEOPLE**	**PURPOSE**	**MONITORING**	**REPORTING**	**TRAINING**	**RESTRICTIVE PROCEDURES**	**RESTRICTIVE (CON'T)**
Kansas-Article 63 (30-63-10-23)	•any individual or group providing services to persons 18 years of age or older in need of services greater than those provided in a boarding care home.	• Mandates creating, monitoring and training person-centered planning and the use of restrictive procedures *Note*Only state out of the four that I could not find wording about restrictive procedures being prohibited without emergency or out of convenienc e, etc.	• Behavior management committee is established by the provider, which periodically reviews the use of restrictive interventions on clients. This committee is made up of personal support network of individual and direct staff, but 1/3 need to have no stake in facility.	•When restrictive interventions are being used the behaviors are documented as to the frequency and objective severity of occurrence. •The provider periodically reviews and reports to the person, their guardian, their support network and physician the severity and frequency of the behaviors, effectiveness of the restrictive intervention and any side effects.	•Any person providing services receives at least 15 hours of prescribed training, or the director provides written certification to the CDDO that sufficient training has been provided.	•"Providers should take proactive and remedial actions to ensure appropriate, effective and informed use of restrictive interventions to manage behavior". The proactive and remedial actions include safeguards (with initial and ongoing assessment and modifications, that all other less restrictive, effective alternatives have been tried or that a professional thinks they would not be effective, positive behavior	programming are present in the person's life, the risks of the restrictive procedure have been reviewed by person or guardian and the individual or guardian has given consent.

Minnesota Department of **Human Services**

Disability Services Division

Comparison of Standards in Nebraska, Kansas, Georgia, Arizona, Current Rule 40 and Jensen Settlement Agreement On the Use of Some Restrictive, Aversive and Deprivation Procedures

TERM: EMERGENCY	
POLICY	**DEFINITIONS**
Jensen Settlement	**"Emergency"** means situations when the client's conduct poses an imminent risk of physical harm to self or others, and less restrictive strategies would not achieve safety. Client refusal to receive/participate in treatment shall not constitute an emergency.
Rule # 40, Minnesota Rules, parts 9525.2710	"**Emergency use" means using a controlled procedure** without first meeting the requirements in parts 9525.2750, 9525.2760, and 9525.2780 when it can be documented under part 9525.2770 **that immediate intervention is necessary to protect a person or other individuals from physical injury or to prevent severe property damage which is an immediate threat to the physical safety of the person or others.**
Minnesota Statutes, section 125A.0941	"**Emergency**" means a situation where immediate intervention is needed to protect a child or other individual from physical injury or to prevent serious property damage.
Minnesota Rules, parts 4658.0300	"**Emergency measures**" means the immediate action necessary to alleviate an unexpected situation or sudden occurrence of a serious and urgent nature.
42 CFR Part 482.13(e)(1)	"**Emergency measure**" means the use of the least restrictive procedures and for the briefest time necessary to control severely aggressive or destructive behaviors that place the individual or others in imminent danger, when those behaviors reasonably could not have been anticipated, and only as they are necessary within the context of positive behavioral programming. Also includes severe property damage.
AZ Code, Article # 9 and Chapter 1600	"**Emergency Measures**" are defined as the use of physical management techniques or psychotropic medications in an emergency to manage a sudden, intense or out-of-control behavior. Only used when less restrictive methods were unsuccessful or are inappropriate.
Georgia- DBHDD rule 02-102	"**Emergency/crises respite**" is intended to be a short term service for an individual experiencing a crisis (usually behavioral) and requires a period of structured support.
Nebraska- Title 404 Community-based services	"**Emergency safety situation**" instances where an individual could harm themselves or others. These situations are not predictable, are unusual, and are usually not reoccurring. It is allowed to use an emergency safety intervention in this situation.
Kansas- Department of Social and Rehab Services	*emergency/crisis not defined within the use of restrictive procedures- described in a sense of being the absolute last resort, after informed consent of its use and all other methods have shown to be ineffective

Emergency Techniques – *not behavioral consequences	
POLICY	**PERMISSIONS**
Rule # 40 Minnesota Rules, parts 9525.2710	Controlled procedures may be used in emergencies if certain criteria are met. Controlled procedures include: exclusionary procedures, positive practice overcorrection, restitutional overcorrection, partial restriction of person's senses, manual restraint, mechanical restraint and deprivation (of positive reinforcers)
Jensen Settlement	Some manual restraints and Velcro soft cuffs are allowed, including: seven types of escorts, basket hold take down, show-of-support (roles), wrap-up and group containment, containment (side and supine holding), transport, room exit, protective weapons, diversionary devices and working with police.

Arizona	Emergency measures involving physical management techniques shall: • Use the least amount of intervention necessary to safely physically manage the individual • Be used only when less restrictive methods were unsuccessful or are inappropriate • Be used only when necessary to prevent the individual from harming self or others or causing severe damage to property • Be used concurrently with the uncontrolled behavior • Be continued for the least amount of time necessary to bring the individual's behavior under control • Be appropriate to the situation to ensure safety This may include using behavior modifying medications. "Physical management techniques" is not defined.
Nebraska 6-006	Defined as an emergency safety intervention- the use of hands-on guidance or separation as an immediate resonse to an emergency safety situation.
Georgia	Only allows mechanical restraints if it prevents self-injurious behavior and is part of a behavior support plan. These are not defined as mechanical restraints if used in this way. - Chemical restraint is never permitted under any circumstances. Time-out under 15 minutes is permitted. Personal restraint may be used in emergency safety interventions. Seclusion is not allowed in DD.
Kansas 30-60-48, 30-63-23	All emergency techniques must be pre-approved. Physical restraint or seclusion shall be used as a method of intervention only when all other methods of de-escalation have failed and it's for the protection of the individual or others.

Person-Centered Planning	
POLICY	**STANDARD**
Rule # 40 Minnesota Rules, parts 9525.2710	The individual is part of the expanded interdisciplinary team for creating program plans.
MnCHOICES-MN DHS	Includes a person-centered approach to its assessments to replace the current long-term care assessment processes.
Arizona	Not specifically addressed- When referring to an ISPP, minimal language is used that reflects person-centered. No mention of creating the plan collaboratively with the individual and a lot of language such as "creating a plan for the individual"
Nebraska Title 404 4-005.02A	**"The IPP team consists of the individual, legal representative (if applicable) service coordinator, provider representative and other individual's choices by the individual served. The individual may raise an objection to a particular provider representative and the IPP team must attempt to accommodate the objection while allowing participation by provider representatives."** An IPP is a person-centered plan that is developed collaboratively among the IPP team and tailored to the individual's preferences, strengths and needs to overcome barriers.
Georgia p.10 of manual- Community Access Services	Not specifically addressed-"Community Access Services are individually planned to meet the individual's needs and preferences for active community participation…the intended outcome of these services is to improve the individual's access to the community through increased skills and/or less paid supports." The Individual Service Plan has the intention of providing the individual an opportunity for self-direction based on personal preference, but the guide does indicate the process of creating the plan. Like Community Access Services, the Community Residential Services are individually tailored with a Behavior Support Plan for positive behavioral supports. The manual lacks the indication that the plan must be created in collaboration with

	the individual, but it does emphasize the needs for it to be individualized based on the individual's desires. P. 15 in the manual looks at Community Living Support Services and using person-centered assessments to identify the specific needs of the individual.
Georgia/DOJ settlement agreement	Georgia must supply support coordination to all waiver participants, which includes assembling a support group, including the individual, to develop an ISP that is individualized and person-centered. On an annual basis, the provision of care by community providers must be evaluated by conducting face-to-face person centered interviews with the individual being served.
Kansas 30-63-21	Very directly cites person-centered planning and says that the provider shall prepare one for each person served, in consultation with the individual, their guardian (if one is appointed), other individuals from the person's support network. The rest of the statute indicates what should be included in the plan, desired outcomes of the plan and how the plan should be carried out. The components are very comprehensive and in line with the person-centered workgroups general sentiment and suggestions.

Seclusion, Room Time-Out, Exclusionary Time-Out	
POLICY	**PERMISSIONS**
Rule # 40 Minnesota Rules, parts 9525.2710	Exclusionary and room time-out procedures are permitted (controlled procedures). Room time out is not permitted in emergency situations. Seclusion is prohibited.
Jensen settlement	Seclusion and room time out are prohibited
Nebraska	Seclusion is prohibited.
Arizona Article 9	The use of seclusion (locked time-out rooms) is prohibited. Has exclusionary time-out defined, but nothing in statute.
Georgia manual	Seclusion- the involuntary confinement of an individual and prevention from leaving is not permitted in developmental disabilities services. "Seclusion means the involuntary confinement of a person in a room or an area from which the person is physically prevented from leaving. Seclusion is an emergency safety intervention of last resort that may only be used under strict medical protocol in residential or hospital-based emergency receiving and evaluating facilities (residential crisis stabilization programs). When the egress of an individual is restricted, it is considered seclusion. **Seclusion is NOT permitted for use as part of a crisis plan or a safety plan.** Calls time-out "withdrawal" and delineates between exclusionary and non-exclusionary. These areas allowed procedures and there is information about how to correctly use withdrawal and the training that should go along with its use.
Kansas 30-60-48	Seclusion shall be used as a method of intervention only when all other methods of de-escalation have failed and only when necessary for the protection of that consumer or others. Proper documentation must be done.

Training	
POLICY	**REQUIREMENTS**
Rule # 40 Minnesota Rules, parts 9525.2710	Controlled procedures may be implemented and monitored only by staff members trained to implement the procedure. The license holder is responsible for providing ongoing training to all staff members responsible for implementing, supervising and monitoring controlled procedures.
Jensen Settlement (Attachment B, for the	(For the Cambridge facilitiy)All employees will be trained

Cambridge facility) and (page 16-X. System Wide Improvements)	in person-centered approaches to working with clients, Positive behavior supports, therapeutic interventions and crisis intervention. There will be a second training strategy that teaches observance of what is occurring during the use of crisis intervention procedures, as well as personal safety management and post crisis evaluation and assessment. All training will be documented and staff must pass knowledge tests upon completion of training. System-wide improvements- The goal (the following is not a requirement) of State Operated Community Support Services (CSS) will be to provide an expansion of services that include assessment, triage and care coordination that is the most appropriate for the individual and in line with the Olmstead decision. In order to support this expansion of services, CSS will provide improved, state of the art training that includes person-centered thinking, multi-modal assessment, positive behavior supports, consultation and facilitator skills and creative thinking. Training will support increased community capacity. The department has expanded CSS so as to be consistent with the goals laid out in the Jensen settlement agreement.
Nebraska (404 NAC 4-004.04)	Identifies the topics of training necessary for all new employees (those providing supports or services to clients). Positive support techniques, approved safety intervention techniques and IPP implementation and development must be trained and employees must demonstrate competency within 180 days of hire.
Arizona Article 8 R6-808	The community residential service provider writes a curriculum that meets minimum requirements, including; client intervention techniques provided by a certified instructor. In R6-6-906 there is another training section that further defines topics of training, including: intervention techniques, treatment and services, particularly addressing the risks and side effects that may adversely affect clients. There should be hands-on and practical experience to be conducted by instructors approved by the division, with a curriculum approved by the division. Physical management techniques may only be employed by those that are trained in those methods. The division reviews the training plan every two years for compliance with all provisions of the law. No mention of required number of hours.
Georgia manual p.143	“Prior to direct contact with the individual, an employee needs to receive training in…the utilization of positive communication, positive behavioral supports and crisis intervention techniques”

Use of Restraints at the Doctor or Dentist	
POLICY	**REQUIREMENTS**
Rule # 40 Minnesota Rules, parts 9525.2710	In the definition of Mechanical restraint- it does not apply when it is used to treat a person's medical needs or to protect a person who is at risk of injury resulting from lack of coordination or frequent loss of consciousness.
Jensen Settlement in the Definitions Section	Manual Restraint, which was immediately and permanently discontinued, means physical intervention intended to hold a client immobile or limit a person's movement by using body contact as the only source of physical restraint. It is any manual method that restricts freedom of movement or normal access to on'e body, but it does not include conduct necessary to perform medical examination or treatment. The definition of mechanical restraint also does not apply "to devices used to treat a person's medical needs" Restraint are defined in the training section as techniques that are used to prevent injury, when all less intrusive interventions will not work.
Nebraska (404 NAC 4-004.04)	In the definition of mechanical restraint, it excludes any devices used for specific medical and surgical (as distinguished from behavioral) treatment. 4-005.06- the provider must take reasonable steps to assist and support individuals in obtaining needed health services.
Arizona Article 8 R6-808	Health care consents required of each individual, or their guardian if applicable: Consent for the use of sedation, mechanical restraint, or protective devices in the course of planned medical or dental procedures or for follow-up; Except for treatment of medical emergencies, the licensee shall obtain written informed consent from the responsible person and authorization by a medical practitioner for the use of sedation, mechanical restraint, or protective devices in the course of planned medical or dental procedures or in the course of follow-up to such procedures. The licensee shall not use physical restraints, including mechanical restraints as a negative consequence to a behavior, for the convenience of the licensee, or in lieu of a behavior management plan.
Kansas 30-63-24	"a provider shall assist each person served, as necessary, in obtaining the medical and dental services to which the person has access and that may be required to meet the person's specific health care needs, including…developing individualized procedures for the administration of medications and other treatments."

Definition Website References

Settlement Agreement – Attachment A Definitions
http://www.johnsoncondon.com/documents/SettlementAgreementAttachmentA.pdf

Rule # 40 Minnesota Rules, parts 9525.2710 https://www.revisor.mn.gov/rules/?id=9525.2710

Minnesota Statutes, section 245.8261 https://www.revisor.leg.state.mn.us/statutes/?id=245.8261&year=2008

42 CFR Part 482.13(e)(1) - http://www.gpo.gov/fdsys/pkg/CFR-2010-title42-vol5/pdf/CFR-2010-title42-vol5-sec482-13.pdf

Minnesota Rules, parts 9530.6510 (Chemical Dependency Programs) https://www.revisor.mn.gov/rules/?id=9530.6510

Minnesota Rules, parts 9515.3090 (State Hospital Administration) https://www.revisor.mn.gov/rules/?id=9515.3090

Minnesota Rule 40, Options Inc. - http://www.options-inc.org/sitebuildercontent/sitebuilderfiles/emergencycontrolledprocedures.pdf

Arizona Administrative Code, Chapter 6 (Developmental Disabilities) Article 8 (Programmatic Standards and Contract Monitoring for Community Residential Settings) and Article 9 (Managing Inappropriate Behaviors) - http://www.azsos.gov/public_services/Title_06/6-06.htm#ARTICLE_8

Georgia's Division of Mental Health, Developmental Disabilities and Addictive Diseases' Guidelines for Supporting Adults With Challenging Behaviors In Community Settings – http://dbhdd.georgia.gov/sites/dbhdd.georgia.gov/files/related_files/site_page/GuidelinesSupportingAdultsChallengingBehaviors.pdf

US Department of Justice vs. The State of Georgia Settlement Agreement
http://dbhdd.georgia.gov/sites/dbhdd.georgia.gov/files/imported/DBHDD/Files/Settlement%20Agreement.pdf

Nebraska's Title 404 Community-Based Services for Individuals with Developmental Disabilities
http://dhhs.ne.gov/Documents/Title_404_Chapters_1-11.pdf

Kansas Department of Social and Rehabilitation Services- http://www.kssos.org/pubs/KAR/2009/3%20030_30-Department%20of%20Social%20and%20Rehabilitation%20Services,%202009%20KAR%20Vol%203.pdf

COMPARISON BETWEEN 245B DD SERVICE STANDARDS & 245D HCBS STANDARDS (PHASE 1 / TIER 1 SERVICES)

245B DEVELOPMENTAL DISABILITIES SERVICES STANDARDS	245D HCBS STANDARDS
Minnesota Statutes, Chapter 245B **Services for Developmental Disabilities** (Consolidated Standards) • Section 245B.01 Rule Consolidation. • Section 245B.02 Definitions. • Section 245B.03 Applicability and Effect. • Section 245B.04 Consumer Rights. • Section 245B.05 Consumer Protection Standards. • Section 245B.055 Staffing For Day Training and Habilitation Services. • Section 245B.06 Service Standards. • Section 245B.07 Management Standards. • Section 245B.08 Compliance Strategies. [*No service standards*]	Minnesota Statutes, Chapter 245D **Home and Community Based Services Standards**. • Section 245D.01 **Citation.** • Section 245D.02 **Definitions.** • Section 245D.03 **Applicability and Effect.** • Section 245D.04 **Service Recipient Rights.** • Section 245D.05 **Health Service Needs.** • Section 245D.06 **Protection Standards.** • Section 245D.07 **Service Needs.** • Section 245D.08 **Record Requirements.** • Section 245D.09 **Staffing Standards.** • Section 245D.10 **Policies and Procedures.** [*Additional standards will be added in phase 2 for tier 2 services. Some phase 1/tier 1 standards will be amended as part of the development of the phase 2/tier 2 standards. This will include development of optional certification standards focused on specific population needs; additional QA/QI standards; and can include development of a certification for use of any "restrictive" i.e., aversive/deprivation procedures similar to the related standards for CRFs or IRTS and based on recommendations from the Rule 40 advisory committee.*]
Other Applicable Requirements • Minnesota Statutes, Chapter 245A **The Human Services Licensing Act** • Minnesota Statutes, Chapter 245C **Human Services Background Studies** Minnesota Statutes, section 626.557 **Vulnerable Adults Act** • Minnesota Statutes, section 626.556 **Maltreatment of Minors Act** • Minnesota Rules 9525.2700 to 9525.2810 Standards Governing the **Use of Aversive And Deprivation Procedures** [*Applies to persons with DD only*]	**Other Applicable Requirements** • Minnesota Statutes, Chapter 245A **The Human Services Licensing Act** • Minnesota Statutes, Chapter 245C **Human Services Background Studies** Minnesota Statutes, section 626.557 **Vulnerable Adults Act** • Minnesota Statutes, section 626.556 **Maltreatment of Minors Act** • Minnesota Rules 9525.2700 to 9525.2810 Standards Governing the **Use of Aversive And Deprivation Procedures** [*Applies to persons with DD only*]
245B.01 RULE CONSOLIDATION.	**[245D.01] CITATION.**
This chapter establishes new methods to ensure the	This chapter may be cited as the "Home and

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quality of services to persons with developmental disabilities, and streamlines and simplifies regulation of services and supports for persons with developmental disabilities. Sections 245B.02 to 245B.07 establish new standards that eliminate duplication and overlap of regulatory requirements by consolidating and replacing rule parts from four program rules. Section 245B.08 authorizes the commissioner of human services to develop and use new regulatory strategies to maintain compliance with the streamlined requirements.	Community-Based Services Standards" or "HCBS Standards."
SECTION 245B.02 DEFINITIONS.	**[245D.02] DEFINITIONS.** [*Additional definitions will be added in phase 2, relevant to the additional standards*.]
Subdivision 1. **Scope.** The terms used in this chapter have the meanings given them.	Subdivision 1. **Scope.** The terms used in this chapter have the meanings given them in this section.
	Subd. 2. **Annual and annually.** "Annual" and "annually" have the meaning given in section 245A.02, subdivision 2b.
Subd. 2. **Applicant.** "Applicant" has the meaning given in section 245A.02, subdivision 3.	
Subd. 3. **Case manager.** "Case manager" means the individual designated by the county board under rules of the commissioner to provide case management services as delineated in section 256B.092 or successor provisions.	Subd. 3. **Case manager.** "Case manager" means the individual designated to provide waiver case management services, care coordination, or long-term care consultation, as specified in sections 256B.0913, 256B.0915, 256B.092, and 256B.49, or successor provisions.
Subd. 4. **Consumer.** "Consumer" means a person who has been determined eligible to receive and is receiving services or support for persons with developmental disabilities.	
Subd. 5. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or	Subd. 4. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services

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the commissioner's designated representative.	or the commissioner's designated representative.
Subd. 6. **Day training and habilitation services; developmental disabilities.** "Day training and habilitation services for adults with developmental disabilities" has the meaning given in sections 252.40 to 252.46.	
Subd. 7. **Department.** "Department" means the Department of Human Services.	Subd. 5. **Department.** "Department" means the Department of Human Services.
Subd. 8. **Direct service.** "Direct service" means, for a consumer receiving residential-based services, day training and habilitation services, or respite care services, one or more of the following: supervision, assistance, or training.	Subd. 6. **Direct contact.** "Direct contact" has the meaning given in section 245C.02, subdivision 11, and is used interchangeably with the term "direct service."
	Subd. 7. **Drug.** "Drug" has the meaning given in section 151.01, subdivision 5.
Subd. 8a. **Emergency.** "Emergency" means any fires, severe weather, natural disasters, power failures, or any event that affects the ordinary daily operation of the program, including, but not limited to, events that threaten the immediate health and safety of a person receiving services and that require calling 911, emergency evacuation, moving to an emergency shelter, or temporary closure or relocation of the program to another facility or service site.	Subd. 8. **Emergency.** "Emergency" means any event that affects the ordinary daily operation of the program including, but not limited to, fires, severe weather, natural disasters, power failures, or other events that threaten the immediate health and safety of a person receiving services and that require calling 911, emergency evacuation, moving to an emergency shelter, or temporary closure or relocation of the program to another facility or service site.
Subd. 9. **Health services.** "Health services" means any service or treatment consistent with the health needs of the consumer, such as medication administration and monitoring, medical, dental, nutritional, health monitoring, wellness education, and exercise.	Subd. 9. **Health services.** "Health services" means any service or treatment consistent with the physical and mental health needs of the person, such as medication administration and monitoring, medical, dental, nutritional, health monitoring, wellness education, and exercise.

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	Subd. 10. **Home and community-based services.** "Home and community-based services" means the services subject to the provisions of this chapter and defined in the federal waiver plans governed by United States Code, title 42, sections 1396 et seq., or the state's alternative care program according to section 256B.0913, including the brain injury (BI) waiver, the community alternative care (CAC) waiver, the community alternatives for disabled individuals (CADI) waiver, the developmental disability (DD) waiver, the elderly waiver (EW), and the alternative care (AC) program.
Subd. 10. **Incident.** "Incident" means an occurrence that affects the ordinary provision of services to a person and includes any of the following: (1) serious injury as determined by section 245.91, subdivision 6; (2) a consumer's death; (3) any medical ~~emergencies~~ emergency, unexpected serious ~~illnesses~~ illness, or ~~accidents~~ significant unexpected changes in an illness or medical condition, or the mental health status of a person that ~~require~~ requires calling 911 or a mental health mobile crisis intervention team, physician treatment, or hospitalization; (4) a consumer's unauthorized or unexplained absence; ~~(5) any fires or other events that require the relocation of services for more than 24 hours, or circumstances involving a law enforcement agency or fire department related to the health, safety, or supervision of a consumer;~~ ~~(6)~~ (5) physical aggression by a consumer against another consumer that causes physical pain, injury, or persistent emotional distress, including, but not limited to, hitting, slapping, kicking, scratching,	Subd. 11. **Incident.** "Incident" means an occurrence that affects the ordinary provision of services to a person and includes any of the following: (1) serious injury 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, or the mental health status of a person that requires calling 911 or a mental health crisis intervention team, physician treatment, or hospitalization; (4) a person's unauthorized or unexplained absence from a program; (5) physical aggression by a person receiving services against another person receiving services that causes physical pain, injury, or persistent emotional distress, including, but not limited to, hitting, slapping, kicking, scratching, pinching, biting, pushing, and spitting; (6) any sexual activity between persons receiving services involving force or coercion as defined under section 609.341, subdivisions 3 and 14; or (7) a report of alleged or suspected child or

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pinching, biting, pushing, and spitting; ~~(7)~~ (6) any sexual activity between consumers involving force or coercion as defined under section 609.341, subdivisions 3 and 14; or ~~(8)~~ (7) a report of child or vulnerable adult maltreatment under section 626.556 or 626.557.	vulnerable adult maltreatment under section 626.556 or 626.557.
Subd. 11. **Individual service plan.** "Individual service plan" has the meaning given in section 256B.092 or successor provisions.	
Subd. 12. **Individual who is related.** "Individual who is related" has the meaning given in section 245A.02, subdivision 13.	
Subd. 12a. **Interdisciplinary team.** "Interdisciplinary team" means a team composed of the case manager, the person, the person's legal representative and advocate, if any, and representatives of providers of the service areas relevant to the needs of the person as described in the individual service plan.	
Subd. 13. **Intermediate care facility for persons with developmental disabilities.** "Intermediate care facility for persons with developmental disabilities" or "ICF/MR" means a residential program licensed to provide services to persons with developmental disabilities under section 252.28 and chapter 245A and a physical facility licensed as a supervised living facility under chapter 144, which together are certified by the Department of Health as an intermediate care facility for persons with developmental disabilities.	
Subd. 14. **Least restrictive environment.** "Least restrictive environment" means an environment where services: (1) are delivered with minimum limitation, intrusion, disruption, or departure from typical patterns of living	

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available to persons without disabilities; (2) do not subject the consumer or others to unnecessary risks to health or safety; and (3) maximize the consumer's level of independence, productivity, and inclusion in the community	
Subd. 15. **Legal representative.** "Legal representative" means the parent or parents of a consumer who is under 18 years of age or a guardian, conservator, or guardian ad litem authorized by the court, or other legally authorized representative to make decisions about services for a consumer.	Subd. 12. **Legal representative.** "Legal representative" means the parent of a person who is under 18 years of age, a court-appointed guardian, or other representative with legal authority to make decisions about services for a person.
Subd. 16. **License.** "License" has the meaning given in section 245A.02, subdivision 8.	Subd. 13. **License.** "License" has the meaning given in section 245A.02, subdivision 8.
	Subd. 14. **Licensed health professional.** "Licensed health professional" means a person licensed in Minnesota to practice those professions described in section 214.01, subdivision 2.
Subd. 17. **License holder.** "License holder" has the meaning given in section 245A.02, subdivision 9.	Subd. 15. **License holder.** "License holder" has the meaning given in section 245A.02, subdivision 9.
	Subd. 16. **Medication.** "Medication" means a prescription drug or over-the-counter drug. For purposes of this chapter, "medication" includes dietary supplements.
	Subd. 17. **Medication administration.** "Medication administration" means performing the following set of tasks to ensure a person takes both prescription and over-the-counter medications and treatments according to orders issued by appropriately licensed professionals, and includes the following: (1) checking the person's medication record; (2) preparing the medication for administration;

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	(3) administering the medication to the person; (4) documenting the administration of the medication or the reason for not administering the medication; and (5) reporting to the prescriber or a nurse any concerns about the medication, including side effects, adverse reactions, effectiveness, or the person's refusal to take the medication or the person's self-administration of the medication.
	Subd. 18. **Medication assistance**. "Medication assistance" means providing verbal or visual reminders to take regularly scheduled medication, which includes either of the following: (1) bringing to the person and opening a container of previously set up medications and emptying the container into the person's hand or opening and giving the medications in the original container to the person, or bringing to the person liquids or food to accompany the medication; or (2) providing verbal or visual reminders to perform regularly scheduled treatments and exercises.
	Subd. 19. **Medication management.** "Medication management" means the provision of any of the following: (1) medication-related services to a person; (2) medication setup; (3) medication administration; (4) medication storage and security; (5) medication documentation and charting; (6) verification and monitoring of effectiveness of systems to ensure safe medication handling and administration; (7) coordination of medication refills; (8) handling changes to prescriptions and implementation of those changes; (9) communicating with the pharmacy; or

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	(10) coordination and communication with prescriber. For the purposes of this chapter, medication management does not mean "medication therapy management services" as identified in section 256B.0625, subdivision 13h.
	Subd. 20. **Mental health crisis intervention team.** "Mental health crisis intervention team" means mental health crisis response providers as identified in section 256B.0624, subdivision 2, paragraph (d), for adults, and in section 256B.0944, subdivision 1, paragraph (d), for children.
	Subd. 21. **Over-the-counter drug.** "Over-the-counter drug" means a drug that is not required by federal law to bear the statement "Caution: Federal law prohibits dispensing without prescription."
	Subd. 22. **Person.** "Person" has the meaning given in section 245A.02, subdivision 11.
Subd. 18. **Person with developmental disability.** "Person with developmental disability" means a person who has been diagnosed under section 256B.092 as having substantial limitations in present functioning, manifested as significantly subaverage intellectual functioning, existing concurrently with demonstrated deficits in adaptive behavior, and who manifests these conditions before the person's 22nd birthday. A person with a related condition means a person who meets the diagnostic definition under section 252.27, subdivision 1a.	Subd. 23. **Person with a disability.** "Person with a disability" means a person determined to have a disability by the commissioner's state medical review team as identified in section 256B.055, subdivision 7, the Social Security Administration, or the person is determined to have a developmental disability as defined in Minnesota Rules, part 9525.0016, subpart 2, item B, or a related condition as defined in section 252.27, subdivision 1a.
	Subd. 24. **Prescriber.** "Prescriber" means a licensed practitioner as defined in section 151.01, subdivision 23, who is authorized under section 151.37 to prescribe drugs. For the purposes of this chapter, the

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	term "prescriber" is used interchangeably with "physician."
	Subd. 25. **Prescription drug.** "Prescription drug" has the meaning given in section 151.01, subdivision 17.
	Subd. 26. **Program.** "Program" means either the nonresidential or residential program as defined in section 245A.02, subdivisions 10 and 14.
	Subd. 27. **Psychotropic medication.** "Psychotropic medication" means any medication prescribed to treat the symptoms of mental illness that affect thought processes, mood, sleep, or behavior. The major classes of psychotropic medication are antipsychotic (neuroleptic), antidepressant, antianxiety, mood stabilizers, anticonvulsants, and stimulants and nonstimulants for the treatment of attention deficit/hyperactivity disorder. Other miscellaneous medications are considered to be a psychotropic medication when they are specifically prescribed to treat a mental illness or to control or alter behavior.
Subd. 19. **Psychotropic medication use checklist.** "Psychotropic medication use checklist" means the psychotropic medication monitoring checklist and manual used to govern the administration of psychotropic medications. The commissioner may revise or update the psychotropic medication use checklist to comply with legal requirements or to meet professional standards or guidelines in the area of developmental disabilities. For purposes of this chapter, psychotropic medication means any medication prescribed to treat mental illness and associated behaviors or to control or alter behavior. The major classes of psychotropic medication are antipsychotic (neuroleptic), antidepressant, antianxiety, antimania, stimulant, and sedative or hypnotic. Other	

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miscellaneous medications are considered to be a psychotropic medication when they are specifically prescribed to treat a mental illness or to control or alter behavior.	
Subd. 20. **Residential-based habilitation.** "Residential-based habilitation" means care, supervision, and training provided primarily in the consumer's own home or place of residence but also including community-integrated activities following the individual service plan. Residential habilitation services are provided in coordination with the provision of day training and habilitation services for those persons receiving day training and habilitation services under sections 252.40 to 252.46.	
Subd. 21. **Respite care.** "Respite care" has the meaning given in section 245A.02, subdivision 15.	
	Subd. 28. **Restraint.** "Restraint" means physical or mechanical limiting of the free and normal movement of body or limbs.
	Subd. 29. **Seclusion.** "Seclusion" means separating a person from others in a way that prevents social contact and prevents the person from leaving the situation if he or she chooses.
Subd. 23. **Semi-independent living services or SILS.** "Semi-independent living services" or "SILS" has the meaning given in section 252.275.	
	Subd. 30. **Service.** "Service" means care, training, supervision, counseling, consultation, or medication assistance assigned to the license holder in the service plan.

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	Subd. 31. **Service plan.** "Service plan" means the individual service plan or individual care plan identified in sections 256B.0913, 256B.0915, 256B.092, and 256B.49, or successor provisions, and includes any support plans or service needs identified as a result of long-term care consultation, or a support team meeting that includes the participation of the person, the person's legal representative, and case manager, or assigned to a license holder through an authorized service agreement.
	Subd. 32. **Service site.** "Service site" means the location where the service is provided to the person, including but not limited to, a facility licensed according to chapter 245A; a location where the license holder is the owner, lessor, or tenant; a person's own home; or a community-based location.
	Subd. 33. **Staff.** "Staff" means an employee who will have direct contact with a person served by the facility, agency, or program.
	Subd. 34. **Support team.** "Support team" means the service planning team identified in section 256B.49, subdivision 15, or the interdisciplinary team identified in Minnesota Rules, part 9525.0004, subpart 14.
Subd. 23a. **Supported employment.** "Supported employment" services include individualized counseling, individualized job development and placement that produce an appropriate job match for the individual and the employer, on-the-job training in work and related work skills required for job performance, ongoing supervision and monitoring of the person's performance, long-term support services to	

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assure job retention, training in related skills essential to obtaining and retaining employment such as the effective use of community resources, use of break and lunch areas, transportation and mobility training, and transportation between the individual's place of residence and the work place when other forms of transportation are unavailable or inaccessible.	
	Subd. 35. **Unit of government.** "Unit of government" means every city, county, town, school district, other political subdivisions of the state, and any agency of the state or the United States, and includes any instrumentality of a unit of government.
Subd. 24. **Volunteer.** "Volunteer" means an individual who, under the direction of the license holder, provides direct services without pay to consumers served by the license holder.	Subd. 36. **Volunteer.** "Volunteer" means an individual who, under the direction of the license holder, provides direct services without pay to a person served by the license holder.
245B.03 APPLICABILITY AND EFFECT.	**[245D.03] APPLICABILITY AND EFFECT.**
Subdivision 1. **Applicability.** The standards in this chapter govern services to persons with developmental disabilities receiving services from license holders providing residential-based habilitation; day training and habilitation services for adults; supported employment; semi-independent living services; residential programs that serve more than four consumers, including intermediate care facilities for persons with developmental disabilities; and respite care provided outside the consumer's home for more than four consumers at the same time at a single site.	Subdivision 1. **Applicability.** The commissioner shall regulate the provision of home and community-based services to persons with disabilities and persons age 65 and older pursuant to this chapter. The licensing standards in this chapter govern the provision of the following services: (1) housing access coordination as defined under the current BI, CADI, and DD waiver plans or successor plans; (2) respite services as defined under the current CADI, BI, CAC, DD, and EW waiver plans or successor plans when the provider is an individual who is not an employee of a residential or nonresidential program licensed by the Department

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	of Human Services or the Department of Health that is otherwise providing the respite service; (3) behavioral programming as defined under the current BI and CADI waiver plans or successor plans; (4) specialist services as defined under the current DD waiver plan or successor plans; (5) companion services as defined under the current BI, CADI, and EW waiver plans or successor plans, excluding companion services provided under the Corporation for National and Community Services Senior Companion Program established under the Domestic Volunteer Service Act of 1973, Public Law 98-288; (6) personal support as defined under the current DD waiver plan or successor plans; (7) 24-hour emergency assistance, on-call and personal emergency response as defined under the current CADI and DD waiver plans or successor plans; (8) night supervision services as defined under the current BI waiver plan or successor plans; (9) homemaker services as defined under the current CADI, BI, CAC, DD, and EW waiver plans or successor plans, excluding providers licensed by the Department of Health under chapter 144A and those providers providing cleaning services only; (10) independent living skills training as defined under the current BI and CADI waiver plans or successor plans; (11) prevocational services as defined under the current BI and CADI waiver plans or successor plans; (12) structured day services as defined under the current BI waiver plan or successor plans; or (13) supported employment as defined under the current BI and CADI waiver plans or successor

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	plans.
Subd. 2. **Relationship to other standards governing services at ICF's/MR.**	Subd. 2. **Relationship to other standards governing home and community-based services.**
(a) ICF's/MR are exempt from: (1) section 245B.04 [*Consumer Rights, covered under 483.420*]; (2) section 245B.06 [Service Standards], subdivisions 4 [*Supports And Methods*]and 6 [*Reports, both covered under 483.440*]; and (3) section 245B.07 [Management Standards], subdivisions 4 [*Staff Qualifications*], paragraphs (b) and (c) [*Designated Coordinator Qualifications And Duties, N/A*]; 7 [*Volunteers, covered under 483.430*]; and 8 [*Policies and Procedures*], paragraphs (1) [*Health and Safety*], clause (iv) [*Record Keeping System, covered under 483.410*], and (2) [*Consumer Rights and Privacy, covered under 483.420*].	[*This will be similarly addressed in phase 2. It did not apply to phase 1.*]
(b) License holders also licensed under chapter 144 as a supervised living facility are exempt from section 245B.04 [*Consumer Rights*].	[*This will be similarly addressed in phase 2. It did not apply to phase 1.*]
(c) Residential service sites controlled by license holders licensed under this chapter for home and community-based waivered services for four or fewer adults are exempt from compliance with Minnesota Rules, parts 9543.0040, subpart 2, item C; 9555.5505; 9555.5515, items B and G; 9555.5605; 9555.5705; 9555.6125, subparts 3, item C, subitem (2), and 4 to 6; 9555.6185; 9555.6225, subpart 8; 9555.6245; 9555.6255; and 9555.6265; and as provided under section 245B.06, subdivision 2, the license holder is exempt from the program abuse prevention plans and	[*This will be similarly addressed in phase 2. It did not apply to phase 1.*]

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individual abuse prevention plans otherwise required under sections 245A.65, subdivision 2, and 626.557, subdivision 14. The commissioner may approve alternative methods of providing overnight supervision using the process and criteria for granting a variance in section 245A.04, subdivision 9. This chapter does not apply to foster care homes that do not provide residential habilitation services funded under the home and community-based waiver programs defined in section 256B.092.	
(d) Residential service sites controlled by license holders licensed under this chapter for home and community-based waivered services for four or fewer children are exempt from compliance with Minnesota Rules, parts 2960.3060, subpart 3, items B and C; 2960.3070; 2960.3100, subpart 1, items C, F, and I; and 2960.3210.	(b) A license holder concurrently providing child foster care services licensed according to Minnesota Rules, chapter 2960, to the same person receiving a service licensed under this chapter is exempt from section 245D.04, as it applies to the person.
(e) The commissioner may exempt license holders from applicable standards of this chapter when the license holder meets the standards under section 245A.09, subdivision 7. License holders that are accredited by an independent accreditation body shall continue to be licensed under this chapter.	[*This will be similarly addressed in phase 2. It did not apply to phase 1.*]
(f) License holders governed by sections 245B.02 to 245B.07 must also meet the licensure requirements in chapter 245A.	(a) A license holder governed by this chapter is also subject to the licensure requirements under chapter 245A.
(g) Nothing in this chapter prohibits license holders from concurrently serving consumers with and without developmental disabilities provided this chapter's standards are met as well as other relevant standards.	[*This will be similarly addressed in phase 2. It did not apply to phase 1.*]
(h) The documentation that sections 245B.02 to 245B.07 require of the license holder meets the individual program plan required in section 256B.092 or	[*This will be similarly addressed in phase 2. It did not apply to phase 1.*]

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successor provisions. *This standard does not apply to ICFs/MR as it conflicts with the corresponding federal certification standards.*	
	(c) A license holder concurrently providing home care services registered according to sections 144A.43 to 144A.49 to the same person receiving home management services licensed under this chapter is exempt from section 245D.04, as it applies to the person.
	(d) A license holder identified in subdivision 1, clauses (1), (5), and (9), is exempt from compliance with sections 245A.65, subdivision 2, paragraph (a), and 626.557, subdivision 14, paragraph (b).
	(e) Notwithstanding section 245D.06, subdivision 5, a license holder providing structured day, prevocational, or supported employment services under this chapter and day training and habilitation or supported employment services licensed under chapter 245B within the same program is exempt from compliance with this chapter, when the license holder notifies the commissioner in writing that the requirements under chapter 245B will be met for all persons receiving these services from the program. For the purposes of this paragraph, if the license holder has obtained approval from the commissioner for an alternative inspection status according to section 245B.031, that approval will apply to all persons receiving services in the program.
	Subd. 3. **Variance.** If the conditions in section 245A.04, subdivision 9, are met, the commissioner may grant a variance to any of the requirements in this chapter, except sections 245D.04, and 245D.10,

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	subdivision 4, paragraph (b), or provisions governing data practices and information rights of persons.
Subd. 3. **Continuity of care.**	Subd. 4. **License holders with multiple 245D licenses.**
(a) When a consumer changes service to the same type of service provided under a different license held by the same license holder and the policies and procedures under section 245B.07, subdivision 8, are substantially similar, the license holder is exempt from the requirements in sections 245B.06, subdivisions 2, paragraphs (e) and (f), and 4; and 245B.07, subdivision 9, clause (2). [*This standard does not apply to ICFs/MR as it conflicts with the corresponding federal certification standards.*]	(a) When a person changes service from one license to a different license held by the same license holder, the license holder is exempt from the requirements in section 245D.10, subdivision 4, paragraph (b).
(b) When a direct service staff person begins providing direct service under one or more licenses other than the license for which the staff person initially received the staff orientation requirements under section 245B.07, subdivision 5, the license holder is exempt from all staff orientation requirements under section 245B.07, subdivision 5, except that: (1) if the service provision location changes, the staff person must receive orientation regarding any policies or procedures under section 245B.07, subdivision 8, that are specific to the service provision location; and (2) if the staff person provides direct service to one or more consumers for whom the staff person has not previously provided direct service, the staff person must review each consumer's: (i) service plans and risk management plan in accordance with section 245B.07, subdivision 5, paragraph (b), clause (1); and (ii) medication	(b) When a staff person begins providing direct service under one or more licenses held by the same license holder, other than the license for which staff orientation was initially provided according to section 245D.09, subdivision 4, the license holder is exempt from those staff orientation requirements; except the staff person must review each person's service plan and medication administration procedures in accordance with section 245D.09, subdivision 4, paragraph (c), if not previously reviewed by the staff person.

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administration in accordance with section 245B.07, subdivision 5 , paragraph (b), clause (6).	
245B.04 CONSUMER RIGHTS.	**[245D.04] SERVICE RECIPIENT RIGHTS.**
Subdivision 1. **License holder's responsibility for consumers' rights.** The license holder must: (1) provide the consumer or the consumer's legal representative a copy of the consumer's rights on the day that services are initiated and an explanation of the rights in subdivisions 2 and 3 within five working days of service initiation and annually thereafter. Reasonable accommodations shall be made by the license holder to provide this information in other formats as needed to facilitate understanding of the rights by the consumer and the consumer's legal representative, if any; (2) document the consumer's or the consumer's legal representative's receipt of a copy of the rights and an explanation of the rights; and (3) ensure the exercise and protection of the consumer's rights in the services provided by the license holder and authorized in the individual service plan.	Subdivision 1. **License holder responsibility for individual rights of persons served by the program.** The license holder must: (1) provide each person or each person's legal representative with a written notice that identifies the service recipient rights in subdivisions 2 and 3, and an explanation of those rights within five working days of service initiation and annually thereafter; (2) make reasonable accommodations to provide this information in other formats or languages as needed to facilitate understanding of the rights by the person and the person's legal representative, if any; (3) maintain documentation of the person's or the person's legal representative's receipt of a copy and an explanation of the rights; and (4) ensure the exercise and protection of the person's rights in the services provided by the license holder and as authorized in the service plan.
Subd. 2. **Service-related rights.** A consumer's service-related rights include the right to: (1) refuse or terminate services and be informed of the consequences of refusing or terminating services; (2) know, in advance, limits to the services available from the license holder; (3) know conditions and terms governing the provision of services, including ~~those~~ the license holder's policies and procedures related to initiation and termination; (4) know what the charges are for services,	Subd. 2. **Service-related rights.** A person's service-related rights include the right to: (1) participate in the development and evaluation of the services provided to the person; (2) have services identified in the service plan provided in a manner that respects and takes into consideration the person's preferences; (3) refuse or terminate services and be informed of the consequences of refusing or terminating services; (4) know, in advance, limits to the services available from the license holder; (5) know conditions and terms governing the

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regardless of who will be paying for the services, and be notified upon request of changes in those charges; (5) know, in advance, whether services are covered by insurance, government funding, or other sources, and be told of any charges the consumer or other private party may have to pay; and (6) receive licensed services from individuals who are competent and trained, who have professional certification or licensure, as required, and who meet additional qualifications identified in the individual service plan.	provision of services, including the license holder's policies and procedures related to temporary service suspension and service termination; (6) know what the charges are for services, regardless of who will be paying for the services, and be notified of changes in those charges; (7) know, in advance, whether services are covered by insurance, government funding, or other sources, and be told of any charges the person or other private party may have to pay; and (8) receive services from an individual who is competent and trained, who has professional certification or licensure, as required, and who meets additional qualifications identified in the person's service plan.
Subd. 3. **Protection-related rights.** (a) The consumer's protection-related rights include the right to: (1) have personal, financial, services, and medical information kept private, and be advised of the license holder's policies and procedures regarding disclosure of such information; (2) access records and recorded information about the person in accordance with applicable state and federal law, regulation, or rule; (3) be free from maltreatment; (4) be treated with courtesy and respect for the consumer's individuality, mode of communication, and culture, and receive respectful treatment of the consumer's property; (5) reasonable observance of cultural and ethnic practice and religion; (6) be free from bias and harassment regarding race, gender, age, disability, spirituality, and sexual orientation; (7) be informed of and use the license holder's	Subd. 3. **Protection-related rights.** (a) A person's protection-related rights include the right to: (1) have personal, financial, service, health, and medical information kept private, and be advised of disclosure of this information by the license holder; (2) access records and recorded information about the person in accordance with applicable state and federal law, regulation, or rule; (3) be free from maltreatment; (4) be free from restraint or seclusion used for a purpose other than to protect the person from imminent danger to self or others; (5) receive services in a clean and safe environment when the license holder is the owner, lessor, or tenant of the service site; (6) be treated with courtesy and respect and receive respectful treatment of the person's property; (7) reasonable observance of cultural and ethnic practice and religion; (8) be free from bias and harassment regarding race, gender, age, disability, spirituality, and sexual

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grievance policy and procedures, including knowing how to contact persons responsible for addressing problems and to appeal under section 256.045; (8) know the name, telephone number, and the Web site, e-mail, and street addresses of protection and advocacy services, including the appropriate state-appointed ombudsman, and a brief description of how to file a complaint with these offices; ~~(5)~~ (9) voice grievances, know the contact persons responsible for addressing problems and how to contact those persons; ~~(6)~~ (10) any procedures for grievance or complaint resolution and the right to appeal under section 256.045; ~~(7)~~ (11) know the name and address of the state, county, or advocacy agency to contact for additional information or assistance; ~~(8)~~ (12) assert these rights personally, or have them asserted by the consumer's family or legal representative, without retaliation; ~~(9)~~ (13) give or withhold written informed consent to participate in any research or experimental treatment; ~~(10)~~ (14) have daily, private access to and use of a non-coin-operated telephone for local calls and long-distance calls made collect or paid for by the resident; ~~(11)~~ (15) receive and send, without interference, uncensored, unopened mail or electronic correspondence or communication; ~~(12)~~ (16) marital privacy for visits with the consumer's spouse and, if both are residents of the site, the right to share a bedroom and bed; ~~(13)~~ (17) associate with other persons of the consumer's choice; ~~(14)~~ (18) personal privacy; and	orientation; (9) be informed of and use the license holder's grievance policy and procedures, including knowing how to contact persons responsible for addressing problems and to appeal under section 256.045; (10) know the name, telephone number, and the Web site, e-mail, and street addresses of protection and advocacy services, including the appropriate state-appointed ombudsman, and a brief description of how to file a complaint with these offices; (11) assert these rights personally, or have them asserted by the person's family, authorized representative, or legal representative, without retaliation; (12) give or withhold written informed consent to participate in any research or experimental treatment; (13) associate with other persons of the person's choice; (14) personal privacy; and (15) engage in chosen activities. (b) For a person residing in a residential site licensed according to chapter 245A, or where the license holder is the owner, lessor, or tenant of the residential service site, protection-related rights also include the right to: (1) have daily, private access to and use of a non-coin-operated telephone for local calls and long-distance calls made collect or paid for by the person; (2) receive and send, without interference, uncensored, unopened mail or electronic correspondence or communication; and (3) privacy for visits with the person's spouse, next of kin, legal counsel, religious advisor, or others, in accordance with section 363A.09 of the Human Rights Act, including privacy in the person's

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~~(15)~~ (19) engage in chosen activities. (b) Restriction of a person's rights under paragraph (a), clauses (13) to (15), or this paragraph is allowed only if determined necessary to ensure the health, safety, and well-being of the person. Any restriction of these rights must be documented in the service plan for the person and must include the following information: (1) the justification for the restriction based on an assessment of the person's vulnerability related to exercising the right without restriction; (2) the objective measures set as conditions for ending the restriction; (3) a schedule for reviewing the need for the restriction based on the conditions for ending the restriction to occur, at a minimum, every three months for persons who do not have a legal representative and annually for persons who do have a legal representative from the date of initial approval; and (4) signed and dated approval for the restriction from the person, or the person's legal representative, if any. A restriction may be implemented only when the required approval has been obtained. Approval may be withdrawn at any time. If approval is withdrawn, the right must be immediately and fully restored.	bedroom. (c) Restriction of a person's rights under paragraph (a), clauses (13) to (15), or paragraph (b) is allowed only if determined necessary to ensure the health, safety, and well-being of the person. Any restriction of those rights must be documented in the service plan for the person and must include the following information: (1) the justification for the restriction based on an assessment of the person's vulnerability related to exercising the right without restriction; (2) the objective measures set as conditions for ending the restriction; (3) a schedule for reviewing the need for the restriction based on the conditions for ending the restriction to occur, at a minimum, every three months for persons who do not have a legal representative and annually for persons who do have a legal representative from the date of initial approval; and (4) signed and dated approval for the restriction from the person, or the person's legal representative, if any. A restriction may be implemented only when the required approval has been obtained. Approval may be withdrawn at any time. If approval is withdrawn, the right must be immediately and fully restored.
Subdivision 1. **Environment.** The license holder must: (1) ensure that services are provided in a safe and hazard-free environment when the license holder is the owner, lessor, or tenant of the service site. All other license holders shall inform the consumer or the consumer's legal representative and case manager about any environmental safety concerns in writing; (2) ~~lock doors~~ ensure that doors are locked or toxic substances or dangerous items normally accessible to persons served by the program are stored in locked	**[245D.06] PROTECTION STANDARDS** Subd. 2. **Environment and safety.** The license holder must: (1) ensure the following when the license holder is the owner, lessor, or tenant of the service site: (i) the service site is a safe and hazard-free environment; (ii) doors are locked or toxic substances or dangerous items normally accessible to persons served by the program are stored in locked cabinets, drawers, or

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cabinets, drawers, or containers only to protect the safety of consumers and not as a substitute for staff supervision or interactions with consumers. If doors are locked or toxic substances or dangerous items normally accessible to persons served by the program are stored in locked cabinets, drawers, or containers, the license holder must justify and document how this determination was made in consultation with the person or the person's legal representative and how access will otherwise be provided to the person and all other affected persons receiving services; (3) follow procedures that minimize the consumer's health risk from communicable diseases; and (4) maintain equipment, vehicles, supplies, and materials owned or leased by the license holder in good condition.	containers only to protect the safety of a person receiving services and not as a substitute for staff supervision or interactions with a person who is receiving services. If doors are locked or toxic substances or dangerous items normally accessible to persons served by the program are stored in locked cabinets, drawers, or containers, the license holder must justify and document how this determination was made in consultation with the person or person's legal representative, and how access will otherwise be provided to the person and all other affected persons receiving services; and (iii) a staff person is available on site who is trained in basic first aid whenever persons are present and staff are required to be at the site to provide direct service; (2) maintain equipment, vehicles, supplies, and materials owned or leased by the license holder in good condition when used to provide services; (3) follow procedures to ensure safe transportation, handling, and transfers of the person and any equipment used by the person, when the license holder is responsible for transportation of a person or a person's equipment; (4) be prepared for emergencies and follow emergency response procedures to ensure the person's safety in an emergency; and (5) follow sanitary practices for infection control and to prevent communicable diseases.
Subd. 2. **Licensed capacity for facility-based day training and habilitation services.** The licensed capacity of each day training and habilitation service site must be determined by the amount of primary space available, the scheduling of activities at other service sites, and the space requirements of consumers receiving services at the site. Primary space does not	[*This will be similarly addressed in phase 2. It did not apply to phase 1.*]

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include hallways, stairways, closets, utility areas, bathrooms, kitchens, and floor areas beneath stationary equipment. A facility-based day training and habilitation site must have a minimum of 40 square feet of primary space available for each consumer who is present at the site at any one time. Licensed capacity under this subdivision does not apply to: (1) consumers receiving community-based day training and habilitation services; and (2) the temporary use of a facility-based training and habilitation service site for the limited purpose of providing transportation to consumers receiving community-based day training and habilitation services from the license holder. The license holder must comply at all times with all applicable fire and safety codes under subdivision 4 and adequate supervision requirements under section 245B.055 for all persons receiving day training and habilitation services.	
Subd. 3. **Residential service sites for more than four consumers; four-bed ICF's/MR.** Residential service sites licensed to serve more than four consumers and four-bed ICF's/MR must meet the fire protection provisions of either the Residential Board and Care Occupancies Chapter or the Health Care Occupancies Chapter of the Life Safety Code (LSC), National Fire Protection Association, 1985 edition, or its successors. Sites meeting the definition of a residential board and care occupancy for 16 or less beds must have the emergency evacuation capability of residents evaluated in accordance with Appendix F of the LSC or its successors, except for those sites that meet the LSC Health Care Occupancies Chapter or its successors.	[*This will be similarly addressed in phase 2. It did not apply to phase 1.*]
Subd. 4. **Meeting fire and safety codes.** An applicant or license holder under sections 245A.01 to 245A.16 must document compliance with applicable building	**[245D.06] PROTECTION STANDARDS** Subd. 3. **Compliance with fire and safety codes.** When services are provided at a service site licensed

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codes, fire and safety codes, health rules, and zoning ordinances, or document that an appropriate waiver has been granted. [*Per legislative this requirements is being moved to 245A. 04 and will be required of all DHS licensed programs*.]	according to chapter 245A or where the license holder is the owner, lessor, or tenant of the service site, the license holder must document compliance with applicable building codes, fire and safety codes, health rules, and zoning ordinances, or document that an appropriate waiver has been granted.
Subd. 5. **Consumer health.** The license holder is responsible for meeting the health service needs assigned to the license holder in the individual service plan and for bringing health needs as discovered by the license holder promptly to the attention of the consumer, the consumer's legal representative, and the case manager. The license holder is required to maintain documentation on how the consumer's health needs will be met, including a description of procedures the license holder will follow for the consumer regarding medication monitoring and administration and seizure monitoring, if needed. The medication administration procedures are those procedures necessary to implement medication and treatment orders issued by appropriately licensed professionals, and must be established in consultation with a registered nurse, nurse practitioner, physician's assistant, or medical doctor.	**[245D.05] HEALTH SERVICES.** Subdivision 1. **Health needs.** (a) The license holder is responsible for providing health services assigned in the service plan and consistent with the person's health needs. The license holder is responsible for promptly notifying the person or the person's legal representative and the case manager of changes in a person's physical and mental health needs affecting assigned health services, when discovered by the license holder, unless the license holder has reason to know the change has already been reported. The license holder must document when the notice is provided. (b) When assigned in the service plan, the license holder is required to maintain documentation on how the person's health needs will be met, including a description of the procedures the license holder will follow in order to: (1) provide medication administration, medication assistance, or medication management according to this chapter; (2) monitor health conditions according to written instructions from the person's physician or a licensed health professional; (3) assist with or coordinate medical, dental, and other health service appointments; or (4) use medical equipment, devices, or adaptive aides or technology safely and correctly according to written instructions from the person's physician or a

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	licensed health professional.
Subd. 6. **First aid.** When the license holder is providing direct service and supervision to a consumer who requires a 24-hour plan of care and receives services at a site licensed under this chapter, the license holder must have available a staff person trained in first aid, and, if needed under section 245B.07, subdivision 6, paragraph (d), cardiopulmonary resuscitation from a qualified source, as determined by the commissioner.	**[245D.06] PROTECTION STANDARDS.** Subd. 2. **Environment and safety.** The license holder must: (1) ensure the following when the license holder is the owner, lessor, or tenant of the service site: (iii) a staff person is available on site who is trained in basic first aid whenever persons are present and staff are required to be at the site to provide direct service;
Subd. 7. **Reporting incidents.**	**[245D.06] PROTECTION STANDARDS.** Subdivision 1. **Incident response and reporting.**
(a) The license holder must maintain information about and report incidents under section 245B.02, subdivision 10, clauses (1) to (7), to the consumer's legal representative, other licensed caregiver, if any, and case manager within 24 hours of the occurrence, or within 24 hours of receipt of the information unless the incident has been reported by another license holder. An incident under section 245B.02, subdivision 10, clause (8), must be reported as required under paragraph (c) unless the incident has been reported by another license holder.	(a) The license holder must respond to all incidents under section 245D.02, subdivision 11, that occur while providing services to protect the health and safety of and minimize risk of harm to the person. (b) The license holder must maintain information about and report incidents to the person's legal representative or designated emergency contact and case manager within 24 hours of an incident occurring while services are being provided, or within 24 hours of discovery or receipt of information that an incident occurred, unless the license holder has reason to know that the incident has already been reported. An incident of suspected or alleged maltreatment must be reported as required under paragraph (d), and an incident of serious injury or death must be reported as required under paragraph (e).
(b) When the incident involves more than one consumer, the license holder must not disclose personally identifiable information about any other consumer when making the report to each consumer's	(c) When the incident involves more than one person, the license holder must not disclose personally identifiable information about any other person when making the report to each person and case manager

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legal representative, other licensed caregiver, if any, and case manager unless the license holder has the consent of a consumer or a consumer's legal representative.	unless the license holder has the consent of the person.
(c) Within 24 hours of reporting maltreatment as required under section 626.556 or 626.557, the license holder must inform the consumer's legal representative and case manager of the report unless there is reason to believe that the legal representative or case manager is involved in the suspected maltreatment. The information the license holder must disclose is the nature of the activity or occurrence reported, the agency that receives the report, and the telephone number of the Department of Human Services Licensing Division.	(d) Within 24 hours of reporting maltreatment as required under section 626.556 or 626.557, the license holder must inform the case manager of the report unless there is reason to believe that the case manager is involved in the suspected maltreatment. The license holder must disclose the nature of the activity or occurrence reported and the agency that received the report.
(d) Death or serious injury of the consumer must also be reported to the Department of Human Services Licensing Division and the ombudsman, as required under sections 245.91 and 245.94, subdivision 2a.	(e) The license holder must report the death or serious injury of the person to the legal representative, if any, and case manager, the Department of Human Services Licensing Division, and the Office of Ombudsman for Mental Health and Developmental Disabilities as required under section 245.94, subdivision 2a, within 24 hours of the death, or receipt of information that the death occurred unless the license holder has reason to know that the death has already been reported.
	(f) 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.
245B.06 SERVICE STANDARDS.	
Subdivision 1. **Outcome-based services.**	
(a) The license holder must provide outcome-based services in response to the consumer's identified needs as specified in the individual service plan.	**[245D.07] SERVICE NEEDS.** Subdivision 1. **Provision of services.** The license holder must provide services as specified in the

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	service plan and assigned to the license holder. The provision of services must comply with the requirements of this chapter and the federal waiver plans.
(b) Services must be based on the needs and preferences of the consumer and the consumer's personal goals and be consistent with the principles of least restrictive environment, self-determination, and consistent with: (1) the recognition of each consumer's history, dignity, and cultural background; (2) the affirmation and protection of each consumer's civil and legal rights; (3) the provision of services and supports for each consumer which: (i) promote community inclusion and self-sufficiency; (ii) provide services in the least restrictive environment; (iii) promote social relationships, natural supports, and participation in community life; (iv) allow for a balance between safety and opportunities; and (v) provide opportunities for the development and exercise of age-appropriate skills, decision making and choice, personal advocacy, and communication; and (4) the provision of services and supports for families which address the needs of the consumer in the context of the family and support family self-sufficiency.	[*This will be similarly addressed in phase 2. It did not apply to phase 1.*]
(c) The license holder must make available to the consumer opportunities to participate in the community, functional skill development, reduced dependency on care providers, and opportunities for development of decision-making skills. "Outcome" means the behavior, action, or status attained by the consumer that can be observed, measured, and can be determined reliable and valid. Outcomes are the equivalent of the long-range goals and short-term goals referenced in section 256B.092, and any rules promulgated under that section.	[*This will be similarly addressed in phase 2. It did not apply to phase 1.*]

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Subd. 2. **Risk management plan.**	[*This will be similarly addressed in phase 2. It did not apply to phase 1. Under phase 1 license holders must comply with 245A.65, subd. 2, IAPP/PAPP requirements.*]
(a) The license holder must develop, document in writing, and implement a risk management plan that meets the requirements of this subdivision. License holders licensed under this chapter are exempt from sections 245A.65, subdivision 2, and 626.557, subdivision 14 , if the requirements of this subdivision are met.	
(b) The risk management plan must identify areas in which the consumer is vulnerable, based on an assessment, at a minimum, of the following areas: (1) an adult consumer's susceptibility to physical, emotional, and sexual abuse as defined in section 626.5572, subdivision 2, and financial exploitation as defined in section 626.5572, subdivision 9 ; a minor consumer's susceptibility to sexual and physical abuse as defined in section 626.556, subdivision 2; and a consumer's susceptibility to self-abuse, regardless of age; (2) the consumer's health needs, considering the consumer's physical disabilities; allergies; sensory impairments; seizures; diet; need for medications; and ability to obtain medical treatment; (3) the consumer's safety needs, considering the consumer's ability to take reasonable safety precautions; community survival skills; water survival skills; ability to seek assistance or provide medical care; and access to toxic substances or dangerous items; (4) environmental issues, considering the program's location in a particular neighborhood or community; the	

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type of grounds and terrain surrounding the building; and the consumer's ability to respond to weather-related conditions, open locked doors, and remain alone in any environment; and (5) the consumer's behavior, including behaviors that may increase the likelihood of physical aggression between consumers or sexual activity between consumers involving force or coercion, as defined under section 245B.02, subdivision 10, clauses (6) and (7).	
(c) When assessing a consumer's vulnerability, the license holder must consider only the consumer's skills and abilities, independent of staffing patterns, supervision plans, the environment, or other situational elements.	
(d) License holders jointly providing services to a consumer shall coordinate and use the resulting assessment of risk areas for the development of each license holder's risk management or the shared risk management plan. The license holder's plan must include the specific actions a staff person will take to protect the consumer and minimize risks for the identified vulnerability areas. The specific actions must include the proactive measures being taken, training being provided, or a detailed description of actions a staff person will take when intervention is needed.	
(e) Prior to or upon initiating services, a license holder must develop an initial risk management plan that is, at a minimum, verbally approved by the consumer or consumer's legal representative and case manager. The license holder must document the date the license holder receives the consumer's or consumer's legal representative's and case manager's verbal approval of the initial plan.	

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(f) As part of the meeting held within 45 days of initiating service, as required under section 245B.06, subdivision 4, the license holder must review the initial risk management plan for accuracy and revise the plan if necessary. The license holder must give the consumer or consumer's legal representative and case manager an opportunity to participate in this plan review. If the license holder revises the plan, or if the consumer or consumer's legal representative and case manager have not previously signed and dated the plan, the license holder must obtain dated signatures to document the plan's approval.	
(g) After plan approval, the license holder must review the plan at least annually and update the plan based on the individual consumer's needs and changes to the environment. The license holder must give the consumer or consumer's legal representative and case manager an opportunity to participate in the ongoing plan development. The license holder shall obtain dated signatures from the consumer or consumer's legal representative and case manager to document completion of the annual review and approval of plan changes.	
Subd. 3. **Assessments.**	[*This will be similarly addressed in phase 2. It did not apply to phase 1.*]
(a) The license holder shall assess and reassess the consumer within stated time lines and assessment areas specified in the individual service plan or as requested in writing by the case manager.	
(b) For each area of assessment requested, the license holder must provide a written summary, analysis, and recommendations for use in the development of the individual service plan.	

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(c) All assessments must include information about the consumer that is descriptive of: (1) the consumer's strengths and functional skills; and (2) the level of support and supervision the consumer needs to achieve the outcomes in subdivision 1.	
Subd. 4. **Supports and methods.** The license holder, in coordination with other service providers, shall meet with the consumer, the consumer's legal representative, case manager, and other members of the interdisciplinary team within 45 days of service initiation. Within ten working days after the meeting, the license holder shall develop and document in writing: (1) the methods that will be used to support the individual or accomplish the outcomes in subdivision 1, including information about physical and social environments, the equipment and materials required, and techniques that are consistent with the consumer's communication mode and learning style specified as the license holder's responsibility in the individual service plan; (2) the projected starting date for service supports and the criteria for identifying when the desired outcome has been achieved and when the service supports need to be reviewed; and (3) the names of the staff, staff position, or contractors responsible for implementing each outcome.	**[245D.07] SERVICE NEEDS.** Subdivision 1. **Provision of services.** The license holder must provide services as specified in the service plan and assigned to the license holder. The provision of services must comply with the requirements of this chapter and the federal waiver plans. Subd. 2. **Service planning.** The license holder must participate in support team meetings related to the person following stated timelines established in the person's service plan or as requested by the support team, the person, or the person's legal representative.
Subd. 5. **Progress reviews.** The license holder must participate in progress review meetings following stated time lines established in the consumer's individual service plan or as requested in writing by the consumer, the consumer's legal representative, or the case manager, at a minimum of once a year. The license holder must summarize the progress toward achieving the desired outcomes and make recommendations in a written report sent to the consumer or the consumer's legal	**[245D.07] SERVICE NEEDS.** Subd. 3. **Reports.** The license holder must provide written reports regarding the person's progress or status as requested by the person, the person's legal representative, the case manager, or the team.

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representative and case manager prior to the review meeting.	
Subd. 6. **Reports.** The license holder shall provide written reports regarding the consumer's status as requested by the consumer, or the consumer's legal representative and case manager.	[*See above*.]
Subd. 7. **Staffing requirements.** The license holder must provide supervision to ensure the health, safety, and protection of rights of each consumer and to be able to implement each consumer's individual service plan. Day training and habilitation programs must meet the minimum staffing requirements as specified in sections 252.40 to 252.46 and rules promulgated under those sections.	**[245D.09] STAFFING STANDARDS.** Subdivision 1. **Staffing requirements.** The license holder must provide direct service staff sufficient to ensure the health, safety, and protection of rights of each person and to be able to implement the responsibilities assigned to the license holder in each person's service plan.
Subd. 8. **Leaving the residence.** Each consumer requiring a 24-hour plan of care shall receive services during the day outside the residence unless otherwise specified in the individual's service plan. License holders, providing services to consumers living in a licensed site, shall ensure that they are prepared to care for consumers whenever they are at the residence during the day because of illness, work schedules, or other reasons.	[*This will be similarly addressed in phase 2. It did not apply to phase 1*.]
Subd. 9. **Day training and habilitation service days.** Day training and habilitation services must meet a minimum of 195 available service days.	[*This will be similarly addressed in phase 2. It did not apply to phase 1*.]
Subd. 10. **Prohibition.** Psychotropic medication and the use of aversive and deprivation procedures, as referenced in section 245.825 and rules promulgated under that section, cannot be used as a substitute for adequate staffing, as punishment, or for staff convenience.	**[245D.06] PROTECTION STANDARDS.** Subd. 5. **Prohibitions.** (a) The license holder is prohibited from using psychotropic medication as a substitute for adequate staffing, as punishment, for staff convenience, or for any reason other than as prescribed.

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	(b) The license holder is prohibited from using restraints or seclusion under any circumstance, unless the commissioner has approved a variance request from the license holder that allows for the emergency use of restraints and seclusion according to terms and conditions approved in the variance. Applicants and license holders who have reason to believe they may be serving an individual who will need emergency use of restraints or seclusion, may request a variance on the application or reapplication, and the commissioner shall automatically review the request for a variance as part of the application or reapplication process. License holders may also request the variance any time after issuance of a license. In the event a license holder uses restraint or seclusion for any reason without first obtaining a variance as required, the license holder must report the unauthorized use of restraint or seclusion to the commissioner within 24 hours of the occurrence and request the required variance.
245B.07 MANAGEMENT STANDARDS	
Subdivision 1. **Consumer data file.** The license holder must maintain the following information for each consumer: (1) identifying information that includes date of birth, medications, legal representative, history, medical, and other individual-specific information, and names and telephone numbers of contacts; (2) consumer health information, including individual medication administration and monitoring information; (3) the consumer's individual service plan. When a consumer's case manager does not provide a current individual service plan, the license holder shall make a written request to the case manager to provide a copy of the individual service plan and inform the consumer or	**[245D.08] RECORD REQUIREMENTS.** Subdivision 1. **Record-keeping systems.** The license holder must ensure that the content and format of service recipient, personnel, and program records are uniform, legible, and in compliance with the requirements of this chapter. Subd. 2. **Service recipient record.** (a) The license holder must:(1) maintain a record of current services provided to each person on the premises where the services are provided or coordinated; and (2) protect service recipient records against loss, tampering, or unauthorized disclosure in compliance with sections 13.01 to 13.10 and 13.46. (b) The license holder must maintain the following

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the consumer's legal representative of the right to an individual service plan and the right to appeal under section 256.045; (4) copies of assessments, analyses, summaries, and recommendations; (5) progress review reports; (6) incidents involving the consumer; (7) reports required under section 245B.05, subdivision 7; (8) discharge summary, when applicable; (9) record of other license holders serving the consumer that includes a contact person and telephone numbers, services being provided, services that require coordination between two license holders, and name of staff responsible for coordination; (10) information about verbal aggression directed at the consumer by another consumer; and (11) information about self-abuse.	information for each person: (1) identifying information, including the person's name, date of birth, address, and telephone number; (2) the name, address, and telephone number of the person's legal representative, if any, an emergency contact, the case manager, and family members or others as identified by the person or case manager; (3) service information, including service initiation information, verification of the person's eligibility for services, and documentation verifying that services have been provided as identified in the service plan according to paragraph (a); (4) health information, including medical history and allergies; and when the license holder is assigned responsibility for meeting the person's health needs according to section 245D.05: (i) current orders for medication, treatments, or medical equipment; (ii) medication administration procedures; (iii) a medication administration record documenting the implementation of the medication administration procedures, including any agreements for administration of injectable medications by the license holder; and (iv) a medical appointment schedule; (5) the person's current service plan or that portion of the plan assigned to the license holder. When a person's case manager does not provide a current service plan, the license holder must make a written request to the case manager to provide a copy of the service plan and inform the person of the right to a current service plan and the right to appeal under section 256.045; (6) a record of other service providers serving the person when the person's service plan identifies the need for coordination between the service providers,

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	that includes a contact person and telephone numbers, services being provided, and names of staff responsible for coordination; (7) documentation of orientation to the service recipient rights according to section 245D.04, subdivision 1, and maltreatment reporting policies and procedures according to section 245A.65, subdivision 1, paragraph (c); (8) copies of authorizations to handle a person's funds, according to section 245D.06, subdivision 4, paragraph (a); (9) documentation of complaints received and grievance resolution; (10) incident reports required under section 245D.06, subdivision 1; (11) copies of written reports regarding the person's status when requested according to section 245D.07, subdivision 3; and (12) discharge summary, including service termination notice and related documentation, when applicable.
Subd. 2. **Access to records.** The license holder must ensure that the following people have access to the information in subdivision 1: (1) the consumer, the consumer's legal representative, and anyone properly authorized by the consumer or legal representative; (2) the consumer's case manager; (3) staff providing direct services to the consumer unless the information is not relevant to carrying out the individual service plan; and (4) the county adult foster care licensor, when services are also licensed as an adult foster home. Adult foster home means a licensed residence operated by an operator who, for financial gain or otherwise, provides 24-hour foster care to no more than four functionally	Subd. 3. **Access to service recipient records.** The license holder must ensure that the following people have access to the information in subdivision 1 in accordance with applicable state and federal law, regulation, or rule: (1) the person, the person's legal representative, and anyone properly authorized by the person; (2) the person's case manager; (3) staff providing services to the person unless the information is not relevant to carrying out the service plan; and (4) the county adult foster care licensor, when services are also licensed as adult foster care.

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impaired residents.	
	Subd. 4. **Personnel records.** The license holder must maintain a personnel record of each employee, direct service volunteer, and subcontractor to document and verify staff qualifications, orientation, and training. For the purposes of this subdivision, the terms "staff" or "staff person" mean paid employee, direct service volunteer, or subcontractor. The personnel record must include: (1) the staff person's date of hire, completed application, a position description signed by the staff person, documentation that the staff person meets the position requirements as determined by the license holder, the date of first supervised direct contact with a person served by the program, and the date of first unsupervised direct contact with a person served by the program; (2) documentation of staff qualifications, orientation, training, and performance evaluations as required under section 245D.09, subdivisions 3, 4, and 5, including the date the training was completed, the number of hours per subject area, and the name and qualifications of the trainer or instructor; and (3) a completed background study as required under chapter 245C.
Subd. 3. **Retention of consumer's records.** The license holder must retain the records required for consumers for at least three years following termination of services.	[*This is being replaced with new requirements for record retention and use of electronic records under sections 245A.041, which will apply to all DHS licensed programs.*]
Subd. 4. **Staff qualifications.**	
(a) The license holder must ensure that staff is competent through training, experience, and education to meet the consumer's needs and additional requirements as written in the individual service plan.	**[245D.09] STAFFING STANDARDS.** Subd. 3. **Staff qualifications.** (a) The license holder must ensure that staff is competent through training, experience, and education to meet the person's needs

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Staff qualifications must be documented. Staff under 18 years of age may not perform overnight duties or administer medication.	and additional requirements as written in the service plan, or when otherwise required by the case manager or the federal waiver plan. The license holder must verify and maintain evidence of staff competency, including documentation of: (1) education and experience qualifications, including a valid degree and transcript, or a current license, registration, or certification, when a degree or licensure, registration, or certification is required; (2) completion of required orientation and training, including completion of continuing education required to maintain professional licensure, registration, or certification requirements; and (3) except for a license holder who is the sole direct service staff, performance evaluations completed by the license holder of the direct service staff person's ability to perform the job functions based on direct observation. (b) Staff under 18 years of age may not perform overnight duties or administer medication. [*Additional staff qualifications will be developed in phase 2 for tier 2 services.*]
(b) Delivery and evaluation of services provided by the license holder to a consumer must be coordinated by a designated person. The designated person or coordinator must minimally have a four-year degree in a field related to service provision, and one year work experience with consumers with developmental disabilities, a two-year degree in a field related to service provision, and two years of work experience with consumers with developmental disabilities, or a diploma in community-based developmental disability	**[245D.06] PROTECTION STANDARDS.** Subdivision 1. **Incident response and reporting.** (f) 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. [*Additional, similar staff qualifications will be developed in phase 2 for tier 2 services.*]

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services from an accredited postsecondary institution and two years of work experience with consumers with developmental disabilities. The coordinator must provide supervision, support, and evaluation of activities that include: (1) oversight of the license holder's responsibilities designated in the individual service plan; (2) instruction and assistance to staff implementing the individual service plan areas; (3) evaluation of the effectiveness of service delivery, methodologies, and progress on consumer outcomes based on the condition set for objective change; and (4) review of incident and emergency reports, identification of incident patterns, and implementation of corrective action as necessary to reduce occurrences. *ICFs/MR are exempt from this standard.*	
(c) The coordinator is responsible for taking the action necessary to facilitate the accomplishment of the outcomes for each consumer as specified in the consumer's individual service plan. *ICFs/MR are exempt from this standard.*	[*Additional, similar staff qualifications will be developed in phase 2 for tier 2 services.*]
(d) The license holder must provide for adequate supervision of direct care staff to ensure implementation of the individual service plan.	**[245D.09] STAFFING STANDARDS.** Subd. 2. **Supervision of staff having direct contact.** Except for a license holder who are the sole direct service staff, the license holder must provide adequate supervision of staff providing direct service to ensure the health, safety, and protection of rights of each person and implementation of the responsibilities assigned to the license holder in each person's service plan.
Subd. 5. **Staff orientation.**	

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(a) Within 60 days of hiring staff who provide direct service, the license holder must provide 30 hours of staff orientation. Direct care staff must complete 15 of the 30 hours orientation before providing any unsupervised direct service to a consumer. If the staff person has received orientation training from a license holder licensed under this chapter, or provides semi-independent living services only, the 15-hour requirement may be reduced to eight hours. The total orientation of 30 hours may be reduced to 15 hours if the staff person has previously received orientation training from a license holder licensed under this chapter.	**[245D.09] STAFFING STANDARDS.** Subd. 4. **Orientation.** (a) Except for a license holder who does not supervise any direct service staff, within 90 days of hiring direct service staff, the license holder must provide and ensure completion of orientation that combines supervised on-the-job training with review of and instruction on the following:
(b) The 30 hours of orientation must combine supervised on-the-job training with ~~coverage~~ review of and instruction on the following material: (1) review of the consumer's service plans and risk management plan to achieve an understanding of the consumer as a unique individual and staff responsibilities related to implementation of those plans; (2) review and instruction on implementation of the license holder's policies and procedures, including their location and access; (3) staff responsibilities related to emergency procedures; (4) explanation of specific job functions, including implementing objectives from the consumer's individual service plan; (5) explanation of responsibilities related to section 245A.65; sections 626.556 and 626.557, governing maltreatment reporting and service planning for children and vulnerable adults; and section 245.825, governing use of aversive and deprivation procedures;	(1) the job description and how to complete specific job functions, including: (i) responding to and reporting incidents as required under section 245D.06, subdivision 1; and (ii) following safety practices established by the license holder and as required in section 245D.06, subdivision 2; (2) the license holder's current policies and procedures required under this chapter, including their location and access, and staff responsibilities related to implementation of those policies and procedures; (3) data privacy requirements according to sections 13.01 to 13.10 and 13.46, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), and staff responsibilities related to complying with data privacy practices; (4) the service recipient rights under section 245D.04, and staff responsibilities related to ensuring the exercise and protection of those rights; (5) sections 245A.65; 245A.66, 626.556, and

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(6) medication administration as it applies to the individual consumer, from a training curriculum developed by a health services professional described in section 245B.05, subdivision 5, and when the consumer meets the criteria of having overriding health care needs, then medication administration taught by a health services professional. Staff may administer medications only after they demonstrate the ability, as defined in the license holder's medication administration policy and procedures. Once a consumer with overriding health care needs is admitted, staff will be provided with remedial training as deemed necessary by the license holder and the health professional to meet the needs of that consumer. For purposes of this section, overriding health care needs means a health care condition that affects the service options available to the consumer because the condition requires: (i) specialized or intensive medical or nursing supervision; and (ii) nonmedical service providers to adapt their services to accommodate the health and safety needs of the consumer; (7) consumer rights and staff responsibilities related to protecting and ensuring the exercise of the consumer rights; and (8) other topics necessary as determined by the consumer's individual service plan or other areas identified by the license holder..	626.557, governing maltreatment reporting and service planning for children and vulnerable adults, and staff responsibilities related to protecting persons from maltreatment and reporting maltreatment; (6) what constitutes use of restraints, seclusion, and psychotropic medications, and staff responsibilities related to the prohibitions of their use; and (7) other topics as determined necessary in the person's service plan by the case manager or other areas identified by the license holder. (b) License holders who provide direct service themselves must complete the orientation required in paragraph (a), clauses (3) to (7). (c) Before providing unsupervised direct service to a person served by the program, or for whom the staff person has not previously provided direct service, or any time the plans or procedures identified in clauses (1) and (2) are revised, the staff person must review and receive instruction on the following as it relates to the staff person's job functions for that person: (1) the person's service plan as it relates to the responsibilities assigned to the license holder, and when applicable, the person's individual abuse prevention plan according to section 245A.65, to achieve an understanding of the person as a unique individual, and how to implement those plans; and (2) medication administration procedures established for the person when assigned to the license holder according to section 245D.05, subdivision 1, paragraph (b). Unlicensed staff may administer medications only after successful completion of a medication administration training, from a training curriculum developed by a registered nurse, clinical nurse

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	specialist in psychiatric and mental health nursing, certified nurse practitioner, physician's assistant, or physician incorporating an observed skill assessment conducted by the trainer to ensure staff demonstrate the ability to safely and correctly follow medication procedures. Medication administration must be taught by a registered nurse, clinical nurse specialist, certified nurse practitioner, physician's assistant, or physician, if at the time of service initiation or any time thereafter, the person has or develops a health care condition that affects the service options available to the person because the condition requires: (i) specialized or intensive medical or nursing supervision; (ii) nonmedical service providers to adapt their services to accommodate the health and safety needs of the person; and (iii) necessary training in order to meet the health service needs of the person as determined by the person's physician. [*Additional, similar staff orientation requirements will be developed in phase 2 for tier 2 services.*]
(c) The license holder must document each employee's orientation received.	[*Documentation requirements addressed in section 245D.08, subd. 4; go to records requirements in previous section of this table.*]
Subd. 6. **Staff training.**	
(a) A license holder providing semi-independent living services shall ensure that direct service staff annually complete hours of training equal to one percent of the number of hours the staff person worked. All other license holders shall ensure that direct service staff annually complete hours of training as follows: (1) if the direct services staff have been employed for	**[245D.09] STAFFING STANDARDS.** Subd. 5. **Training.** (a) A license holder must provide annual training to direct service staff on the topics identified in subdivision 4, paragraph (a), clauses (3) to (6). (b) A license holder providing behavioral programming, specialist services, personal support,

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one to 24 months and: (i) the average number of work hours scheduled per week is 30 to 40 hours, the staff must annually complete 40 training hours; (ii) the average number of work hours scheduled per week is 20 to 29 hours, the staff must annually complete 30 training hours; and (iii) the average number of work hours scheduled per week is one to 19 hours, the staff must annually complete 20 training hours; or (2) if the direct services staff have been employed for more than 24 months and: (i) the average number of work hours scheduled per week is 30 to 40 hours, the staff must annually complete 20 training hours; (ii) the average number of work hours scheduled per week is 20 to 29 hours, the staff must annually complete 15 training hours; and (iii) the average number of work hours scheduled per week is one to 19 hours, the staff must annually complete 12 training hours. If direct service staff has received training from a license holder licensed under a program rule identified in this chapter or completed course work regarding disability-related issues from a postsecondary educational institute that training may also count toward training requirements for other services and for other license holders.	24-hour emergency assistance, night supervision, independent living skills, structured day, prevocational, or supported employment services must provide a minimum of eight hours of annual training to direct service staff that addresses: (1) topics related to the general health, safety, and service needs of the population served by the license holder; and
(b) The license holder must document the training completed by each employee.	[*Documentation requirements addressed in section 245D.08, subd. 4; go to records requirements in previous section of this table.*]
(c) Training shall address staff competencies necessary to address the consumer needs as identified in the consumer's individual service plan and ensure consumer health, safety, and protection of rights. Training may also include other areas identified by the license holder.	(2) other areas identified by the license holder or in the person's current service plan. Training on relevant topics received from sources other than the license holder may count toward training requirements.

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(d) For consumers requiring a 24-hour plan of care, the license holder shall provide training in cardiopulmonary resuscitation, from a qualified source determined by the commissioner, if the consumer's health needs as determined by the consumer's physician indicate trained staff would be necessary to the consumer.	(c) When the license holder is the owner, lessor, or tenant of the service site and whenever a person receiving services is present at the site, the license holder must have a staff person available on site who is trained in basic first aid and, when required in a person's service plan, cardiopulmonary resuscitation.
Subd. 7. **Volunteers.** The license holder must ensure that volunteers who provide direct services to consumers receive the training and orientation necessary to fulfill their responsibilities.	**[245D.09] STAFFING STANDARDS.** Subd. 7. **Volunteers.** The license holder must ensure that volunteers who provide direct services to persons served by the program receive the training, orientation, and supervision necessary to fulfill their responsibilities.
Subd. 7a. **Subcontractors.** If the license holder uses a subcontractor to perform services licensed under this chapter on the license holder's behalf, the license holder must ensure that the subcontractor meets and maintains compliance with all requirements under this chapter that apply to the services to be provided.	**[245D.09] STAFFING STANDARDS.** Subd. 6. **Subcontractors.** If the license holder uses a subcontractor to perform services licensed under this chapter on their behalf, the license holder must ensure that the subcontractor meets and maintains compliance with all requirements under this chapter that apply to the services to be provided.
Subd. 8. **Policies and procedures.** The license holder must develop and implement the policies and procedures in paragraphs (a) to (c).	**[245D.10] POLICIES AND PROCEDURES.** Subdivision 1. **Policy and procedure requirements.** The license holder must establish, enforce, and maintain policies and procedures as required in this chapter.
(a) Policies and procedures that promote consumer health and safety by ensuring:	[*Additional policy requirements will be addressed in phase 2 for tier 2 services.*]
(1) consumer safety in emergency situations;	[*Additional policy requirements will be addressed in phase 2 for tier 2 services.*]
(2) consumer health through sanitary practices;	[*Additional policy requirements will be addressed in phase 2 for tier 2 services.*]
(3) safe transportation, when the license holder is	[*Additional policy requirements will be addressed in*

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responsible for transportation of consumers, with provisions for handling emergency situations;	*phase 2 for tier 2 services.*]
(4) a system of record keeping for both individuals and the organization, for review of incidents and emergencies, and corrective action if needed;	[*Additional policy requirements will be addressed in phase 2 for tier 2 services.*]
(5) a plan for responding to all incidents, as defined in section 245B.02, subdivision 10, and reporting all incidents required to be reported under section 245B.05, subdivision 7;	[*See requirement for incident response and reporting under 245D.06, subd. 1.*]
(6) safe medication administration as identified in section 245B.05, subdivision 5, incorporating an observed skill assessment to ensure that staff demonstrate the ability to administer medications consistent with the license holder's policy and procedures;	**[245D.05] HEALTH SERVICES.** Subd. 2. **Medication administration.** (a) The license holder must ensure that the following criteria have been met before staff that is not a licensed health professional administers medication or treatment: (1) written authorization has been obtained from the person or the person's legal representative to administer medication or treatment orders; (2) the staff person has completed medication administration training according to section 245D.09, subdivision 4, paragraph (c), clause (2); and (3) the medication or treatment will be administered under administration procedures established for the person in consultation with a licensed health professional. Written instruction from the person's physician may constitute the medication administration procedures. A prescription label or the prescriber's order for the prescription is sufficient to constitute written instructions from the prescriber. A licensed health professional may delegate medication administration procedures. (b) The license holder must ensure the following information is documented in the person's medication administration record: (1) the information on the prescription label or the

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	prescriber's order that includes directions for safely and correctly administering the medication to ensure effectiveness; (2) information on any discomforts, risks, or other side effects that are reasonable to expect, and any contraindications to its use; (3) the possible consequences if the medication or treatment is not taken or administered as directed; (4) instruction from the prescriber on when and to whom to report the following: (i) if the medication or treatment is not administered as prescribed, whether by error by the staff or the person or by refusal by the person; and (ii) the occurrence of possible adverse reactions to the medication or treatment; (5) notation of any occurrence of medication not being administered as prescribed or of adverse reactions, and when and to whom the report was made; and (6) notation of when a medication or treatment is started, changed, or discontinued. (c) The license holder must ensure that the information maintained in the medication administration record is current and is regularly reviewed with the person or the person's legal representative and the staff administering the medication to identify medication administration issues or errors. At a minimum, the review must be conducted every three months or more often if requested by the person or the person's legal representative. Based on the review, the license holder must develop and implement a plan to correct medication administration issues or errors. If issues or concerns are identified related to the medication itself, the license holder must report those as required under subdivision 4. Subd. 4. **Reporting medication and treatment**

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	issues. The following medication administration issues must be reported to the person or the person's legal representative and case manager as they occur or following timelines established in the person's service plan or as requested in writing by the person or the person's legal representative, or the case manager: (1) any reports made to the person's physician or prescriber required under subdivision 2, paragraph (b), clause (4); (2) a person's refusal or failure to take medication or treatment as prescribed; or (3) concerns about a person's self-administration of medication. Subd. 5. **Injectable medications.** Injectable medications may be administered according to a prescriber's order and written instructions when one of the following conditions has been met: (1) a registered nurse or licensed practical nurse will administer the subcutaneous or intramuscular injection; (2) a supervising registered nurse with a physician's order has delegated the administration of subcutaneous injectable medication to an unlicensed staff member and has provided the necessary training; or (3) there is an agreement signed by the license holder, the prescriber, and the person or the person's legal representative, specifying what subcutaneous injections may be given, when, how, and that the prescriber must retain responsibility for the license holder's giving the injections. A copy of the agreement must be placed in the person's service recipient record. Only licensed health professionals are allowed to administer psychotropic medications by injection.

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(7) psychotropic medication monitoring when the consumer is prescribed a psychotropic medication, including the use of the psychotropic medication use checklist. If the responsibility for implementing the psychotropic medication use checklist has not been assigned in the individual service plan and the consumer lives in a licensed site, the residential license holder shall be designated; and	[*Psychotropic medication monitoring requirements are being added in 245D phase for all services in section 245D.05*.]
(8) criteria for admission or service initiation developed by the license holder.	[*Additional policy requirements will be addressed in phase 2 for tier 2 services.*]
(b) Policies and procedures that protect consumer rights and privacy by ensuring:	
(1) consumer data privacy, in compliance with the Minnesota Data Practices Act, chapter 13; and	[*This is addressed in 245D service recipient rights and staff orientation. Additional policy requirements will be addressed in phase 2 for tier 2 services.*]
(2) that complaint procedures provide consumers with a simple process to bring grievances and consumers receive a response to the grievance within a reasonable time period. The license holder must provide a copy of the program's grievance procedure and time lines for addressing grievances. The program's grievance procedure must permit consumers served by the program and the authorized representatives to bring a grievance to the highest level of authority in the program.	**[245D.10] POLICIES AND PROCEDURES.** Subd. 2. **Grievances.** The license holder must establish policies and procedures that provide a simple complaint process for persons served by the program and their authorized representatives to bring a grievance that: (1) provides staff assistance with the complaint process when requested, and the addresses and telephone numbers of outside agencies to assist the person; (2) allows the person to bring the complaint to the highest level of authority in the program if the grievance cannot be resolved by other staff members, and that provides the name, address, and telephone number of that person; (3) requires the license holder to promptly respond to all complaints affecting a person's health and safety. For all other complaints the license holder must provide an initial response within 14 calendar days of

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	receipt of the complaint. All complaints must be resolved within 30 calendar days of receipt or the license holder must document the reason for the delay and a plan for resolution; (4) requires a complaint review that includes an evaluation of whether: (i) related policies and procedures were followed and adequate; (ii) there is a need for additional staff training; (iii) the complaint is similar to past complaints with the persons, staff, or services involved; and (iv) there is a need for corrective action by the license holder to protect the health and safety of persons receiving services; (5) based on the review in clause (4), requires the license holder to develop, document, and implement a corrective action plan, designed to correct current lapses and prevent future lapses in performance by staff or the license holder, if any; (6) provides a written summary of the complaint and a notice of the complaint resolution to the person and case manager, that: (i) identifies the nature of the complaint and the date it was received; (ii) includes the results of the complaint review; (iii) identifies the complaint resolution, including any corrective action; and (7) requires that the complaint summary and resolution notice be maintained in the service recipient record.
(c) Policies and procedures that promote continuity and quality of consumer supports by ensuring: (1) continuity of care and service coordination, including provisions for service termination, temporary service suspension, and efforts made by the license holder to coordinate services with other vendors who	**[245D.10] POLICIES AND PROCEDURES.** Subd. 3. **Service suspension and service termination.** (a) The license holder must establish policies and procedures for temporary service suspension and service termination that promote continuity of care and service coordination with the

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also provide support to the consumer. The policy must include the following requirements: (i) the license holder must notify the consumer or consumer's legal representative and the consumer's case manager in writing of the intended termination or temporary service suspension and the consumer's right to seek a temporary order staying the termination or suspension of service according to the procedures in section 256.045, subdivision 4a or subdivision 6, paragraph (c); (ii) notice of the proposed termination of services, including those situations that began with a temporary service suspension, must be given at least 60 days before the proposed termination is to become effective; (iii) the license holder must provide information requested by the consumer or consumer's legal representative or case manager when services are temporarily suspended or upon notice of termination; (iv) use of temporary service suspension procedures are restricted to situations in which the consumer's behavior causes immediate and serious danger to the health and safety of the individual or others; (v) prior to giving notice of service termination or temporary service suspension, the license holder must document actions taken to minimize or eliminate the need for service termination or temporary service suspension; and (vi) during the period of temporary service suspension, the license holder will work with the appropriate county agency to develop reasonable alternatives to protect the individual and others; and	person and the case manager, and with other licensed caregivers, if any, who also provide support to the person. (b) The policy must include the following requirements: (1) the license holder must notify the person and case manager in writing of the intended termination or temporary service suspension, and the person's right to seek a temporary order staying the termination of service according to the procedures in section 256.045, subdivision 4a, or 6, paragraph (c); (2) notice of the proposed termination of services, including those situations that began with a temporary service suspension, must be given at least 60 days before the proposed termination is to become effective when a license holder is providing independent living skills training, structured day, prevocational or supported employment services to the person, and 30 days prior to termination for all other services licensed under this chapter; (3) the license holder must provide information requested by the person or case manager when services are temporarily suspended or upon notice of termination; (4) prior to giving notice of service termination or temporary service suspension, the license holder must document actions taken to minimize or eliminate the need for service suspension or termination; (5) during the temporary service suspension or service termination notice period, the license holder will work with the appropriate county agency to develop reasonable alternatives to protect the person

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	and others; (6) the license holder must maintain information about the service suspension or termination, including the written termination notice, in the service recipient record; and (7) the license holder must restrict temporary service suspension to situations in which the person's behavior causes immediate and serious danger to the health and safety of the person or others
(2) quality services measured through a program evaluation process including regular evaluations of consumer satisfaction and sharing the results of the evaluations with the consumers and legal representatives.	[*Additional QA/QI requirements will be addressed in phase 2 for tier 2 services.*]
Subd. 9. **Availability of current written policies and procedures.** The license holder shall: (1) review and update, as needed, the written policies and procedures in this chapter; (2) inform consumers or the consumer's legal representatives of the written policies and procedures in this chapter upon service initiation. Copies of policies and procedures affecting a consumer's rights under section 245D.04 must be provided upon service initiation. Copies of all other policies and procedures must be available to consumers or the consumer's legal representatives, case managers, the county where services are located, and the commissioner upon request; (3) provide all consumers or the consumers' legal representatives and case managers a copy of the revised policies and procedures and explanation of the revisions ~~to policies and procedures~~ that affect consumers' service-related or protection-related rights under section 245B.04 and maltreatment reporting policies and procedures. Unless there is reasonable cause, the license holder must provide	**[245D.10] POLICIES AND PROCEDURES.** Subd. 4. **Availability of current written policies and procedures.** (a) The license holder must review and update, as needed, the written policies and procedures required under this chapter. (b) The license holder must inform the person and case manager of the policies and procedures affecting a person's rights under section 245D.04, and provide copies of those policies and procedures, within five working days of service initiation. (c) The license holder must provide a written notice at least 30 days before implementing any revised policies and procedures affecting a person's rights under section 245D.04. The notice must explain the revision that was made and include a copy of the revised policy and procedure. The license holder must document the reason for not providing the notice at least 30 days before implementing the revisions. (d) Before implementing revisions to required policies and procedures the license holder must

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this notice at least 30 days before implementing the revised policy and procedure. The license holder must document the reason for not providing the notice at least 30 days before implementing the revisions; (4) annually notify all consumers or the consumers' legal representatives and case managers of any revised policies and procedures under this chapter, other than those in clause (3). Upon request, the license holder must provide the consumer or consumer's legal representative and case manager copies of the revised policies and procedures;\(5) before implementing revisions to policies and procedures under this chapter, inform all employees of the revisions and provide training on implementation of the revised policies and procedures; and (6) document and maintain relevant information related to the policies and procedures in this chapter.	inform all employees of the revisions and provide training on implementation of the revised policies and procedures.
Subd. 10. **Consumer funds.**	**[245D.06] PROTECTION STANDARDS** Subd. 4. **Funds and property.** [*This section contains the same requirements as in 245B.10, except where the 245B requirements have repeated in this section of 245D.*]
(a) The license holder must ensure that consumers retain the use and availability of personal funds or property unless restrictions are justified in the consumer's individual service plan.	
(b) The license holder must ensure separation of consumer funds from funds of the license holder, the program, or program staff.	
(c) Whenever the license holder assists a consumer with the safekeeping of funds or other property, the license holder must have written authorization to do so by the	(a) Whenever the license holder assists a person with the safekeeping of funds or other property according to section 245A.04, subdivision 13, the license

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consumer or the consumer's legal representative, and the case manager. In addition, the license holder must: (1) document receipt and disbursement of the consumer's funds or the property; (2) annually survey, document, and implement the preferences of the consumer, consumer's legal representative, and the case manager for frequency of receiving a statement that itemizes receipts and disbursements of consumer funds or other property; and (3) return to the consumer upon the consumer's request, funds and property in the license holder's possession subject to restrictions in the consumer's individual service plan, as soon as possible, but no later than three working days after the date of the request.	holder must have written authorization to do so from the person and the case manager.
(d) License holders and program staff must not: (1) borrow money from a consumer; (2) purchase personal items from a consumer; (3) sell merchandise or personal services to a consumer; (4) require a consumer to purchase items for which the license holder is eligible for reimbursement; ~~or~~ (5) use consumer funds in a manner that would violate section 256B.04, or any rules promulgated under that section~~.~~; or (6) accept powers-of-attorney from a person receiving services from the license holder for any purpose, and may not accept an appointment as guardian or conservator of a person receiving services from the license holder. This does not apply to license holders that are Minnesota counties or other units of government..	(b) A license holder or staff person may not accept powers-of-attorney from a person receiving services from the license holder for any purpose, and may not accept an appointment as guardian or conservator of a person receiving services from the license holder. This does not apply to license holders that are Minnesota counties or other units of government or to staff persons employed by license holders who were acting as power-of-attorney, guardian, or conservator for specific individuals prior to enactment of this section. The license holder must maintain documentation of the power-of-attorney, guardianship, or conservatorship in the service recipient record.
Subd. 11. **Travel time to and from a day training and habilitation site.** Except in unusual circumstances, the license holder must not transport a consumer receiving services for longer than 90 minutes per one-way trip. Nothing in this subdivision relieves the	[*Additional policy requirements will be addressed in phase 2 for tier 2 services.*]

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provider of the obligation to provide the number of program hours as identified in the individualized service plan.	
Subd. 12. **Separate license required for separate sites.** The license holder shall apply for separate licenses for each day training and habilitation service site owned or leased by the license holder at which persons receiving services and the provider's employees who provide training and habilitation services are present for a cumulative total of more than 30 days within any 12-month period, and for each residential service site. Notwithstanding this subdivision, a separate license is not required for a day training and habilitation service site used only for the limited purpose of providing transportation to consumers receiving community-based day training and habilitation services from a license holder.	[*Additional policy requirements will be addressed in phase 2 for tier 2 services.*]
Subd. 13. **Variance.** The commissioner may grant a variance to any of the requirements in sections 245B.02 to 245B.07 except section 245B.07, subdivision 8(1)(vii), or provisions governing data practices and information rights of consumers if the conditions in section 245A.04, subdivision 9 are met. Upon the request of the license holder, the commissioner shall continue variances from the standards in this chapter previously granted under Minnesota Rules that are repealed as a result of this chapter. The commissioner may approve variances for a license holder on a program, geographic, or organizational basis.	[*Allowed under 245A.*]
245A.65 MALTREATMENT OF VULNERABLE ADULTS.	
Subdivision 1. **License holder requirements.** All license holders serving vulnerable adults shall establish	[*Same requirement under 245D.*]

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and enforce written policies and procedures related to suspected or alleged maltreatment, and shall orient clients and mandated reporters who are under the control of the license holder to these procedures, as defined in section 626.5572, subdivision 16.	
(a) License holders must establish policies and procedures allowing but not mandating the internal reporting of alleged or suspected maltreatment. License holders shall ensure that the policies and procedures on internal reporting: (1) meet all the requirements identified for the optional internal reporting policies and procedures in section 626.557, subdivision 4a; and (2) identify the primary and secondary person or position to whom internal reports may be made and the primary and secondary person or position responsible for forwarding internal reports to the common entry point as defined in section 626.5572, subdivision 5. The secondary person must be involved when there is reason to believe that the primary person was involved in the alleged or suspected maltreatment.	[*Same requirement under 245D.*]
(b) The license holder shall: (1) establish and maintain policies and procedures to ensure that an internal review is completed when the facility has reason to know that an internal or external report of alleged or suspected maltreatment has been made. The review must include an evaluation of whether related policies and procedures were followed, whether the policies and procedures were adequate, whether there is a need for additional staff training, and whether there is a need for any further action to be taken by the facility to protect the health and safety of vulnerable adults;	[*Same requirement under 245D.*]

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(2) identify the primary and secondary person or position who will ensure that, when required, internal reviews are completed. The secondary person shall be involved when there is reason to believe that the primary person was involved in the alleged or suspected maltreatment; and (3) document and make internal reviews accessible to the commissioner upon the commissioner's request.	
(c) The license holder shall provide an orientation to the internal and external reporting procedures to all persons receiving services. The orientation shall include the telephone number for the license holder's common entry point as defined in section 626.5572, subdivision 5. If applicable, the person's legal representative must be notified of the orientation. The program shall provide this orientation for each new person within 24 hours of admission, or for persons who would benefit more from a later orientation, the orientation may take place within 72 hours.	[*Same requirement under 245D.*]
(d) The license holder shall post a copy of the internal and external reporting policies and procedures, including the telephone number of the common entry point as defined in section 626.5572, subdivision 5, in a prominent location in the program and have it available upon request to mandated reporters, persons receiving services, and the person's legal representatives.	[*Same requirement under 245D.*]
Subd. 2. **Abuse prevention plans.** 245B License holders are exempt from the requirements of this subdivision when they meet the requirements of section 245B.06, Subd. 2.	[*Tier 1 services are subject to subd. 2.*]
Subd. 3. **Orientation of mandated reporters.** The license holder shall ensure that each new mandated reporter, as defined in section 626.5572, subdivision 16, who is under the control of the license holder, receives	[*Same requirement under 245D.*]

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an orientation within 72 hours of first providing direct contact services as defined in section 245C.02, subdivision 11, to a vulnerable adult and annually thereafter. The orientation and annual review shall inform the mandated reporters of the reporting requirements and definitions in sections 626.557 and 626.5572, the requirements of this section, the license holder's program abuse prevention plan and all internal policies and procedures related to the prevention and reporting of maltreatment of individuals receiving services.	
245A.66 REQUIREMENTS; MALTREATMENT OF MINORS.	
Subdivision 1. **Internal review**. Except for family child care settings and foster care for children in the license holder's residence, license holders serving children shall: (1) establish and maintain policies and procedures to ensure that an internal review is completed and that corrective action is taken if necessary to protect the health and safety of children in care when the facility has reason to know that an internal or external report of alleged or suspected maltreatment has been made. The review must include an evaluation of whether: (i) related policies and procedures were followed; (ii) the policies and procedures were adequate; (iii) there is a need for additional staff training; (iv) the reported event is similar to past events with the children or the services involved; and (v) there is a need for corrective action by the license holder to protect the health and safety of children in	[*Same requirement under 245D.*]

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care. Based on the results of this review, the license holder must develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by individuals or the license holder, if any; (2) identify the primary and secondary person or position who will ensure that, when required, internal reviews are completed. The secondary person shall be involved when there is reason to believe that the primary person was involved in the alleged or suspected maltreatment; and (3) document that the internal review has been completed and provide documentation showing the review was completed to the commissioner upon the commissioner's request. The documentation provided to the commissioner by the license holder may consist of a completed checklist that verifies completion of each of the requirements of the review.	