

## **HCBS: Implementation plan for 2025 legislative changes**

New laws passed by the 2025 Legislature include several provisions that impact home and community-based services (HCBS). This document outlines an overview of each change, instructions for what license holders need to do about the change, and the date the change is effective.

The hyperlinks within this document direct license holders to where the new laws can be found. When reviewing the new laws:

- Text that is stricken with a line through it reflects words that are being removed from the law.
- Text that is underlined reflects words that are being added to the law.
- Text that is unchanged reflects what the law was before and continues to be the law.

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## Training on the program's drug and alcohol policy

### Overview

License holders must provide training to employees, subcontractors, and volunteers on the program's drug and alcohol policy *before the employee, subcontractor, or volunteer has direct contact* with a person served by the program.

[Laws of Minnesota 2025, chapter 38, article 5, section 5](#)

*Effective date: August 1, 2025*

### What license holders need to do

Before an employee, subcontractor, or volunteer provides face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by the program, the license holder must provide training on the program's drug and alcohol policy and document the training according to Minnesota Statutes, section 245D.095. DHS will update the sample forms on the HCBS licensing webpage to reflect this change.

## License application and renewal fees

### Overview

Effective January 1, 2026, license application fees for 245D licenses will be \$4,200. License renewal fees will also increase, based on revenues from the previous calendar year.

[Laws of Minnesota 2025, 1st Spec. Sess., chapter 9, article 10, sections 6 and 8](#)

*Effective date: January 1, 2026*

### What license holders need to do

The legislature increased renewal fees for most licensed programs, including HCBS. In the fall, DHS will issue invoices for the next year's license renewal fees. The license holder will be charged the new 2026 fee based on the program's previous year's revenues according to Minnesota Statutes, section 245A.10. The license holder must pay the renewal fee before the upcoming calendar year to receive a license for that year.

## Change of ownership

### Overview

DHS may complete a licensing review when owners on a license change. Whenever there is any change to ownership, including a change of ownership that qualifies for the exception under section 245A.043, subdivision

2, paragraph (b), the license holder must notify DHS of the change and the date it takes effect. License holders will be charged a fee for each license subject to the change of ownership, including the exception under section 245A.043, subdivision 2, paragraph (b). The fee will be \$4,200 for a 245D license and \$2,100 for any other license.

[Laws of Minnesota 2025, 1st Spec. Sess., chapter 9, article 10, sections 3 and 7](#)

*Effective date: July 1, 2025; Fee (January 1, 2026)*

### **What license holders need to do**

License holders must notify DHS by contacting their HCBS licensor when they sell 100% of their program assets.

If 100% of the assets are being sold and all of the controlling individuals will change, the new license holder(s) must complete a new license application and submit an application fee. Starting January 1, 2026, the application fee for a 245D license is \$4,200.

Starting January 1, 2026, a fee of \$4,200 must be submitted if 100% of the assets are being sold but at least one controlling individual who has been affiliated with the license for at least 12 months prior is remaining on the license. A new license application does not need to be completed, but the change will need to be communicated to DHS through a change in information form. The process for submitting the fee and change form will be provided to the license holder after the notification to their licensor of the change.

## **Positive support competency program and qualifications**

### **Overview**

There are now additional ways to qualify as a positive support professional or positive support analyst. The session law also establishes a positive supports competency program.

[Laws of Minnesota 2025, chapter 38, article 1, section 5](#)

[Laws of Minnesota 2025, 1st Spec. Sess., chapter 9, article 2, sections 6, 7, and 59](#)

*Effective date: July 1, 2025, except the baccalaureate degree language takes effect August 1, 2025*

### **What license holders need to do**

DHS will establish a Positive Supports Competency Program. Positive support professionals and positive support analysts now have the option of completing the competency-based training program to qualify for their positions. An individual's qualifications to be a positive support professional or positive support analyst will need to be provided on the forms and using the process provided by DHS.

Positive support analysts now can have either:

- two years of supervised experience conducting functional behavior assessments and designing, implementing, and evaluating effectiveness of positive practices behavior support strategies for people who exhibit challenging behaviors as well as co-occurring mental disorders and neurocognitive disorder, **or**
- for those who have obtained a baccalaureate degree in one of the behavioral sciences or related fields, demonstrated expertise in positive support services.

Beginning August 1, 2025, positive support analysts may qualify by meeting the requirements in option 2.

## **Prohibited condition of service provision**

### **Overview**

This section prohibits license holders from requiring a person to have or obtain a guardian or conservator as a condition of receiving or continuing to receive services.

[Laws of Minnesota 2025, chapter 38, article 1, section 6](#)

*Effective date: August 1, 2025*

### **What license holders need to do**

License holders are prohibited from requiring a person to have or obtain a guardian or conservator as a condition of receiving or continuing to receive HCBS services.

## **Out-of-home respite for children**

### **Overview**

This section establishes requirements for 245D license holders to provide licensed respite services to people under age 18 in an out-of-home, unlicensed setting.

[Laws of Minnesota 2025, 1st Spec. Sess., chapter 9, article 2, section 8](#)

*Effective date: January 1, 2026, or upon federal approval, whichever is later*

### **What license holders need to do**

*Please note: License holders may not provide out-of-home respite care services to children in an unlicensed setting until January 1, 2026, or until federal approval is received. DHS will notify license holders when this takes effect.*

If a 245D license holder plans to provide out-of-home respite care services in an unlicensed setting, the license holder must ensure compliance with the following.

**License holder requirements:**

- License holders must ensure the requirements listed below are met. If the child is on a disability waiver, all applicable requirements for respite care in chapter 245D must be met.
- License holders must complete all background studies requirements, according to chapter 245C.
- License holders must maintain documentation of the following:
  - Background studies completed under chapter 245C,
  - Service recipient records with the calendar dates and times when services were provided,
  - The case manager's initial residential setting assessment and each residential assessment completed thereafter, and
  - The legal representative's approval of the residential setting before services are provided and each year thereafter.

**On-site visits required:**

- A child's case manager must conduct and document an assessment of the residential setting and its environment. The assessment must be completed before services are provided and at least once each calendar year thereafter if services continue to be provided at that residence. The assessment must ensure that the setting is suitable for the child receiving respite services.
- A child's legal representative must visit the residence and sign and date a statement authorizing services in the residence. This must occur before services are provided and at least once each calendar year thereafter if services continue to be provided at that residence.

**Limitations on services:**

- The residential setting cannot be licensed to provide any other licensed services.
- Each individual in the residence at the time services are provided (other than individuals receiving services) must be an employee of the license holder and have a background study completed under chapter 245C. No other household members or other individuals may be present in the residence while services are provided. This means spouses/partners, children, other family members, and visitors cannot be present in the home while services are being provided.
- The services cannot be provided to more than four children at any one time. Each child must have an individual bedroom, except two siblings may share a bedroom.
- The services cannot be provided to children and adults over the age of 21 in the same residence at the same time.
- The services cannot be provided to a family for more than 46 calendar days in a calendar year and no more than 10 consecutive days.
- A license holder may not provide out-of-home respite for children in an unlicensed setting if their license was in a conditional status, suspended, or revoked in the previous 24 months.
- A child may not receive out-of-home respite care services in more than two unlicensed residential settings in a calendar year.
- The child receiving services may not be in foster care under chapters 260C or 260D.

## Additional information

### HCBS Early and Often

The legislature funded positions for the HCBS Licensing Unit to create an Early and Often team. The Early and Often team will assist applicants through the application process and visit programs early and often, providing technical assistance on the first visit, in addition to guidance on licensing and billing requirements several times throughout the first years of operation. An investigator from the Program Integrity Oversight Division will also join in licensing visits to provide technical assistance and guidance.

The Early and Often team will conduct the first technical assistance licensing review soon after a new license holder initiates HCBS services. At this review, the licenser will monitor for compliance for all 245D requirements for service recipients and staff. This first review will provide technical assistance and will result in a licensing review report, not a correction order.

All new license holders will receive another visit a year after initial service delivery. Additional reviews may occur with the addition of new service recipients.

*Included in the 2024 budget without enacting language.*

Look for additional information from DHS as the HCBS Early and Often team and processes are developed.

### Compliance education

Starting in 2027, DHS will make licensing compliance education available to all license holders. The education materials will include clear explanations about how to comply with licensing requirements.

[Laws of Minnesota 2025, 1st Spec. Sess., chapter 9, article 2, section 2](#)

*Effective date: January 1, 2027*

### Temporary licensing moratorium

DHS may implement a temporary licensing moratorium when it determines that exceptional growth in applications for licensure or requests to add new services exceeds the determined need for service capacity. A temporary licensing moratorium may be effective for up to 24 months from the date it is issued. Any applicant that will not receive a license due to a moratorium may apply for a refund of application fees for up to one year from the date the moratorium is issued.

DHS will publish notice of a moratorium on the licensing webpage. DHS will also publish the processes and criteria that will be used to grant exceptions to the moratorium.

[Laws of Minnesota 2025, 1st Spec. Sess., chapter 9, article 10, section 1](#)

*Effective date: July 1, 2025*

## **Conditional licenses**

DHS must inform an HCBS license holder when their next licensing review may result in a conditional license. However, DHS may still take an immediate action if the health, safety, or rights of persons served by the program are imminently endangered.

DHS may reduce the length of time of a conditional license if the license holder demonstrates compliance or progress toward compliance.

[Laws of Minnesota 2025, 1st Spec. Sess., chapter 9, article 2, section 4](#)

*Effective date: January 1, 2027*

## **List of legal resources**

This change requires DHS to provide a list of legal resources on letters that are sent to license holders who are subject to an enforcement action. The list of resources will help license holders know who they could contact if they need legal advice.

[Laws of Minnesota 2025, 1st Spec. Sess., chapter 9, article 2, section 3](#)

*Effective date: January 1, 2026*

## **Mediation after request for reconsideration**

Beginning January 1, 2027, DHS must offer the option of mediation for an HCBS license holder if their request for reconsideration is denied and they further dispute the correction order. The license holder must pay for the costs of mediation.

[Laws of Minnesota 2025, 1st Spec. Sess., chapter 9, article 2, section 5](#)

*Effective date: January 1, 2027*

## **DHS report on 245D licenses**

By January 1, 2027, and each year thereafter, DHS must issue a report that includes data on 245D licenses. The report will include the number of correction orders and conditional licenses issued.

[Laws of Minnesota 2025, 1st Spec. Sess., chapter 9, article 2, section 4](#)

*Effective date: January 1, 2027*



## **Temporary immediate suspension**

This change allows DHS to issue a temporary immediate suspension if the license holder or controlling individual is the subject of a pending administrative, civil, or criminal investigation or subject to an administrative or civil action related to fraud against a program administered by a state or federal agency.

[Laws of Minnesota 2025, 1<sup>st</sup> Spec. Sess., chapter 3, article 17, section 6](#)

*Effective date: July 1, 2025*

## **Anti-kickback**

The session law updates anti-kickback statutes to state that offering, giving, soliciting, or receiving anything of value to influence referrals or services could result in administrative sanctions, such as withholding payments or recovering overpayments. The session law also adds kickbacks to the Minnesota criminal code.

[Laws of Minnesota 2025, chapter 38, article 5, sections 27, 28, and 32](#)

*Effective date: August 1, 2025*

## **Community residential setting clarifications**

These sections provide clarifying language regarding community residential settings and remove obsolete language.

[Laws of Minnesota 2025, chapter 38, article 5, sections 12 and 34](#)

*Effective date: August 1, 2025*

## **Background studies**

Updates on legislative changes related to background studies are posted on the ["What's new" for background studies webpage](#).