A bill for an act

relating to human services; modifying child foster care license moratorium exceptions, MnCHOICES assessor requirements, targeted case management requirements, early intensive developmental and behavioral intervention requirements, cost data report review, and maltreatment of vulnerable adult processes; making technical corrections; amending Minnesota Statutes 2024, sections 245A.03, subdivision 7; 256B.0625, by adding a subdivision; 256B.0911, subdivision 32; 256B.0924, subdivisions 3, 5, 7, by adding a subdivision; 256B.0949, by adding a subdivision; 256B.4905, subdivision 2a; 256B.5012, subdivision 21; 256B.851, subdivision 8; 256S.21, subdivision 3; 626.557, subdivisions 9, 9a, 12b, by adding subdivisions; 626.5572, subdivisions 2, 9, 17, by adding subdivisions; Minnesota Statutes 2025 Supplement, sections 245D.091, subdivisions 2, 3; 256B.0911, subdivision 13; 256B.0924, subdivision 6; 256B.0949, subdivisions 2, 16; 256B.4914, subdivision 10a; 626.5572, subdivision 13; repealing Minnesota Statutes 2024, sections 256B.5012, subdivisions 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16; 626.557, subdivision 10.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2024, section 245A.03, subdivision 7, is amended to read:

Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, which does not include child foster residence settings with residential program certifications for compliance with the Family First Prevention Services Act under section 245A.25, subdivision 1, paragraph (a), or adult foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter for a physical location that will not be the primary residence of the license holder for the entire period of licensure. If a child foster residence setting that was previously exempt from the licensing moratorium under this paragraph has its Family First Prevention Services Act certification rescinded under section 245A.25, subdivision 9, or if a family adult foster care home license is issued during this moratorium, and the license

holder changes the license holder's primary residence away from the physical location of the foster care license, the commissioner shall revoke the license according to section 245A.07. The commissioner shall not issue an initial license for a community residential setting licensed under chapter 245D. When approving an exception under this paragraph, the commissioner shall consider the resource need determination process in paragraph (h), the availability of foster care licensed beds in the geographic area in which the licensee seeks to operate, the results of a person's choices during their annual assessment and service plan review, and the recommendation of the local county board. The determination by the commissioner is final and not subject to appeal. Exceptions to the moratorium include:

(1) a license for a person in a foster care setting that is not the primary residence of the license holder and where at least 80 percent of the residents are 55 years of age or older;

~~(2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or community residential setting licenses replacing adult foster care licenses in existence on December 31, 2013, and determined to be needed by the commissioner under paragraph (b);~~

~~(3)~~ (2) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24; or

~~(4)~~ (3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital-level care~~; or~~.

~~(5) new community residential setting licenses determined necessary by the commissioner for people affected by the closure of homes with a capacity of five or six beds currently licensed as supervised living facilities licensed under Minnesota Rules, chapter 4665, but not designated as intermediate care facilities. This exception is available until June 30, 2025.~~

(b) The commissioner shall determine the need for newly licensed foster care homes or community residential settings as defined under this subdivision. As part of the determination, the commissioner shall consider the availability of foster care capacity in the area in which the licensee seeks to operate, and the recommendation of the local county board. The determination by the commissioner must be final. A determination of need is not required for a change in ownership at the same address.

(c) When an adult resident served by the program moves out of a foster home that is not the primary residence of the license holder according to section 256B.49, subdivision 15, paragraph (f), or the adult community residential setting, the county shall immediately inform the Department of Human Services Licensing Division. The department may decrease the statewide licensed capacity for adult foster care settings.

(d) Residential settings that would otherwise be subject to the decreased license capacity established in paragraph (c) must be exempt if the license holder's beds are occupied by residents whose primary diagnosis is mental illness and the license holder is certified under the requirements in subdivision 6a or section 245D.33.

(e) A resource need determination process, managed at the state level, using the available data required by section 144A.351, and other data and information must be used to determine where the reduced capacity determined under section 256B.493 will be implemented. The commissioner shall consult with the stakeholders described in section 144A.351, and employ a variety of methods to improve the state's capacity to meet the informed decisions of those people who want to move out of corporate foster care or community residential settings, long-term service needs within budgetary limits, including seeking proposals from service providers or lead agencies to change service type, capacity, or location to improve services, increase the independence of residents, and better meet needs identified by the long-term services and supports reports and statewide data and information.

(f) At the time of application and reapplication for licensure, the applicant and the license holder that are subject to the moratorium or an exclusion established in paragraph (a) are required to inform the commissioner whether the physical location where the foster care will be provided is or will be the primary residence of the license holder for the entire period of licensure. If the primary residence of the applicant or license holder changes, the applicant or license holder must notify the commissioner immediately. The commissioner shall print on the foster care license certificate whether or not the physical location is the primary residence of the license holder.

(g) License holders of foster care homes identified under paragraph (f) that are not the primary residence of the license holder and that also provide services in the foster care home that are covered by a federally approved home and community-based services waiver, as authorized under chapter 256S or section 256B.092 or 256B.49, must inform the human services licensing division that the license holder provides or intends to provide these waiver-funded services.

(h) The commissioner may adjust capacity to address needs identified in section 144A.351. Under this authority, the commissioner may approve new licensed settings or delicense existing settings. Delicensing of settings will be accomplished through a process identified in section 256B.493.

(i) The commissioner must notify a license holder when its corporate foster care or community residential setting licensed beds are reduced under this section. The notice of reduction of licensed beds must be in writing and delivered to the license holder by certified mail or personal service. The notice must state why the licensed beds are reduced and must inform the license holder of its right to request reconsideration by the commissioner. The license holder's request for reconsideration must be in writing. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds. If a request for reconsideration is made by personal service, it must be received by the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

(j) The commissioner shall not issue an initial license for children's residential treatment services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter for a program that Centers for Medicare and Medicaid Services would consider an institution for mental diseases. Facilities that serve only private pay clients are exempt from the moratorium described in this paragraph. The commissioner has the authority to manage existing statewide capacity for children's residential treatment services subject to the moratorium under this paragraph and may issue an initial license for such facilities if the initial license would not increase the statewide capacity for children's residential treatment services subject to the moratorium under this paragraph.

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

Sec. 2. Minnesota Statutes 2025 Supplement, section 245D.091, subdivision 2, is amended to read:

Subd. 2. **Positive support professional qualifications.** A positive support professional providing positive support services as identified in section 245D.03, subdivision 1, paragraph (c), clause (1), item (i), must have competencies in the following areas as required under the brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans or successor plans:

(1) ethical considerations;

(2) functional assessment;

(3) functional analysis;

(4) measurement of behavior and interpretation of data;

(5) selecting intervention outcomes and strategies;

(6) behavior reduction and elimination strategies that promote least restrictive approved alternatives;

(7) data collection;

(8) staff and caregiver training;

(9) support plan monitoring;

(10) co-occurring mental disorders or neurocognitive disorder;

(11) demonstrated expertise with populations being served; and

(12) must be a:

(i) psychologist licensed under sections 148.88 to 148.98, who has stated to the Board of Psychology competencies in the above identified areas;

(ii) clinical social worker licensed as an independent clinical social worker under chapter 148E, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the areas identified in clauses (1) to (11);

(iii) physician licensed under chapter 147 and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry with competencies in the areas identified in clauses (1) to (11);

(iv) licensed professional clinical counselor licensed under sections ~~148B.29 to 148B.39~~ 148B.5301 and 148B.532 with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services who has demonstrated competencies in the areas identified in clauses (1) to (11);

(v) person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services with demonstrated competencies in the areas identified in clauses (1) to (11);

(vi) person with a master's degree or PhD in one of the behavioral sciences or related fields with demonstrated expertise in positive support services, as determined by the person's needs as outlined in the person's assessment summary;

(vii) registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist or as a nurse practitioner in adult or family psychiatric and mental health nursing by a national nurse certification organization, or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services; or

(viii) person who has completed a competency-based training program as determined by the commissioner.

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

Sec. 3. Minnesota Statutes 2025 Supplement, section 245D.091, subdivision 3, is amended to read:

Subd. 3. **Positive support analyst qualifications.** (a) A positive support analyst providing positive support services as identified in section 245D.03, subdivision 1, paragraph (c), clause (1), item (i), must satisfy one of the following requirements as required under the brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans or successor plans:

(1) have obtained a baccalaureate degree, master's degree, or PhD in either a social services discipline or nursing;

(2) meet the qualifications of a mental health practitioner as defined in section 245.462, subdivision 17;

(3) be a ~~board-certified~~ licensed behavior analyst or a board-certified assistant behavior analyst certified by the Behavior Analyst Certification Board, Incorporated; or

(4) have completed a competency-based training program as determined by the commissioner.

(b) In addition, a positive support analyst must:

(1) either have 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;

(2) have received training prior to hire or within 90 calendar days of hire that includes:

(i) ten hours of instruction in functional assessment and functional analysis;

(ii) 20 hours of instruction in the understanding of the function of behavior;

(iii) ten hours of instruction on design of positive practices behavior support strategies;

(iv) 20 hours of instruction preparing written intervention strategies, designing data collection protocols, training other staff to implement positive practice strategies, summarizing and reporting program evaluation data, analyzing program evaluation data to identify design flaws in behavioral interventions or failures in implementation fidelity, and recommending enhancements based on evaluation data; and

(v) eight hours of instruction on principles of person-centered thinking;

(3) be determined by a positive support professional to have the training and prerequisite skills required to provide positive practice strategies as well as behavior reduction approved and permitted intervention to the person who receives positive support; and

(4) be under the direct supervision of a positive support professional.

(c) Meeting the qualifications for a positive support professional under subdivision 2 shall substitute for meeting the qualifications listed in paragraph (b).

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

Sec. 4. Minnesota Statutes 2024, section 256B.0625, is amended by adding a subdivision to read:

Subd. 77. **Early intensive developmental and behavioral intervention benefit.** Medical assistance covers early intensive developmental and behavioral intervention services according to section 256B.0949.

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

Sec. 5. Minnesota Statutes 2025 Supplement, section 256B.0911, subdivision 13, is amended to read:

Subd. 13. **MnCHOICES assessor qualifications, training, and certification.** (a) The commissioner shall develop and implement a curriculum and an assessor certification process.

(b) MnCHOICES certified assessors must have received training and certification specific to assessment and consultation for long-term care services in the state and either:

(1) have at least an associate's degree in human services, or other closely related field;

(2) have at least an associate's degree in nursing with a public health nursing certificate, or other closely related field; or

(3) be a registered nurse.

(c) Certified assessors shall demonstrate best practices in assessment and support planning, including person-centered planning principles, and have a common set of skills that ensures consistency and equitable access to services statewide.

(d) Certified assessors must be recertified every three years.

(e) A Tribal Nation may establish the Tribal Nation's own education and experience qualifications for certified assessors.

EFFECTIVE DATE. This section is effective January 1, 2027, or upon federal approval, whichever is later.

Sec. 6. Minnesota Statutes 2024, section 256B.0911, subdivision 32, is amended to read:

Subd. 32. **Administrative activity.** (a) The commissioner shall:

(1) streamline the processes, including timelines for when assessments need to be completed;

(2) provide the services in this section; and

(3) implement integrated solutions to automate the business processes to the extent necessary for support plan approval, reimbursement, program planning, evaluation, and policy development.

(b) The commissioner shall work with lead agencies responsible for conducting long-term care consultation services to~~:~~

~~(1)~~ modify the MnCHOICES application and assessment policies to create efficiencies while ensuring federal compliance with medical assistance and long-term services and supports eligibility criteria~~; and~~.

~~(2) develop a set of measurable benchmarks sufficient to demonstrate quarterly improvement in the average time per assessment and other mutually agreed upon measures of increasing efficiency.~~

~~(c) The commissioner shall collect data on the benchmarks developed under paragraph (b) and provide to the lead agencies an annual trend analysis of the data in order to demonstrate the commissioner's compliance with the requirements of this subdivision.~~

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

Sec. 7. Minnesota Statutes 2024, section 256B.0924, subdivision 3, is amended to read:

Subd. 3. **Eligibility.** Persons are eligible to receive targeted case management services under this section if the requirements in paragraphs (a) and (b) are met.

(a) The person must be assessed and determined by the local county or Tribal agency to:

(1) be age 18 or older;

(2) be receiving medical assistance;

(3) have significant functional limitations; and

(4) be in need of service coordination to attain or maintain living in an integrated community setting.

(b) Except as permitted under paragraph (c), the person must be: (i) a vulnerable adult in need of adult protection as defined in section 626.5572~~, or is~~; (ii) an adult with a developmental disability as defined in section 252A.02, subdivision 2~~, or~~; (iii) an adult with a related condition as defined in section 256B.02, subdivision 11, ~~and~~ who is not receiving home and community-based waiver services~~,~~; or ~~is~~ (iv) an adult who lacks a permanent residence and who has been without a permanent residence for at least one year or on at least four occasions in the last three years.

(c) Tribal agencies may make a determination of eligibility under Tribal governance codes for adult protection or policy procedures consistent with section 626.5572 when determining whether a person is a vulnerable adult in need of adult protection or an adult with developmental disabilities or a related condition.

EFFECTIVE DATE. This section is effective January 1, 2027, or upon federal approval, whichever is later.

Sec. 8. Minnesota Statutes 2024, section 256B.0924, subdivision 5, is amended to read:

Subd. 5. **Provider standards.** County boards ~~or~~, providers who contract with the county, or Tribal government contracted providers are eligible to receive medical assistance reimbursement for adult targeted case management services. To qualify as a provider of targeted case management services the vendor must:

(1) have demonstrated the capacity and experience to provide the activities of case management services defined in subdivision 4;

(2) be able to coordinate and link community resources needed by the recipient;

(3) have the administrative capacity and experience to serve the eligible population in providing services and to ensure quality of services under state and federal requirements;

(4) have a financial management system that provides accurate documentation of services and costs under state and federal requirements;

(5) have the capacity to document and maintain individual case records complying with state and federal requirements;

(6) coordinate with county social ~~service~~ services or Tribal human services agencies responsible for planning for community social services under chapters 256E and 256F; conducting adult protective investigations under section 626.557, and conducting prepetition screenings for commitments under section 253B.07;

(7) coordinate with health care providers to ensure access to necessary health care services;

(8) have a procedure in place that notifies the recipient and the recipient's legal representative of any conflict of interest if the contracted targeted case management service provider also provides the recipient's services and supports and provides information on all potential conflicts of interest and obtains the recipient's informed consent and provides the recipient with alternatives; and

(9) have demonstrated the capacity to achieve the following performance outcomes: access, quality, and consumer satisfaction.

EFFECTIVE DATE. This section is effective January 1, 2027, or upon federal approval, whichever is later.

Sec. 9. Minnesota Statutes 2024, section 256B.0924, is amended by adding a subdivision to read:

Subd. 5a. **Tribal case manager qualifications.** An individual is authorized to serve as a vulnerable adult and developmental disability targeted case manager if the individual is certified by a federally recognized Tribal government in Minnesota pursuant to section 256B.02, subdivision 7, paragraph (c).

Sec. 10. Minnesota Statutes 2025 Supplement, section 256B.0924, subdivision 6, is amended to read:

Subd. 6. **Payment for targeted case management.** (a) Medical assistance and MinnesotaCare payment for targeted case management shall be made on a monthly basis.

In order to receive payment for an eligible adult, the provider must document at least one contact per month and not more than two consecutive months without a face-to-face contact either in person or by interactive video that meets the requirements in section 256B.0625, subdivision 20b, with the adult or the adult's legal representative, family, primary caregiver, or other relevant persons identified as necessary to the development or implementation of the goals of the personal service plan.

(b) Except as provided under paragraph (m), payment for targeted case management provided by county staff under this subdivision shall be based on the monthly rate methodology under section 256B.094, subdivision 6, paragraph (b), calculated as one combined average rate together with adult mental health case management under section 256B.0625, subdivision 20~~, except for calendar year 2002~~. ~~In calendar year 2002, the rate for case management under this section shall be the same as the rate for adult mental health case management in effect as of December 31, 2001.~~ Billing and payment must identify the recipient's primary population group to allow tracking of revenues.

(c) Payment for targeted case management provided by county-contracted vendors shall be based on a monthly rate calculated in accordance with section 256B.076, subdivision 2. Payment for case management provided by vendors who contract with a Tribe must be made in accordance with Indian health service facility requirements. If a Tribe chooses to contract with a vendor receiving payment not through an Indian health service facility, the rate must be based on a monthly rate negotiated by the Tribe. The rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county or Tribe, except to reimburse the county or Tribe for advance funding provided by the county or Tribe to the vendor.

(d) If the service is provided by a team that includes any combination of contracted vendors ~~and~~, county staff, and Tribal staff, the costs for county staff participation on the team shall be included in the rate for county-provided services. In this case, the contracted vendor and the county and Tribal case managers may each receive separate payment for services provided by each entity in the same month. In order to prevent duplication of services, ~~the county~~ each entity must document~~, in the recipient's file,~~ the need for team targeted case management and a description of the different roles of ~~the team members~~ staff.

(e) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of costs for targeted case management shall be provided by the recipient's county of responsibility, as defined in sections 256G.01 to 256G.12, from sources other than federal funds or funds

used to match other federal funds. If the service is provided by a Tribal agency, the recipient's Tribe must provide the nonfederal share of costs, if any.

(f) The commissioner may suspend, reduce, or terminate reimbursement to a provider that does not meet the reporting or other requirements of this section. The county of responsibility, as defined in sections 256G.01 to 256G.12, or Tribe when applicable, is responsible for any federal disallowances. The county may share this responsibility with its contracted vendors.

(g) The commissioner shall set aside five percent of the federal funds received under this section for use in reimbursing the state for costs of developing and implementing this section.

(h) Payments to counties and Tribes for targeted case management expenditures under this section shall only be made from federal earnings from services provided under this section. Payments to contracted vendors shall include both the federal earnings and the county share.

(i) Notwithstanding section 256B.041, county or Tribal payments for the cost of case management services provided by county or Tribal staff shall not be made to the commissioner of management and budget. For the purposes of targeted case management services provided by county or Tribal staff under this section, the centralized disbursement of payments to counties or Tribes under section 256B.041 consists only of federal earnings from services provided under this section.

(j) If the recipient is a resident of a nursing facility, intermediate care facility, or hospital, and the recipient's institutional care is paid by medical assistance, payment for targeted case management services under this subdivision is limited to the lesser of:

(1) the last 180 days of the recipient's residency in that facility; or

(2) the limits and conditions which apply to federal Medicaid funding for this service.

(k) Payment for targeted case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

(l) Any growth in targeted case management services and cost increases under this section shall be the responsibility of the counties or Tribes.

(m) The commissioner may make payments for Tribes according to section 256B.0625, subdivision 34, or other relevant federally approved rate setting methodologies for vulnerable adult and developmental disability targeted case management provided by Indian health services and facilities operated by a Tribe or Tribal organization.

EFFECTIVE DATE. This section is effective January 1, 2027, or upon federal approval, whichever is later.

Sec. 11. Minnesota Statutes 2024, section 256B.0924, subdivision 7, is amended to read:

Subd. 7. **Implementation and evaluation.** The commissioner of human services in consultation with county boards and Tribal Nations shall establish a program to accomplish the provisions of subdivisions 1 to 6. The commissioner in consultation with county boards and Tribal Nations shall establish performance measures to evaluate the effectiveness of the targeted case management services. If a county or Tribe fails to meet agreed-upon performance measures, the commissioner may authorize contracted providers other than the county or Tribe. Providers contracted by the commissioner shall also be subject to the standards in subdivision 6.

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

Sec. 12. Minnesota Statutes 2025 Supplement, section 256B.0949, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given in this subdivision.

(b) "Advanced certification" means a person who has completed advanced certification in an approved modality under subdivision 13, paragraph (b).

(c) "Agency" means the legal entity that is enrolled with Minnesota health care programs as a medical assistance provider according to Minnesota Rules, part 9505.0195, to provide EIDBI services and that has the legal responsibility to ensure that its employees carry out the responsibilities defined in this section. Agency includes a licensed individual professional who practices independently and acts as an agency.

(d) "Autism spectrum disorder or a related condition" or "ASD or a related condition" means either autism spectrum disorder (ASD) as defined in the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or a condition that is found to be closely related to ASD, as identified under the current version of the DSM, and meets all of the following criteria:

(1) is severe and chronic;

(2) results in impairment of adaptive behavior and function similar to that of a person with ASD;

(3) requires treatment or services similar to those required for a person with ASD; and

(4) results in substantial functional limitations in three core developmental deficits of ASD: social or interpersonal interaction; functional communication, including nonverbal or social communication; and restrictive or repetitive behaviors or hyperreactivity or hyporeactivity to sensory input; and may include deficits or a high level of support in one or more of the following domains:

(i) behavioral challenges and self-regulation;

(ii) cognition;

(iii) learning and play;

(iv) self-care; or

(v) safety.

(e) "Behavior analyst" means an individual licensed under sections 148.9981 to 148.9995 as a behavior analyst.

(f) "Clinical supervision" means the overall responsibility for the control and direction of EIDBI service delivery, including ~~individual treatment planning,~~ staff supervision, including observation and direction; individual treatment plan development and progress monitoring~~,~~; family training and counseling; and ~~treatment review~~ coordinated care conference coordination for each person. Clinical supervision is provided by a qualified supervising professional (QSP) who takes full professional responsibility for the service provided by each supervisee and the clinical effectiveness of all interventions.

(g) "Commissioner" means the commissioner of human services, unless otherwise specified.

(h) "Comprehensive multidisciplinary evaluation" or "CMDE" means a comprehensive evaluation of a person to determine medical necessity for EIDBI services based on the requirements in subdivision 5.

(i) "Department" means the Department of Human Services, unless otherwise specified.

(j) "Early intensive developmental and behavioral intervention benefit" or "EIDBI benefit" means a variety of individualized, intensive treatment modalities approved and published by the commissioner that are based in behavioral and developmental science consistent with best practices on effectiveness.

(k) "Employee of an agency" or "employee" means any individual who is employed temporarily, part time, or full time by the agency that is submitting claims or billing for the

work, services, supervision, or treatment performed by the individual. Employee does not include an independent contractor, billing agency, or consultant who is not providing EIDBI services. Employee does not include an individual who performs work, provides services, supervises, or provides treatment for less than 80 hours in a 12-month period.

(l) "Generalizable goals" means results or gains that are observed during a variety of activities over time with different people, such as providers, family members, other adults, and people, and in different environments including, but not limited to, clinics, homes, schools, and the community.

(m) "Incident" means when any of the following occur:

(1) an illness, accident, or injury that requires first aid treatment;

(2) a bump or blow to the head; or

(3) an unusual or unexpected event that jeopardizes the safety of a person or staff, including a person leaving the agency unattended.

(n) "Individual treatment plan" or "ITP" means the person-centered, individualized written plan of care that integrates and coordinates person and family information from the CMDE for a person who meets medical necessity for the EIDBI benefit. An individual treatment plan must meet the standards in subdivision 6.

(o) "Legal representative" means the parent of a child who is under 18 years of age, a court-appointed guardian, or other representative with legal authority to make decisions about service for a person. For the purpose of this subdivision, "other representative with legal authority to make decisions" includes a health care agent or an attorney-in-fact authorized through a health care directive or power of attorney.

(p) "Mental health professional" means a staff person who is qualified according to section 245I.04, subdivision 2.

(q) "Person" means an individual under 21 years of age.

(r) "Person-centered" means a service that both responds to the identified needs, interests, values, preferences, and desired outcomes of the person or the person's legal representative and respects the person's history, dignity, and cultural background and allows inclusion and participation in the person's community.

(s) "Qualified EIDBI provider" means an individual who is a QSP or a level I, level II, or level III treatment provider.

Sec. 13. Minnesota Statutes 2025 Supplement, section 256B.0949, subdivision 16, is amended to read:

Subd. 16. **Agency duties.** (a) An agency delivering an EIDBI service under this section must:

(1) enroll as a medical assistance Minnesota health care program provider according to Minnesota Rules, part 9505.0195, and section 256B.04, subdivision 21, and meet all applicable provider standards and requirements;

(2) designate an individual as the agency's compliance officer who must perform the duties described in section 256B.04, subdivision 21, paragraph (g);

(3) demonstrate compliance with federal and state laws for the delivery of and billing for EIDBI service;

(4) verify and maintain records of a service provided to the person or the person's legal representative as required under Minnesota Rules, parts 9505.2175 and 9505.2197;

(5) demonstrate that while enrolled or seeking enrollment as a Minnesota health care program provider the agency did not have a lead agency contract or provider agreement discontinued because of a conviction of fraud; or did not have an owner, board member, or manager fail a state or federal criminal background check or appear on the list of excluded individuals or entities maintained by the federal Department of Human Services Office of Inspector General;

(6) have established business practices including written policies and procedures, internal controls, and a system that demonstrates the organization's ability to deliver quality EIDBI services, appropriately submit claims, conduct required staff training, document staff qualifications, document service activities, and document service quality;

(7) have an office located in Minnesota or a border state;

(8) initiate a background study as required under subdivision 16a;

(9) report maltreatment according to section 626.557 and chapter 260E;

(10) comply with any data requests consistent with the Minnesota Government Data Practices Act, sections 256B.064 and 256B.27;

(11) provide training for all agency staff on the requirements and responsibilities listed in the Maltreatment of Minors Act, chapter 260E, and the Vulnerable Adult Protection Act, section 626.557, including mandated and voluntary reporting, nonretaliation, and the agency's policy for all staff on how to report suspected abuse and neglect;

(12) have a written policy to resolve issues collaboratively with the person and the person's legal representative when possible. The policy must include a timeline for when the person and the person's legal representative will be notified about issues that arise in the provision of services;

(13) provide the person's legal representative with prompt notification if the person is injured while being served by the agency. An incident report must be completed by the agency staff member in charge of the person. A copy of all incident and injury reports must remain on file at the agency for at least five years from the report of the incident;

(14) before starting a service, provide the person or the person's legal representative a description of the treatment modality that the person shall receive, including the staffing certification levels and training of the staff who shall provide a treatment;

(15) provide clinical supervision for a minimum of one hour for every 16 hours of direct treatment per person, unless otherwise authorized in the person's individual treatment plan; and

(16) provide the required EIDBI intervention observation and direction by a QSP or Level I provider at least once per month. Notwithstanding subdivision 13, paragraph (l), required EIDBI intervention observation and direction under this clause may be conducted via telehealth provided that no more than two consecutive monthly required EIDBI intervention observation and direction sessions under this clause are conducted via telehealth.

(b) Upon request of the commissioner, an agency delivering services under this section must:

(1) identify the agency's controlling individuals, as defined under section 245A.02, subdivision 5a;

(2) provide disclosures of the use of billing agencies and other consultants who do not provide EIDBI services; and

(3) provide copies of any contracts with consultants or independent contractors who do not provide EIDBI services, including hours contracted and responsibilities.

(c) When delivering the ITP, and annually thereafter, an agency must provide the person or the person's legal representative with:

(1) a written copy and a verbal explanation of the person's or person's legal representative's rights and the agency's responsibilities;

(2) documentation in the person's file the date that the person or the person's legal representative received a copy and explanation of the person's or person's legal representative's rights and the agency's responsibilities; and

(3) reasonable accommodations to provide the information in another format or language as needed to facilitate understanding of the person's or person's legal representative's rights and the agency's responsibilities.

Sec. 14. Minnesota Statutes 2024, section 256B.0949, is amended by adding a subdivision to read:

Subd. 19. **Documentation requirements.** (a) CMDE and EIDBI providers must ensure that all documentation, including but not limited to health service records and personnel files, complies with this subdivision, subdivision 16, and Minnesota Rules, parts 9505.2175 and 9505.2197. Documentation must be complete, legible, accurate, and readily accessible.

(b) All documentation must:

(1) be legible and understandable to individuals outside service delivery;

(2) include the participant's name on each health record page and the provider's name on each personnel file page;

(3) be signed and dated by the provider completing the documentation, with the provider's full name, title, and credentials;

(4) be entered within 72 hours of service, and contain a record and explanation of any delays in entry;

(5) clearly reflect clinical decision-making and support medical necessity;

(6) be securely stored in accordance with the Health Insurance Portability and Accountability Act (HIPAA), Public Law 104-191;

(7) be stored in accordance with state and federal document retention laws;

(8) be available for review or audit;

(9) include a record of caregiver involvement where applicable; and

(10) include a record of supervision and oversight for staff providing services requiring supervision under EIDBI policy.

(c) Each EIDBI service occurrence must be documented in a progress note in a manner and with the information determined by the commissioner.

(d) All providers must maintain current personnel records for each employee in a manner determined by the commissioner that include:

(1) the employee's name, contact information, and hire date;

(2) the employee's completed employment application and acknowledgment of duties;

(3) the job description for the employee's job with the effective date;

(4) verification of the employee's qualifications, including but not limited to education, licenses, certifications, enrollment attestation, degrees, transcripts, and experience;

(5) a background check pursuant to chapter 245C;

(6) orientation and required training the employee attended, including but not limited to training on mandated reporting, cultural responsiveness, and EIDBI competencies;

(7) the dates of the employee's first supervised and unsupervised client contact following employment;

(8) documentation of supervision received by the employee, including but not limited to the supervisor's name and credentials, dates of supervision, and supervision content;

(9) the employee's CPR and emergency response training, if required; and

(10) the employee's annual performance evaluations.

Sec. 15. Minnesota Statutes 2024, section 256B.4905, subdivision 2a, is amended to read:

Subd. 2a. **Informed choice policy.** (a) It is the policy of this state that all adults who have disabilities and, with support from their families or legal representatives, that all children who have disabilities:

(1) may make informed choices to select and utilize disability services and supports; and

(2) are offered an informed decision-making process sufficient to make informed choices.

(b) It is the policy of this state that disability waivers services support the presumption that adults who have disabilities and, with support from their families or legal representatives, all children who have disabilities may make informed choices; and that all adults who have disabilities and all families of children who have disabilities and are accessing waiver services under sections 256B.092 and 256B.49 are provided an informed decision-making process that satisfies the requirements of subdivision 3a.

(c) Lead agencies must support individuals in making informed choices by:

(1) providing complete and accurate information about available home and community-based services and settings;

(2) providing the information in a manner that is culturally and linguistically appropriate; and

(3) facilitating access to services that reflect the individual's preferences and assessed needs.

(d) For individuals who are members of or affiliated with a federally recognized Tribal Nation located within Minnesota, informed choice includes the right to receive services administered or provided by the individual's Tribal Nation. Lead agencies must:

(1) inform individuals of services offered by Tribal Nations enrolled as Minnesota health care providers;

(2) directly coordinate with the individual's Tribal Nation human services agency when the individual seeks or may be eligible for services administered or provided by that Tribal Nation; and

(3) ensure that service planning and delivery respects the individual's rights as both a member of a sovereign Tribal Nation and a resident of Minnesota.

(e) County lead agencies and Tribal Nation human services agencies must establish and maintain procedures to share updated contact information, coordinate case management, and provide timely referrals necessary to ensure that informed choice is fully exercised.

(f) Nothing in this section limits the sovereignty of Tribal Nations or the authority of Tribal governments to administer home and community-based services to their members.

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

Sec. 16. Minnesota Statutes 2025 Supplement, section 256B.4914, subdivision 10a, is amended to read:

Subd. 10a. **Reporting and analysis of cost data.** (a) The commissioner must ensure that wage values and component values in subdivisions 5 to 9 reflect the cost to provide the service. As determined by the commissioner, in consultation with community partners identified in subdivision 17, a provider enrolled to provide services with rates determined under this section must submit requested cost data to the commissioner to support research on the cost of providing services that have rates determined by the disability waiver rates system. Requested cost data may include, but is not limited to:

(1) worker wage costs;

(2) benefits paid;

(3) supervisor wage costs;

(4) executive wage costs;

(5) vacation, sick, and training time paid;

(6) taxes, workers' compensation, and unemployment insurance costs paid;

(7) administrative costs paid;

(8) program costs paid;

(9) transportation costs paid;

(10) vacancy rates; and

(11) other data relating to costs required to provide services requested by the commissioner.

(b) At least once in any five-year period, a provider must submit cost data for a fiscal year that ended not more than 18 months prior to the submission date. The commissioner shall provide each provider a 90-day notice prior to its submission due date. The commissioner may review report submissions for inaccurate, inconclusive, incomplete, or otherwise deficient data and may remove the report from submitted status for further verification. If a provider fails to submit required reporting data, the commissioner shall provide notice to providers that have not provided required data 30 days after the required submission date, and a second notice for providers who have not provided required data 60 days after the required submission date. The commissioner shall temporarily suspend payments to the provider if cost data is not received 90 days after the required submission date. Withheld payments shall be made once data is received and reviewed for compliance by the commissioner.

(c) The commissioner shall conduct a random validation of data submitted under paragraph (a) to ensure data accuracy. Providers selected to validate cost reports must respond to the commissioner within 30 days with the requested financial documentation. If a provider fails to respond to the commissioner with all the requested information within 30 days, the commissioner must temporarily suspend payments. The commissioner must resume payments once the requested documentation is received. If a provider is unable to validate the provider's costs with supporting documentation, the commissioner must require the provider to participate in the random validation the next year that the commissioner

selects providers to report their costs. The commissioner shall analyze cost documentation in paragraph (a) and provide recommendations for adjustments to cost components.

(d) The commissioner shall analyze cost data submitted under paragraph (a). The commissioner shall release cost data in an aggregate form. Cost data from individual providers must not be released except as provided for in current law.

(e) Beginning January 1, 2029, the commissioner shall use data collected in paragraph (a) to determine the compliance with requirements identified under subdivision 10d. The commissioner shall identify providers who have not met the thresholds identified under subdivision 10d on the Department of Human Services website for the year for which the providers reported their costs.

EFFECTIVE DATE. This section is effective January 1, 2027.

Sec. 17. Minnesota Statutes 2024, section 256B.5012, subdivision 21, is amended to read:

Subd. 21. **ICF/DD rate increases after January 1, 2025.** Beginning January 1, 2025, and every year thereafter, the minimum daily operating rates under this section must be updated for the percentage change in the Consumer Price Index (CPI-U) from the previous July 1 to the data available 12 months and one day prior.

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

Sec. 18. Minnesota Statutes 2024, section 256B.851, subdivision 8, is amended to read:

Subd. 8. **Personal care provider agency; required reporting of cost data; training.** (a) As determined by the commissioner and in consultation with stakeholders, agencies enrolled to provide services with rates determined under this section must submit requested cost data to the commissioner. The commissioner may request cost data, including but not limited to:

(1) worker wage costs;

(2) benefits paid;

(3) supervisor wage costs;

(4) executive wage costs;

(5) vacation, sick, and training time paid;

(6) taxes, workers' compensation, and unemployment insurance costs paid;

(7) administrative costs paid;

(8) program costs paid;

(9) transportation costs paid;

(10) staff vacancy rates; and

(11) other data relating to costs required to provide services requested by the commissioner.

(b) At least once in any three-year period, a provider must submit the required cost data for a fiscal year that ended not more than 18 months prior to the submission date. The commissioner must provide each provider a 90-day notice prior to its submission due date. The commissioner may review report submissions for inaccurate, inconclusive, incomplete, or otherwise deficient data and may remove the report from submitted status for further verification. If a provider fails to submit required cost data, the commissioner must provide notice to a provider that has not provided required cost data 30 days after the required submission date and a second notice to a provider that has not provided required cost data 60 days after the required submission date. The commissioner must temporarily suspend payments to a provider if the commissioner has not received required cost data 90 days after the required submission date. The commissioner must make withheld payments when the required cost data is received and reviewed for compliance by the commissioner.

(c) The commissioner must conduct a random validation of data submitted under this subdivision to ensure data accuracy. A provider selected to validate the provider's cost reports must respond to the commissioner within 30 days with the requested financial documentation. If a provider fails to respond to the commissioner with the requested information within 30 days, the commissioner must temporarily suspend payments. The commissioner must resume payments once the requested documentation is received. If a provider is unable to validate the provider's costs with supporting documentation, the commissioner must require the provider to participate in the random validation the next year that the commissioner selects providers to report their costs. The commissioner shall analyze cost documentation in paragraph (a) and provide recommendations for adjustments to cost components.

(d) The commissioner, in consultation with stakeholders, must develop and implement a process for providing training and technical assistance necessary to support provider submission of cost data required under this subdivision.

EFFECTIVE DATE. This section is effective January 1, 2027.

Sec. 19. Minnesota Statutes 2024, section 256S.21, subdivision 3, is amended to read:

Subd. 3. **Cost reporting.** (a) As determined by the commissioner, in consultation with stakeholders, a provider enrolled to provide services with rates determined under this chapter must submit requested cost data to the commissioner to support evaluation of the rate methodologies in this chapter. Requested cost data may include but are not limited to:

(1) worker wage costs;

(2) benefits paid;

(3) supervisor wage costs;

(4) executive wage costs;

(5) vacation, sick, and training time paid;

(6) taxes, workers' compensation, and unemployment insurance costs paid;

(7) administrative costs paid;

(8) program costs paid;

(9) transportation costs paid;

(10) vacancy rates; and

(11) other data relating to costs required to provide services requested by the commissioner.

(b) At least once in any five-year period, a provider must submit the required cost data for a fiscal year that ended not more than 18 months prior to the submission date. The commissioner ~~shall~~ must provide each provider a 90-day notice prior to the provider's submission due date. The commissioner may review report submissions for inaccurate, inconclusive, incomplete, or otherwise deficient data and may remove the report from submitted status for further verification. If by 30 days after the required submission date a provider fails to submit required reporting data, the commissioner ~~shall~~ must provide notice to the provider~~, and~~. If by 60 days after the required submission date a provider has not provided the required data, the commissioner ~~shall~~ must provide a second notice. The commissioner ~~shall~~ must temporarily suspend payments to ~~the~~ a provider if the commissioner has not received the required cost data ~~is not received~~ 90 days after the required submission date or 90 days after the Department of Human Services requests updated data. The commissioner must make withheld payments ~~must be made once data is received~~ when the required cost data is received and reviewed for compliance by the commissioner.

(c) The commissioner shall coordinate the cost reporting activities required under this section with the cost reporting activities directed under section 256B.4914, subdivision 10a.

(d) The commissioner shall analyze cost documentation in paragraph (a) and, in consultation with stakeholders, may submit recommendations on rate methodologies in this chapter, including ways to monitor and enforce the spending requirements directed in section ~~256S.2101, subdivision 3,~~ 256S.211, subdivision 4, through the reports directed by subdivision 2.

EFFECTIVE DATE. This section is effective January 1, 2027.

Sec. 20. Minnesota Statutes 2024, section 626.557, is amended by adding a subdivision to read:

Subd. 1a. **Adult protective services.** Adult protective services must receive referrals from the common entry point and carry out lead investigative agency duties to investigate for a determination of responsibility for maltreatment. When the county social services agency is the lead investigative agency, or when the Department of Human Services or Department of Health in the role of the lead investigative agency request adult protective services, adult protective services must conduct assessments, develop services plans, and implement interventions to safeguard adults who are vulnerable and suspected of experiencing maltreatment. Adult protective services must conclude services following final determination of maltreatment and the adult is assessed as safe. The Department of Human Services is the state agency responsible for supervision of adult protective services administered by county social services agencies.

Sec. 21. Minnesota Statutes 2024, section 626.557, subdivision 9, is amended to read:

Subd. 9. **Common entry point designation.** (a) The commissioner of human services shall establish a common entry point. The common entry point is the unit responsible for receiving the report of suspected maltreatment under this section.

(b) The common entry point must be available 24 hours per day to ~~take calls~~ accept reports from reporters of suspected maltreatment and make required referrals for suspected maltreatment of a vulnerable adult. The common entry point shall use a standard intake form that includes:

(1) the time and date of the report;

(2) the name, relationship, and identifying and contact information for the person believed to be a vulnerable adult and the individual or facility alleged responsible for maltreatment;

(3) the name, relationship, and contact information for the:

(i) reporter;

(ii) initial reporter, witnesses, and persons who may have knowledge about the maltreatment; and

(iii) legal surrogate and persons who may provide support to the vulnerable adult;

(4) the basis of vulnerability for the vulnerable adult;

(5) the time, date, and location of the incident;

(6) the immediate safety risk to the vulnerable adult;

(7) a description of the suspected maltreatment;

(8) the impact of the suspected maltreatment on the vulnerable adult;

(9) whether a facility was involved and, if so, which agency licenses the facility;

(10) the actions taken to protect the vulnerable adult;

(11) the required notifications and referrals made by the common entry point; and

(12) whether the reporter wishes to receive notification of the disposition.

(c) The common entry point is not required to complete each item on the form prior to dispatching the report to the appropriate lead investigative agency.

(d) The common entry point shall immediately report to a law enforcement agency any incident in which there is reason to believe a crime has been committed.

(e) If a report is initially made to a law enforcement agency or a lead investigative agency, those agencies shall take the report on the appropriate common entry point intake forms and immediately forward a copy to the common entry point.

(f) The common entry point staff must receive training on how to screen and dispatch reports efficiently and in accordance with this section.

(g) The commissioner of human services shall maintain a centralized database for the collection of common entry point data, lead investigative agency data including maltreatment report disposition, and appeals data. The common entry point shall have access to the centralized database and must log the reports into the database.

(h) When appropriate, the common entry point staff must refer calls that do not allege the abuse, neglect, or exploitation of a vulnerable adult to other organizations that might resolve the reporter's concerns.

(i) A common entry point must be operated in a manner that enables the commissioner of human services to:

(1) track critical steps in the reporting, evaluation, referral, response, disposition, and investigative process to ensure compliance with all requirements for all reports;

(2) maintain data to facilitate the production of aggregate statistical reports for monitoring patterns of abuse, neglect, or exploitation;

(3) serve as a resource for the evaluation, management, and planning of preventative and remedial services for vulnerable adults who have been subject to abuse, neglect, or exploitation;

(4) set standards, priorities, and policies to maximize the efficiency and effectiveness of the common entry point; and

(5) track and manage consumer complaints related to the common entry point.

(j) The commissioners of human services and health shall collaborate on the creation of a system for referring reports to the lead investigative agencies. This system shall enable the commissioner of human services to track critical steps in the reporting, evaluation, referral, response, disposition, investigation, notification, determination, and appeal processes.

Sec. 22. Minnesota Statutes 2024, section 626.557, subdivision 9a, is amended to read:

Subd. 9a. **Evaluation and referral of reports made to common entry point.** (a) The common entry point must screen the reports of alleged or suspected maltreatment for immediate risk and make all necessary referrals ~~as follows~~ using the referral guidelines established by the commissioner and the following:

(1) if the common entry point determines that there is an immediate need for emergency adult protective services, the common entry point agency shall immediately notify the appropriate county agency;

(2) if the report contains suspected criminal activity against a vulnerable adult, the common entry point shall immediately notify the appropriate law enforcement agency;

(3) the common entry point shall refer all reports of alleged or suspected maltreatment to the appropriate lead investigative agency as soon as possible, but in any event no longer than two working days;

(4) if the report contains information about a suspicious death, the common entry point shall immediately notify the appropriate law enforcement agencies, the local medical examiner, and the ombudsman for mental health and developmental disabilities established

under section 245.92. Law enforcement agencies shall coordinate with the local medical examiner and the ombudsman as provided by law; and

(5) for reports involving multiple locations or changing circumstances, the common entry point shall determine the county agency responsible for emergency adult protective services and the county responsible as the lead investigative agency~~, using referral guidelines established by the commissioner~~.

(b) If the lead investigative agency receiving a report believes the report was referred by the common entry point in error, the lead investigative agency shall immediately notify the common entry point of the error, including the basis for the lead investigative agency's belief that the referral was made in error. The common entry point shall review the information submitted by the lead investigative agency and immediately refer the report to the appropriate lead investigative agency using the referral guidelines established by the commissioner.

Sec. 23. Minnesota Statutes 2024, section 626.557, is amended by adding a subdivision to read:

Subd. 11b. **County social services agency; responsibilities.** The county social services agency is responsible for supervision of:

(1) intake decisions for initial disposition of the report;

(2) agency prioritization used to screen out an adult meeting eligibility for adult protective services as vulnerable and maltreated;

(3) safety, assessment, and services plans;

(4) protective service interventions;

(5) use of guardianship and other involuntary interventions;

(6) final determination for maltreatment; and

(7) case closure decisions.

Sec. 24. Minnesota Statutes 2024, section 626.557, is amended by adding a subdivision to read:

Subd. 11c. **County social services agency; referrals.** (a) When the common entry point refers a report to the county social services agency as the lead investigative agency or makes a referral to the county social services agency for emergency adult protective services, or when another lead investigative agency requests adult protective services from the county

social services agency for an adult referred to that lead investigative agency by the common entry point, the county social services agency must use the data report system and standardized decision and assessment tools provided by the commissioner of human services. The information entered by the county social services agency into the data system and standardized tools must be accessible to the Department of Human Services for the department to meet federal requirements, evaluate consistent application of policy, review quality of services and outcomes for adults, and meet requirements for background studies and disqualification of individuals determined responsible for vulnerable adult maltreatment under chapter 245C.

(b) The county social services agency must screen the report using the standardized tools provided by the commissioner to determine:

(1) whether the referred adult meets adult protective services eligibility as potentially vulnerable and maltreated under this section; and

(2) the response time required to initiate adult protective services.

(c) For reports referred by the common entry point for emergency adult protective services, the county social services agency must immediately screen the report to determine whether the adult should be accepted for emergency adult protective services. If the adult is accepted for emergency adult protective services, the county social services agency must immediately offer protective services to prevent further maltreatment and safeguard the welfare of the vulnerable adult. Assessment of adults accepted by the county social services agency for emergency protective services must be conducted in person by the agency or a designee within 24 hours of the agency receiving the referral. When sexual or physical abuse is suspected, the county social services agency must immediately arrange for and make available to the vulnerable adult appropriate medical examination and services.

(d) For reports referred by the common entry point to the county as lead investigative agency, the county social services agency must screen the report and make an initial determination within seven calendar days following receipt of the report from the common entry point on whether the adult should be accepted for adult protective services.

(e) For referrals made for adult protective services by the Department of Human Services or the Department of Health in the applicable department's role as the lead investigative agency responsible for reports made under this section, the county social services agency must screen the report and determine within seven calendar days following receipt of referral whether the adult should be accepted for adult protective services.

(f) If an adult meets eligibility requirements but is not accepted for adult protective services based on local agency prioritization, the agency must document the reason for the screening decision in the standardized tool provided by the commissioner.

Sec. 25. Minnesota Statutes 2024, section 626.557, is amended by adding a subdivision to read:

Subd. 11d. **County social services agency; assessments.** (a) For adults accepted into adult protective services, the county social services agency must decide, prior to initiation of assessment activities, if the agency must also conduct an investigation for final disposition for responsibility of maltreatment in addition to the assessment for adult protective services.

(b) The county social services agency must conduct assessments concurrently with investigations when: (1) the county is both the lead investigative agency and responsible for making a final determination of responsibility for maltreatment; or (2) another lead investigative agency responsible for the final determination of maltreatment requests assistance from the county social services agency.

(c) The county social services agency must conduct an in-person assessment to initiate adult protective services:

(1) within 24 hours of accepting a referral for emergency protective services;

(2) within 24 hours of making an initial disposition that the adult is in immediate need of protection, unless an in-person response would endanger the safety of the adult; or

(3) within 72 hours but in no instance later than seven calendar days from the first business day after receiving the report for adults accepted for adult protective services.

(d) The county social services agency must use the standardized decision, assessment, and service planning tools provided by the commissioner with all vulnerable adults accepted for adult protective services. The county social services agency must involve the vulnerable adult in the assessment and service plan. The county social services agency must document and update assessment and service plans consistent with significant changes in the vulnerable adult's health and safety.

(e) The county social services agency must notify the vulnerable adult and, if applicable, the guardian or health care agent of the vulnerable adult of the results of the assessment and service plan, including but not limited to recommendations for protective services intervention to stop or prevent maltreatment and to protect the vulnerable adult's health, safety, and comfort. When necessary to prevent further maltreatment or safeguard the vulnerable adult,

the county social services agency may share the results of the assessment with the vulnerable adult's primary supports.

Sec. 26. Minnesota Statutes 2024, section 626.557, is amended by adding a subdivision to read:

Subd. 11e. **County social services agency; investigations.** (a) The county social services agency must investigate for a final disposition of responsibility for maltreatment for an allegation of:

(1) abuse;

(2) financial abuse by a fiduciary;

(3) financial exploitation involving a nonfiduciary that may be criminal or that involved force, coercion, harassment, deception, fraud, undue influence, or a scam;

(4) financial exploitation that involved another type of maltreatment;

(5) caregiver neglect by a paid caregiver or personal care assistance provider under chapter 256B;

(6) caregiver neglect by an unpaid caregiver that resulted in intentional harm to the vulnerable adult or involved another type of maltreatment; and

(7) a situation for which the county social services agency finds that a determination of responsibility of maltreatment may safeguard a vulnerable adult or prevent further maltreatment.

(b) The county social services agency must conduct an investigation for final disposition of responsibility for maltreatment if the agency receives information during an assessment that indicates the presence of any scenario listed in paragraph (a) or subdivision 11f.

Sec. 27. Minnesota Statutes 2024, section 626.557, is amended by adding a subdivision to read:

Subd. 11f. **County social services agency; self-neglect.** (a) The county social services agency may determine that an allegation that does not result in a determination of responsibility for maltreatment is:

(1) self-neglect;

(2) neglect by an unpaid caregiver that did not result in intentional harm to the vulnerable adult and did not involve another type of alleged maltreatment; or

(3) financial exploitation by a nonfiduciary that is consistent with the choice of the adult and not criminal or involving force, coercion, harassment, deception, fraud, undue influence, a scam, or another type of alleged maltreatment.

(b) An allegation of self-neglect is a substantiated determination if the county social services agency determines that adult protective services are needed.

Sec. 28. Minnesota Statutes 2024, section 626.557, is amended by adding a subdivision to read:

Subd. 11g. **County social services agency; initial contact.** (a) At the initial contact with the vulnerable adult accepted by the county social services agency, the agency must provide the vulnerable adult with information about the process for adult protective services and the vulnerable adult's rights as an adult protective client.

(b) At initial contact, the county social services agency must inform the individual or entity alleged responsible for maltreatment of the allegation in a manner consistent with requirements under this section to protect the identity of the reporter. The interview with the individual or entity alleged responsible for maltreatment may be postponed at the request of a law enforcement agency or if the interview may endanger the safety of the vulnerable adult.

Sec. 29. Minnesota Statutes 2024, section 626.557, is amended by adding a subdivision to read:

Subd. 11h. **County social services agency; agency authority.** (a) A county social services agency may enter all facilities and business premises of a licensed provider to inspect and copy records as part of an adult protective services assessment or investigation. The licensed provider must provide the county social services agency access to not public data as defined in section 13.02, subdivision 8a, and medical records under sections 144.291 to 144.298 that are maintained at the facilities and business premises to the extent that the data and records are necessary to conduct the agency's investigation. The licensed provider must provide the county social services agency access to all available sources of information at the facilities and business premises, not only written records.

(b) When necessary in order to protect a vulnerable adult from serious harm from maltreatment, the county social services agency may seek any of the following protective services interventions:

(1) emergency protective services;

(2) participation of law enforcement or emergency medical services;

(3) authority from a court to remove an adult from the situation in which maltreatment occurred;

(4) a restraining order or court order for removal of the perpetrator from the residence of the vulnerable adult pursuant to section 518.01;

(5) a referral for a financial transaction hold under chapter 45A or a protective arrangement under this chapter or chapter 524;

(6) a referral for a representative payee;

(7) a referral to the prosecuting attorney for possible criminal prosecution of the perpetrator under chapter 609;

(8) the appointment or replacement of a guardian or conservator pursuant to sections 524.5-101 to 524.5-502, or guardianship or conservatorship pursuant to chapter 252A when maltreatment has been substantiated and when less restrictive interventions are not sufficient to stop or reduce the risk of serious harm from maltreatment; and

(9) other interventions recommended by a multidisciplinary team under this section.

(c) The county social services agency may seek the protective services interventions under paragraph (b) regardless of the vulnerable adult's voluntary or involuntary participation.

(d) The county social services agency may offer voluntary service interventions to support the vulnerable adult or primary supports to stop, reduce the risk for, or prevent subsequent maltreatment.

Sec. 30. Minnesota Statutes 2024, section 626.557, is amended by adding a subdivision to read:

Subd. 11i. **County social services agency; legal intervention.** (a) In proceedings under sections 524.5-101 to 524.5-502, if a suitable relative or other person is not available to petition for guardianship or conservatorship, a county employee must present the petition with representation by the county attorney. The county must contract with or arrange for a suitable person or organization to provide ongoing guardianship services. If the county presents evidence to the court exercising probate jurisdiction that the county has made diligent effort and no other suitable person can be found, a county employee may serve as guardian or conservator.

(b) The county must not retaliate against the employee for any action taken on behalf of the person subject to guardianship or conservatorship, even if the action is adverse to the

county's interests. Any person retaliated against in violation of this subdivision shall have a cause of action against the county and is entitled to reasonable attorney fees and costs of the action if the action is upheld by the court.

(c) The expenses of a legal intervention must be paid by the county in the case of indigent persons under section 524.5-502 and chapter 563.

Sec. 31. Minnesota Statutes 2024, section 626.557, is amended by adding a subdivision to read:

Subd. 11j. **County social services agency; conflict of interest.** (a) A county that identifies a potential conflict of interest under paragraph (c) related to an investigation, assessment, or protective services intervention must coordinate with another county social services agency to delegate the initial county's authority as the lead investigative agency to remediate the potential conflict. County social services agencies must cooperate and accept jurisdiction when an initial county social services agency identifies a potential conflict of interest and requests the other county's assistance.

(b) The initial county must notify the commissioner of human services when no other county is available to accept delegation of adult protective services duties. If the commissioner is notified that no other county is available, the commissioner may use the authority under subdivision 9a to determine the county social services agency responsible as lead investigative agency and for adult protective services.

(c) A county social services agency employee or designee must not have:

(1) a personal or family relationship with a party in the investigation or assessment;

(2) a dual relationship, as defined in Code of Federal Regulations, title 45, section 1324.401, with the vulnerable adult;

(3) a personal financial interest or financial relationship with a provider receiving referrals from the employee; or

(4) any other appearance of conflict of interest as determined by the county social services agency.

Sec. 32. Minnesota Statutes 2024, section 626.557, subdivision 12b, is amended to read:

Subd. 12b. **Data management.** (a) In performing any of the duties of this section as a lead investigative agency, the county social ~~service~~ services agency shall maintain appropriate records. Data collected by the county social ~~service~~ services agency under this section while

providing adult protective services are welfare data under section 13.46. Investigative data collected under this section are confidential data on individuals or protected nonpublic data as defined under section 13.02. Notwithstanding section 13.46, subdivision 1, paragraph (a), data under this paragraph that are inactive investigative data on an individual who is a vendor of services are private data on individuals, as defined in section 13.02. The identity of the reporter may only be disclosed as provided in paragraph (c).

Data maintained by the common entry point are confidential data on individuals or protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163, the common entry point shall maintain data for three calendar years after date of receipt and then destroy the data unless otherwise directed by federal requirements.

(b) The commissioners of health and human services shall prepare an investigation memorandum for each report alleging maltreatment investigated under this section. County social ~~service~~ services agencies must maintain private data on individuals but are not required to prepare an investigation memorandum. During an investigation by the commissioner of health or the commissioner of human services, data collected under this section are confidential data on individuals or protected nonpublic data as defined in section 13.02. Upon completion of the investigation, the data are classified as provided in clauses (1) to (3) and paragraph (c).

(1) The investigation memorandum must contain the following data, which are public:

(i) the name of the facility investigated;

(ii) a statement of the nature of the alleged maltreatment;

(iii) pertinent information obtained from medical or other records reviewed;

(iv) the identity of the investigator;

(v) a summary of the investigation's findings;

(vi) statement of whether the report was found to be substantiated, inconclusive, false, or that no determination will be made;

(vii) a statement of any action taken by the facility;

(viii) a statement of any action taken by the lead investigative agency; and

(ix) when a lead investigative agency's determination has substantiated maltreatment, a statement of whether an individual, individuals, or a facility were responsible for the substantiated maltreatment, if known.

The investigation memorandum must be written in a manner which protects the identity of the reporter and of the vulnerable adult and may not contain the names or, to the extent possible, data on individuals or private data listed in clause (2).

(2) Data on individuals collected and maintained in the investigation memorandum are private data, including:

(i) the name of the vulnerable adult;

(ii) the identity of the individual alleged to be the perpetrator;

(iii) the identity of the individual substantiated as the perpetrator; and

(iv) the identity of all individuals interviewed as part of the investigation.

(3) Other data on individuals maintained as part of an investigation under this section are private data on individuals upon completion of the investigation.

(c) The name of the reporter must be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by a court that the report was false and there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure, except that where the identity of the reporter is relevant to a criminal prosecution, the district court shall do an in-camera review prior to determining whether to order disclosure of the identity of the reporter.

(d) Notwithstanding section 138.163, data maintained under this section by the commissioners of health and human services and county adult protective services must be maintained under the following schedule and then destroyed unless otherwise directed by federal requirements:

(1) data from reports determined to be false, maintained for three years after the finding was made for reports under the jurisdiction of the Department of Human Services or the Department of Health and five years after the finding was made for reports under the jurisdiction of county adult protective services;

(2) data from reports determined to be inconclusive, maintained for four years after the finding was made for reports under the jurisdiction of the Department of Human Services or the Department of Health and five years after the finding was made for reports under the jurisdiction of county adult protective services;

(3) data from reports determined to be substantiated, maintained for seven years after the finding was made; and

(4) data from reports which were not investigated by a lead investigative agency and for which there is no final disposition, maintained for three years from the date of the report for reports under the jurisdiction of the Department of Human Services or the Department of Health and five years from the date of the report for reports under the jurisdiction of county adult protective services.

(e) The commissioners of health and human services shall annually publish on their websites the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigation under this section, and the resolution of those investigations.

~~(f) Each lead investigative agency must have a record retention policy.~~

~~(g)~~ (f) Lead investigative agencies, county agencies responsible for adult protective services, prosecuting authorities, and law enforcement agencies may exchange not public data, as defined in section 13.02, with a tribal agency, facility, service provider, vulnerable adult, primary support person for a vulnerable adult, emergency management service, financial institution, medical examiner, state licensing board, federal or state agency, the ombudsman for long-term care, or the ombudsman for mental health and developmental disabilities, if the agency or authority providing the data determines that the data are pertinent and necessary to prevent further maltreatment of a vulnerable adult, to safeguard a vulnerable adult, or for an investigation under this section. Data collected under this section must be made available to prosecuting authorities and law enforcement officials, local county agencies, the commissioner of human services as the state Medicaid agency, and licensing agencies investigating the alleged maltreatment under this section. The lead investigative agency shall exchange not public data with the vulnerable adult maltreatment review panel established in section 256.021 if the data are pertinent and necessary for a review requested under that section. Notwithstanding section 138.17, upon completion of the review, not public data received by the review panel must be destroyed.

~~(h)~~ (g) Each lead investigative agency shall keep records of the length of time it takes to complete its investigations.

~~(i)~~ (h) A lead investigative agency may notify other affected parties and their authorized representative if the lead investigative agency has reason to believe maltreatment has occurred and determines the information will safeguard the well-being of the affected parties or dispel widespread rumor or unrest in the affected facility.

~~(j)~~ (i) Under any notification provision of this section, where federal law specifically prohibits the disclosure of patient identifying information, a lead investigative agency may

not provide any notice unless the vulnerable adult has consented to disclosure in a manner which conforms to federal requirements.

(j) When a county agency acting as the lead investigative agency is aware the person determined responsible for maltreatment is a guardian or conservator appointed under chapter 524, the county agency must share the final determination with the Minnesota Judicial Branch within 14 calendar days of the determination.

Sec. 33. Minnesota Statutes 2024, section 626.5572, subdivision 2, is amended to read:

Subd. 2. **Abuse.** "Abuse" means:

(a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of:

(1) assault in the first through fifth degrees as defined in sections 609.221 to 609.224;

(2) the use of drugs to injure or facilitate crime as defined in section 609.235;

(3) the solicitation, inducement, and promotion of prostitution as defined in section 609.322; and

(4) criminal sexual conduct in the first through fifth degrees as defined in sections 609.342 to 609.3451.

A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction.

(b) Conduct which is not an accident or therapeutic conduct as defined in this section, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following:

(1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult;

(2) use of repeated or malicious oral, written, or gestured language toward a vulnerable adult or the treatment of a vulnerable adult which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening; or

(3) use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult unless authorized under applicable licensing requirements or Minnesota Rules, chapter 9544.

(c) Any contact with the vulnerable adult that is not therapeutic conduct and a reasonable person would consider a sexual act or any nonconsensual sexual interaction with the vulnerable adult, including but not limited to:

(1) making, viewing, or sharing sexual images or videos with or of the vulnerable adult; and

(2) using oral, written, gestured, or electronic communication that is sexually harassing, including but not limited to unwelcome sexual advances or requests for sexual favors.

~~(c)~~ (d) Any sexual contact or penetration as defined in section 609.341, between a facility staff person or a person providing services in the facility and a resident, patient, or client of that facility.

~~(d)~~ (e) The act of forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult's will to perform services for the advantage of another.

~~(e)~~ (f) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C or 252A, or section 253B.03 or 524.5-313, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation. This paragraph does not enlarge or diminish rights otherwise held under law by:

(1) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(2) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct.

~~(f)~~ (g) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult.

~~(g)~~ (h) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with:

(1) a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the caregiving relationship; or

(2) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.

Sec. 34. Minnesota Statutes 2024, section 626.5572, is amended by adding a subdivision to read:

Subd. 3a. **Adult protective services.** "Adult protective services" means an adult protection program administered by a county social services agency under the authority of the agency's governing body or delegated to a Tribal government by the commissioner of human services to support adults referred for maltreatment to live safely and with dignity.

Sec. 35. Minnesota Statutes 2024, section 626.5572, is amended by adding a subdivision to read:

Subd. 3b. **Assessment.** "Assessment" means a structured process conducted by a county social services agency to review the safety, strengths, and needs of an adult referred as vulnerable and maltreated and accepted by the agency for adult protective services and to develop a service plan to stop, prevent, and reduce risk of maltreatment for the adult using standardized tools provided by the Department of Human Services.

Sec. 36. Minnesota Statutes 2024, section 626.5572, subdivision 9, is amended to read:

Subd. 9. **Financial exploitation.** "Financial exploitation" means:

(a) In breach of a fiduciary obligation recognized elsewhere in law, including pertinent regulations, contractual obligations, documented consent by a competent person, or the obligations of a responsible party under section 144.6501, a person:

(1) engages in unauthorized expenditure of funds entrusted to the actor by the vulnerable adult which results or is likely to result in detriment to the vulnerable adult; or

(2) fails to use the financial resources of the vulnerable adult to provide food, clothing, shelter, health care, therapeutic conduct or supervision for the vulnerable adult, and the failure results or is likely to result in detriment to the vulnerable adult.

(b) In the absence of legal authority a person:

(1) willfully uses, withholds, or disposes of funds or property of a vulnerable adult;

(2) obtains for the actor or another the performance of services by ~~a third person~~ the vulnerable adult for the wrongful profit or advantage of the actor or another to the detriment of the vulnerable adult;

(3) acquires possession or control of, or an interest in, funds or property of a vulnerable adult through the use of undue influence, harassment, duress, deception, or fraud; or

(4) forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult's will to perform services for the profit or advantage of another.

(c) Nothing in this definition requires a facility or caregiver to provide financial management or supervise financial management for a vulnerable adult except as otherwise required by law.

Sec. 37. Minnesota Statutes 2024, section 626.5572, is amended by adding a subdivision to read:

Subd. 12a. **Investigation.** "Investigation" means activities for fact gathering conducted by the lead investigative agency to make a final determination of maltreatment.

Sec. 38. Minnesota Statutes 2025 Supplement, section 626.5572, subdivision 13, is amended to read:

Subd. 13. **Lead investigative agency.** "Lead investigative agency" is the primary administrative agency responsible for investigating reports made under section 626.557.

(a) The Department of Health is the lead investigative agency for facilities or services licensed or required to be licensed as hospitals, home care providers, nursing homes, boarding care homes, hospice providers, residential facilities that are also federally certified as intermediate care facilities that serve people with developmental disabilities, or any other facility or service not listed in this subdivision that is licensed or required to be licensed by the Department of Health for the care of vulnerable adults. "Home care provider" has the meaning provided in section 144A.43, subdivision 4, and applies when care or services are delivered in the vulnerable adult's home.

(b) The Department of Human Services is the lead investigative agency for facilities or services licensed or required to be licensed as adult day care, adult foster care, community residential settings, programs for people with disabilities, EIDBI agencies, family adult day services, mental health programs, mental health clinics, substance use disorder programs, the Minnesota Sex Offender Program, or any other facility or service not listed in this subdivision that is licensed or required to be licensed by the Department of Human Services.

The Department of Human Services is also the lead investigative agency for unlicensed EIDBI agencies under section 256B.0949.

(c) The county social ~~service~~ services agency adult protective services or ~~its~~ the agency's designee or a federally recognized Indian Tribe that entered into a contractual agreement with the commissioner of human services to operate adult protective services is the lead investigative agency for all other reports, including but not limited to reports involving vulnerable adults receiving services from a personal care provider organization under section 256B.0659 or 256B.85.

Sec. 39. Minnesota Statutes 2024, section 626.5572, subdivision 17, is amended to read:

Subd. 17. **Neglect.** (a) "Neglect" means neglect by a caregiver or self-neglect.

(b) "Caregiver neglect" means the failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is:

(1) reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult; and

(2) which is not the result of an accident or therapeutic conduct.

(c) "Self-neglect" means neglect by a vulnerable adult of the vulnerable adult's own food, clothing, shelter, health care, financial management, or other services that are not the responsibility of a caregiver which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort.

(d) For purposes of this section, a vulnerable adult is not neglected for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or sections 253B.03 or 524.5-101 to 524.5-502, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult, or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct; ~~or~~

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult;

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with:

(i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or

(ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship; ~~or~~

(4) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult which does not result in injury or harm which reasonably requires medical or mental health care; or

(5) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult that results in injury or harm, which reasonably requires the care of a physician, and:

(i) the necessary care is provided in a timely fashion as dictated by the condition of the vulnerable adult;

(ii) if after receiving care, the health status of the vulnerable adult can be reasonably expected, as determined by the attending physician, to be restored to the vulnerable adult's preexisting condition;

(iii) the error is not part of a pattern of errors by the individual;

(iv) if in a facility, the error is immediately reported as required under section 626.557, and recorded internally in the facility;

(v) if in a facility, the facility identifies and takes corrective action and implements measures designed to reduce the risk of further occurrence of this error and similar errors; and

(vi) if in a facility, the actions required under items (iv) and (v) are sufficiently documented for review and evaluation by the facility and any applicable licensing, certification, and ombudsman agency.

(e) Nothing in this definition requires a caregiver, if regulated, to provide services in excess of those required by the caregiver's license, certification, registration, or other regulation.

(f) If the findings of an investigation by a lead investigative agency result in a determination of substantiated maltreatment for the sole reason that the actions required of a facility under paragraph (d), clause (5), item (iv), (v), or (vi), were not taken, then the facility is subject to a correction order. An individual will not be found to have neglected or maltreated the vulnerable adult based solely on the facility's not having taken the actions required under paragraph (d), clause (5), item (iv), (v), or (vi). This must not alter the lead investigative agency's determination of mitigating factors under section 626.557, subdivision 9c, paragraph (f).

Sec. 40. **REPEALER.**

Minnesota Statutes 2024, sections 256B.5012, subdivisions 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, and 16; and 626.557, subdivision 10, are repealed.

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