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Chapter 108 – Human Services Omnibus Policy (S.F. No. 4399)

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ARTICLE 1 – DISABILITY SERVICES

Section 1 amends **144G.45, subdivision 3 – Local laws apply**, by exempting assisted living facilities with a licensed capacity of six or fewer from local rental licensing regulations.

Section 2 amends **245A.11, subdivision 2 – Permitted single-family residential use**, by exempting community residential settings with a licensed capacity of six or fewer from local rental licensing regulations.

Section 3 amends **245D.071, subdivision 3 – Assessments and initial service planning**, by clarifying the timelines for the initial planning meeting for the provision of 245D licensed services to people with disabilities by making the language in paragraph (b) consistent with the existing language in paragraph (c). Under the clarified language, the service provider must hold an initial planning meeting before providing 45 days of service or within 60 days of service initiation, whichever is shorter.

Section 4 amends **245D.071, subdivision 4 – Service outcomes and supports**, by making a conforming change related to the term used to refer to the initial planning meeting.

Section 5 amends **245D.081, subdivision 2 – Coordination and evaluation of individual service delivery**, by modifying the minimal educational requirements for the designated staff person of a 245D licensed service provider who is tasked with coordinating the delivery and evaluation of the services provided by expanding the permitted educational background to include fields related to education and health. This section also modifies the minimal full-time work experience requirements for designated staff persons.

Section 6 amends **245D.081, subdivision 3 – Program management and oversight**, by modifying the required qualification for the designated manager of the services provided by a chapter 245D licensed provider by modifying the nature of the designated manager's three years of supervisory

experience. *Note:* the modifications of the minimal educational requirements for designated service coordinator apply to designated managers under this section.

Section 7 amends **245D.09, subdivision 3 - Staff qualifications**, by permitting staff under the age of 18 to administer medications provided the chapter 245D licensed provider documents that the staff person is competent to do so.

Section 8 amends **245D.091, subdivision 3 – Positive support analyst qualifications**, by clarifying in paragraph (a) that a positive support analyst needs to meet only one of the specified qualifications in paragraph (a) and allowing an individual with a baccalaureate degree in nursing or higher to meet the required qualifications under paragraph (a). The amendment to paragraph (b) modifies the required supervised experience for a positive support analyst by reducing the required number of years of experience conducting supervised functional behavioral assessments from four to two years.

Section 9 amends **245D.091, subdivision 4 – Positive support specialist qualification**, by clarifying that a positive support specialist needs to meet only one of the specified qualifications in paragraph (a) and allows an individual with an associate’s degree in nursing or higher to meet the required qualifications under paragraph (a).

Section 10 amends **245D.10, subdivision 1 – Policy and procedure requirements**, by requiring all license holders to use the same form to report waiver service suspensions and terminations.

Section 11 amends **256B.057, subdivision 9 – Employed persons with disabilities**, by simplifying the tax-related provision for earned income under MA-EPD, by extending from six months to 12 months the interval between MA-EPD redeterminations and by extending from 10 to 30 days the time in which an enrollee must report a change in income or household size.

Section 12 amends **256B.0659, subdivision 17a - Enhanced rate**, by encumbering all additional revenue attributable to enhanced PCA rates for the payments of wages and wage-related costs, such as the employer’s share of taxes.

Section 13 amends **256B.0659, subdivision 24 - Personal care assistance provider agency; general duties**, by limiting the uses of revenue attributable to enhanced PCA rates to wage-related costs and explicitly prohibiting the use of the additional revenue to cover the costs of benefits.

Section 14 amends **256B.0911, subdivision 24 – Remote reassessments**, by permitting two consecutive remote reassessments for PCA and CFSS.

Section 15 adds **256B.092, subdivision 3a – Authorization of technology services**, which requires lead agencies to approve or deny requests for the use of technology by developmental disability waiver participants with 30 business days of the request using only the criteria established by the commissioner, and if the lead agency denies a request, requires the lead agency to clearly explain the denial.

Section 16 adds **256B.49, subdivision 16b – Authorization of technology services**, which requires lead agencies to approve or deny requests for the use of technology by disability waiver participants within 30 business days of the request using only the criteria established by the commissioner, and if the lead agency denies a request, requires the lead agency to clearly explain the denial.

Section 17 amends **256B.4905, subdivision 12 – Informed choice and technology prioritization in implementation for disability waiver services**, by requiring the commissioner to ensure that

individuals receiving disability waiver services are offered assistive technology and remote supports prior to being offered services that utilize staff.

Section 18 amends **256B.4914, subdivision 4 – Data collection for rate determination**, by requiring lead agencies to use a common form to collect rate setting data from service providers.

Section 19 amends **256B.85, subdivision 2 – Definitions**, by removing from the definition of activities of daily living under the activity of eating a reference to “assistance with ... applying orthotics required for ... transfers.”

Section 20 amends **256B.85, subdivision 6 – Community first services and supports service delivery plan**, by replacing a requirement that CFSS service delivery plans be approved by the consultation services provider when the participant has no case manager or care coordinator with a requirement that the lead agency approve the CFSS service delivery plan.

Section 21 amends **256B.85, subdivision 6a – Person-centered planning process**, by correcting a cross-reference to the Code of Federal Regulations.

Section 22 amends **256B.85, subdivision 7a – Enhanced rate**, by encumbering all additional revenue attributable to enhanced CFSS rates for the payment of wages and wage-related costs, such as the employer’s share of taxes.

Section 23 amends **256B.85, subdivision 11 – Agency-provider model**, by replacing a requirement that goods purchased under CFSS and the budget to do so be approved by the consultation services provider when the participant has no case manager or care coordinator with a requirement that the lead agency approve the goods and budget.

Section 24 amends **256B.85, subdivision 13a – Financial management services**, by providing for an exception to the requirement that CFSS financial management service providers provide at least 30 days’ notice prior to terminating FMS services.

Section 25 amends **256B.85, subdivision 17 – Consultation services duties**, by removing the authority of consultation service providers from approving CFSS service delivery plans for a participant without a case manager or care coordinator. Other sections of this article transfer this authority to the lead agency.

Section 26 adds **256B.85, subdivision 18b – Worker training and development services; remote visits**, which allows worker training and development services to be provided remotely to certain recipients of CFSS.

Section 27 amends **256B.85, subdivision 20 – Participant protections**, by making a conforming change relating to the transfer of authority to approve CFSS service delivery plans from consultation service providers to lead agencies.

Section 28 amends **Laws 2021, First Special Session chapter 7, article 13, section 75 – Direction to commissioner of human services**, by expanding the requirements of an existing consultation process regarding Waiver Reimagine to include a requirement that the commissioner collaborate with stakeholders in the development and implementation of Waiver Reimagine, MnCHOICES 2.0, and provide timely updates of the development and implementation of these projects, and by requiring the assistant commissioner of aging and disability services to attend and participate in meetings of the Waiver Reimagine Advisory Committee.

Section 29, **CADI CUSTOMIZED LIVING PROVIDER LOCATED IN HENNEPIN COUNTY**, provides an exception to the existing age and size limitations for authorized customized living settings for Clare Housing.

ARTICLE 2 - DEAF, DEAFBLIND AND HARD-OF-HEARING SERVICES

Section 1 amends **256C.21 – DEAF, DEAFBLIND, AND HARD-OF-HEARING SERVICES ACT; CITATION**, by making conforming changes.

Section 2 amends **256C.23, subdivision 1a – Culturally affirmative**, by modifying the definition of “culturally affirmative” to include services that are designed and delivered with the context of identity and communication experiences of the persons receiving services.

Section 3 adds **256C.23, subdivision 1b – Linguistically affirmative**, which defines “linguistically affirmative” as a description of services designed and delivered with the context of the language and communication experiences of the person receiving services.

Section 4 amends **256C.23, subdivision 2 – Deaf**, by modernizing the definition of “deaf.”

Section 5 amends **256C.23, subdivision 2a – Hard-of-hearing**, by modernizing the definition of “hard-of-hearing.”

Section 6 amends **256C.23, subdivision 2b – Deafblind**, by modernizing the definition of “deafblind.”

Section 7 amends **256C.23, subdivision 2c – Interpreting services**, by modernizing the definition of “interpreting services.”

Section 8 amends **256C.23, subdivision 6 – Real-time captioning**, by making a technical grammatical change.

Section 9 amends **256C.23, subdivision 7 – Family and community intervener**, by modernizing the definition of “intervener.”

Section 10 amends **256C.233, subdivision 1 – Deaf, DeafBlind, and Hard of Hearing State Services**, by updating the duties of the Deaf, DeafBlind, and Hard of Hearing State Services Division and by requiring the commissioner of commerce to participate in the interagency activities of the Division.

Section 11 amends **256C.233, subdivision 2 – Responsibilities**, by making conforming changes to the duties of the Deaf, DeafBlind, and Hard of Hearing State Services Division and deleting a mandated biennial report to the legislature.

Section 12 amends **256C.24, subdivision 1 – Location**, by making conforming changes.

Section 13 amends **256C.24, subdivision 2 – Responsibilities**, by updating the duties of the six regional service centers established by the Deaf, DeafBlind, and Hard of Hearing State Services Division.

Section 14 amends **256C.24, subdivision 3 – Advisory committee**, by modifying the membership of the eight regional advisory committees of the Deaf, DeafBlind, and Hard of Hearing State Services Division to include parents of children who are deafblind, by clarifying the length of tenure of committee members, and removing the requirement that Division staff be assigned as nonvoting members.

Section 15 amends **256C.26 - EMPLOYMENT SERVICES**, by making conforming changes.

Section 16 amends **256C.261 SERVICES FOR PERSONS WHO ARE DEAFBLIND**, by increasing flexibility in use of grant funds for services to persons who are deafblind and making conforming changes.

Section 17 amends **256C.28, subdivision 1 – Membership**, by modifying the membership of the Commission on the Deaf, DeafBlind, and Hard of Hearing. The Commission is the principal state agency tasked with advocating on behalf of Minnesotans who are deaf, deafblind, and hard-of-hearing by working to ensure those persons have equal access to the services, programs, and opportunities available to others. The amendments to paragraph (a) modify the composition of the 18 voting members of the Commission by increasing by three the number of at-large members and reducing by three the number representing the eight existing regional advisory committees. The amendments to paragraph (a) also add four additional non-voting, ex-officio members representing the departments of Education, Health, DEED, and Human Services, and grant the Commission authority to appoint additional non-voting, ex-officio members representing additional agencies of state government. The amendments to paragraph (b) modify the maximum length of tenure for voting members on the Commission to allow any length of a partial term plus the existing limit of 3 full 4-year terms.

ARTICLE 3 – AGING SERVICES

Section 1 amends **144A.20, subdivision 4 - Assisted living director qualifications; ongoing training**, by reducing for six months to 30 days the time in which an individual must apply for an assisted living director’s license after being hired, by eliminating the option to be licensed as an assisted living director prior to completing all required training, by clarifying that licensed nursing administrators must be licensed as such in Minnesota to qualify for an assisted living director’s license, and by striking obsolete language.

Section 2 amends **144G.30, subdivision 5 - Correction orders**, by requiring assisted living facilities to make available in a readily accessible manner and provide copies upon request of the facility’s most recent plan of correction.

Section 3 amends **256.975, subdivision 7e - Long-term care options counseling at critical care transitions**, by simplifying the requirements and procedures related to providing long-term care options counseling to prospective assisted living residents and hospital patients at risk of nursing home placement.

Section 4 adds **256B.69, subdivision 6h - Continuity of care for seniors receiving personal assistance**, which requires medical assistance managed care plans and county-based purchasing plans to offer contracts to provider agencies providing personal assistance to older adults newly enrolled in the managed care plan to ensure continuity of care to the enrollee.

Section 5 amends **256R.08, subdivision 1 - Reporting of financial statements**, by requiring nursing facility owners and operators to report related-party transactions on annual cost reports submitted to DHS.

Section 6 adds **256R.08, subdivision 5 - Notice of costs associated with leases, rent, and use of land or other real property by nursing homes**, which requires nursing facilities to annually report their costs associated with leases, rent, and use of land or other real property.

Section 7 is a **REPEALER**. Paragraph (a) repeals sections related to long-term care options counseling rendered duplicative by proposals in the bill. Paragraph (b) repeals statutes requiring studies on nursing facility rates.

ARTICLE 4 - SUBSTANCE USE DISORDER SERVICES

Section 1 amends **148F.025, subdivision 2 - Education requirements for licensure**, by expanding the minimum educational requirements for licensure as an alcohol and drug counselor to permit individuals that received a master's degree from a school or educational program accredited in alcohol and drug counseling, even if the individual did not receive a bachelor's degree meeting the requirements of licensure.

Section 2 amends **245F.02, subdivision 17 - Peer recovery support services**, by inserting a cross reference to a description of peer recovery support services.

Section 3 amends **245F.02, subdivision 21 - Recovery peer**, by clarifying in the definition of "recovery peer" that a recovery peer must be qualified as such.

Section 4 amends **245F.08, subdivision 3 - Peer recovery support services**, by inserting a cross reference to a description of peer recovery support services and qualified providers.

Section 5 amends **245F.15, subdivision 7 - Recovery peer qualifications**, by inserting a cross reference to the qualifications for a recovery peer and the scope of practice of a recovery peer.

Section 6 amends **245G.031, subdivision 2 - Qualifying accreditation; determination of same and similar standards**, by making a grammatical change.

Section 7 adds **245G.04, subdivision 3 - Opioid educational material**, which requires a licensed substance use disorder treatment facility to provide educational materials approved by the commissioner to all clients on the day of service initiation.

Section 8 amends **245G.05, subdivision 3 - Comprehensive assessment requirements**, by striking language rendered duplicative by other sections of this article.

Section 9 amends **245G.09, subdivision 3 - Contents**, by making a conforming change.

Section 10 amends **245G.11, subdivision 10 - Student interns and former students**, by allowing 50 percent of treatment staff in a licensed substance use disorder treatment facility to be student interns or former students.

Section 11 amends **245G.22, subdivision 2 - Definitions**, by modifying the definition of "practitioner" for the purposes of licensed opioid treatment programs by limiting individuals who are both either a licensed physicians or licensed nurses and are registered with the Drug Enforcement Administration, and by including "take-home dose" as a synonym of "unsupervised use."

Section 12 amends **245G.22, subdivision 6 - Criteria for unsupervised use**, by modifying the criteria for unsupervised use to conform to recent federal regulatory changes.

Section 13 amends **245G.22, subdivision 7 - Restrictions for unsupervised use of methadone hydrochloride**, by permitting a patient a federally limited supply of take-home doses of methadone

if a practitioner assesses, determines, and documents that the patient can safely manage unsupervised use.

Section 14 amends **245G.22, subdivision 17 - Policies and procedures**, by making technical and clarifying changes and by limiting to no more than 60 the number of clients a counselor in an opioid treatment program may supervise.

Section 15 amends **245I.04, subdivision 18 - Recovery peer qualifications**, by prohibiting recovery peers from being classified or treated as independent contractors.

Section 16 amends **254A.19, subdivision 3 - Comprehensive assessments**, by specifying the requirements of assessments for substance use disorder treatment services reimbursed by the behavioral health fund when provided by licensed professionals, a county, or hospitals, federally qualified health centers, and rural health clinics.

Section 17 amends **254B.03, subdivision 4 - Division of costs**, by making technical changes.

Section 18 amends **254B.04, subdivision 1a – Client eligibility**, by making technical changes.

Section 19 amends **254B.04, subdivision 2a - Eligibility for room and board services for persons in outpatient substance use disorder treatment**, by making technical changes.

Section 20 amends **254B.04, subdivision 6 - Local agency to determine client financial eligibility**, by requiring local agencies to use only forms prescribed by the commissioner to determine client eligibility for services funded by the behavioral health fund unless the lead agency has a reasonable basis for believing the information submitted on the form is false.

Section 21 adds **254B.04, subdivision 6a - Span of eligibility**, which relocates language relating to the span of eligibility for behavioral health fund eligibility and clarifies the start of a span of eligibility.

Section 22 amends **254B.05, subdivision 1 - Licensure or certification required**, by making conforming changes, by specifying that a recovery community organization must be certified or accredited by one of the named entities by June 30, 2025, and by prohibiting recovery peers from being classified or treated as independent contractors.

Section 23 amends **254B.05, subdivision 5 - Rate requirements**, by correcting a cross reference, by establishing as an eligible vendor for behavioral health funding any licensed opioid treatment program licensed under chapter 245G or by a Tribe, by reinstating the fiscal year 2023 base rates for certain substance use disorder treatment services, by modifying the requirements for certain enhanced rates, by allowing providers to bill for services not provided, and by allowing providers to reduce the hours of service provided in a treatment week in observance of holidays.

Section 24 amends **254B.181, subdivision 1 - Requirements**, by specifying that a sober home maintain its required supply of an opiate antagonist in a conspicuous location and allow residents to use legally prescribed and dispensed opioid use disorder treatment medications and other medications to treat co-occurring conditions.

Section 25 amends **256B.0759, subdivision 2 - Provider participation**, by expanding an exclusion for certain qualifying hospitals from the requirement that substance use disorder providers enroll in the SUD demonstration project.

Section 26 amends **256B.0759, subdivision 4 - Provider payment rates**, modifies rates for SUD demonstration project providers.

Section 27 amends **Laws 2021, First Special Session chapter 7, article 11, section 38, as amended by Laws 2022, chapter 98, article 4, section 50 - DIRECTION TO THE COMMISSIONER; SUBSTANCE USE DISORDER TREATMENT PAPERWORK REDUCTION**, by requiring the commissioner to begin implementing the paperwork reduction requirements by December 15, 2024.

Section 28 is a **REPEALER**, which repeals the high dose requirements and the requirements for the unsupervised use of methadone hydrochloride by clients of opioid treatment programs.

ARTICLE 5 – DIRECT CARE AND TREATMENT

Sections 1 to 16 amend **246.71 to 246.722 – BLOOD-BORNE PATHOGENS; STATE OPERATED PROGRAMS EMPLOYEES**, by explicitly expanding the statutory provisions governing employee exposure to blood-borne pathogens in direct care and treatments secure facilities to include employee exposures in all direct care and treatment programs.

Section 18 amends **Laws 2023, chapter 61, article 8, section 13, subdivision 2 – Membership**, by correcting the name of a member of the Task Force on Priority Admissions to State-Operated Treatment Programs.

ARTICLE 6 – MISCELLANEOUS

Section 1 amends **254A.03, subdivision 1 - Alcohol and Other Drug Abuse Section**, by eliminating language related to an expired requirement that DHS submit to the legislature a report describing public substance use disorder services and recommending ways to increase coordination of services and decrease service duplication and costs.

Section 2 amends **256B.4914, subdivision 10 - Evaluation of information and data**, by eliminating language related to an expired mandated legislative report on costs of delivering disability waiver services and the component values used to set rates.

Section 3 amends **256B.4914, subdivision 10a - Reporting and analysis of cost data**, by eliminating language related to an expired mandated legislative report on recommendations related to component values and inflationary factor adjustments under DWRS.

Section 4 amends **256B.69, subdivision 5k - Actuarial soundness**, by eliminating language related to an expired annual mandated legislative report on how managed care rates meet the requirements for actuarial soundness.

Section 5 amends **402A.16, subdivision 2 – Duties**, by eliminating language related to an expired annual mandated legislative report from the Human Services Performance Council on the performance of counties and service delivery authorities.

Section 6 is a **REPEALER**, which repeals expired mandated legislative reports on behavioral health crisis facilities grants; the status of programs serving people with disabilities; and the dedicated funds and accounts.