

147.9

**ARTICLE 7**

147.10

**LICENSING**

147.11 Section 1. Minnesota Statutes 2022, section 245A.04, subdivision 7, is amended to read:

147.12 Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines that  
 147.13 the program complies with all applicable rules and laws, the commissioner shall issue a  
 147.14 license consistent with this section or, if applicable, a temporary change of ownership license  
 147.15 under section 245A.043. At minimum, the license shall state:

147.16 (1) the name of the license holder;

147.17 (2) the address of the program;

147.18 (3) the effective date and expiration date of the license;

147.19 (4) the type of license;

147.20 (5) the maximum number and ages of persons that may receive services from the program;

147.21 and

147.22 (6) any special conditions of licensure.

147.23 (b) The commissioner may issue a license for a period not to exceed two years if:

147.24 (1) the commissioner is unable to conduct the evaluation or observation required by  
 147.25 subdivision 4, paragraph (a), clause (4), because the program is not yet operational;

147.26 (2) certain records and documents are not available because persons are not yet receiving  
 147.27 services from the program; and

147.28 (3) the applicant complies with applicable laws and rules in all other respects.

148.1 (c) A decision by the commissioner to issue a license does not guarantee that any person  
 148.2 or persons will be placed or cared for in the licensed program.

148.3 (d) Except as provided in paragraphs ~~(f) and (g)~~ (i) and (j), the commissioner shall not  
 148.4 issue ~~or reissue~~ a license if the applicant, license holder, or an affiliated controlling individual  
 148.5 has:

148.6 (1) been disqualified and the disqualification was not set aside and no variance has been  
 148.7 granted;

148.8 (2) been denied a license under this chapter, within the past two years;

148.9 (3) had a license issued under this chapter revoked within the past five years; or

148.10 ~~(4) an outstanding debt related to a license fee, licensing fine, or settlement agreement~~  
 148.11 ~~for which payment is delinquent; or~~

148.12 ~~(5)~~ (4) failed to submit the information required of an applicant under subdivision 1,  
148.13 paragraph (f) or (g), after being requested by the commissioner.

148.14 When a license issued under this chapter is revoked ~~under clause (1) or (3)~~, the license  
148.15 holder and each affiliated controlling individual with a revoked license may not hold any  
148.16 license under chapter 245A for five years following the revocation, and other licenses held  
148.17 by the applicant; or license holder; or licenses affiliated with each controlling individual  
148.18 shall also be revoked.

148.19 (e) Notwithstanding paragraph (d), the commissioner may elect not to revoke a license  
148.20 affiliated with a license holder or controlling individual that had a license revoked within  
148.21 the past five years if the commissioner determines that (1) the license holder or controlling  
148.22 individual is operating the program in substantial compliance with applicable laws and rules,  
148.23 and (2) the program's continued operation is in the best interests of the community being  
148.24 served.

148.25 (f) Notwithstanding paragraph (d), the commissioner may issue a new license in response  
148.26 to an application that is affiliated with an applicant, license holder, or controlling individual  
148.27 that had an application denied within the past two years or a license revoked within the past  
148.28 five years if the commissioner determines that (1) the applicant or controlling individual  
148.29 has operated one or more programs in substantial compliance with applicable laws and  
148.30 rules, and (2) the program's operation would be in the best interests of the community to be  
148.31 served.

148.32 (g) In determining whether a program's operation would be in the best interests of the  
148.33 community to be served, the commissioner shall consider factors such as the number of  
149.1 persons served, the availability of alternative services available in the surrounding  
149.2 community, the management structure of the program, whether the program provides  
149.3 culturally specific services, and other relevant factors.

149.4 ~~(e)~~ (h) The commissioner shall not issue or reissue a license under this chapter if an  
149.5 individual living in the household where the services will be provided as specified under  
149.6 section 245C.03, subdivision 1, has been disqualified and the disqualification has not been  
149.7 set aside and no variance has been granted.

149.8 ~~(f)~~ (i) Pursuant to section 245A.07, subdivision 1, paragraph (b), when a license issued  
149.9 under this chapter has been suspended or revoked and the suspension or revocation is under  
149.10 appeal, the program may continue to operate pending a final order from the commissioner.  
149.11 If the license under suspension or revocation will expire before a final order is issued, a  
149.12 temporary provisional license may be issued provided any applicable license fee is paid  
149.13 before the temporary provisional license is issued.

149.14 ~~(g)~~ (j) Notwithstanding paragraph ~~(f)~~ (i), when a revocation is based on the  
149.15 disqualification of a controlling individual or license holder, and the controlling individual  
149.16 or license holder is ordered under section 245C.17 to be immediately removed from direct  
149.17 contact with persons receiving services or is ordered to be under continuous, direct

149.18 supervision when providing direct contact services, the program may continue to operate  
149.19 only if the program complies with the order and submits documentation demonstrating  
149.20 compliance with the order. If the disqualified individual fails to submit a timely request for  
149.21 reconsideration, or if the disqualification is not set aside and no variance is granted, the  
149.22 order to immediately remove the individual from direct contact or to be under continuous,  
149.23 direct supervision remains in effect pending the outcome of a hearing and final order from  
149.24 the commissioner.

149.25 ~~(k)~~ (k) For purposes of reimbursement for meals only, under the Child and Adult Care  
149.26 Food Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A,  
149.27 part 226, relocation within the same county by a licensed family day care provider, shall  
149.28 be considered an extension of the license for a period of no more than 30 calendar days or  
149.29 until the new license is issued, whichever occurs first, provided the county agency has  
149.30 determined the family day care provider meets licensure requirements at the new location.

149.31 ~~(l)~~ (l) Unless otherwise specified by statute, all licenses issued under this chapter expire  
149.32 at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must  
149.33 apply for and be granted a new license to operate the program or the program must not be  
149.34 operated after the expiration date.

150.1 ~~(m)~~ (m) The commissioner shall not issue or reissue a license under this chapter if it has  
150.2 been determined that a tribal licensing authority has established jurisdiction to license the  
150.3 program or service.

150.4 Sec. 2. Minnesota Statutes 2022, section 245A.07, is amended by adding a subdivision to  
150.5 read:

150.6 Subd. 2b. **Immediate suspension of residential programs.** For suspensions issued to  
150.7 a licensed residential program as defined in section 245A.02, subdivision 14, the effective  
150.8 date of the order may be delayed for up to 30 calendar days to provide for the continuity of  
150.9 care of service recipients. The license holder must cooperate with the commissioner to  
150.10 ensure service recipients receive continued care during the period of the delay and to facilitate  
150.11 the transition of service recipients to new providers. In these cases, the suspension order  
150.12 takes effect when all service recipients have been transitioned to a new provider or 30 days  
150.13 after the suspension order was issued, whichever comes first.

150.14 Sec. 3. Minnesota Statutes 2022, section 245A.07, is amended by adding a subdivision to  
150.15 read:

150.16 Subd. 2c. **Immediate suspension for programs with multiple licensed service sites.** (a)  
150.17 For license holders that operate more than one service site under a single license, the  
150.18 suspension order must be specific to the service site or sites where the commissioner  
150.19 determines an order is required under subdivision 2. The order must not apply to other  
150.20 service sites operated by the same license holder unless the commissioner has included in  
150.21 the order an articulable basis for applying the order to other service sites.

150.22 (b) If the commissioner has issued more than one license to the license holder under this  
 150.23 chapter, the suspension imposed under this section must be specific to the license for the  
 150.24 program at which the commissioner determines an order is required under subdivision 2.  
 150.25 The order must not apply to other licenses held by the same license holder if those programs  
 150.26 are being operated in substantial compliance with applicable law and rules.

150.27 Sec. 4. Minnesota Statutes 2022, section 245A.10, subdivision 6, is amended to read:

150.28 Subd. 6. **License not issued until license or certification fee is paid.** The commissioner  
 150.29 shall not issue or reissue a license or certification until the license or certification fee is paid.  
 150.30 The commissioner shall send a bill for the license or certification fee to the billing address  
 150.31 identified by the license holder. If the license holder does not submit the license or  
 150.32 certification fee payment by the due date, the commissioner shall send the license holder a  
 151.1 past due notice. If the license holder fails to pay the license or certification fee by the due  
 151.2 date on the past due notice, the commissioner shall send a final notice to the license holder  
 151.3 informing the license holder that the program license will expire on December 31 unless  
 151.4 the license fee is paid before December 31. If a license expires, the program is no longer  
 151.5 licensed and, unless exempt from licensure under section 245A.03, subdivision 2, must not  
 151.6 operate after the expiration date. After a license expires, if the former license holder wishes  
 151.7 to provide licensed services, the former license holder must submit a new license application  
 151.8 and application fee under subdivision 3.

151.9 Sec. 5. Minnesota Statutes 2022, section 245A.10, is amended by adding a subdivision to  
 151.10 read:

151.11 Subd. 9. **License not reissued until outstanding debt is paid.** The commissioner shall  
 151.12 not reissue a license or certification until the license holder has paid all outstanding debts  
 151.13 related to a licensing fine or settlement agreement for which payment is delinquent. If the  
 151.14 payment is past due, the commissioner shall send a past due notice informing the license  
 151.15 holder that the program license will expire on December 31 unless the outstanding debt is  
 151.16 paid before December 31. If a license expires, the program is no longer licensed and must  
 151.17 not operate after the expiration date. After a license expires, if the former license holder  
 151.18 wishes to provide licensed services, the former license holder must submit a new license  
 151.19 application and application fee under subdivision 3.

151.20 Sec. 6. Minnesota Statutes 2022, section 245A.13, subdivision 1, is amended to read:

151.21 Subdivision 1. **Application.** (a) In addition to any other remedy provided by law, the  
 151.22 commissioner may petition the district court in Ramsey County for an order directing the  
 151.23 controlling individuals of a residential or nonresidential program licensed or certified by  
 151.24 the commissioner to show cause why the commissioner should not be appointed receiver  
 151.25 to operate the program. The petition to the district court must contain proof by affidavit that  
 151.26 one or more of the following circumstances exists: ~~(1) that the commissioner has either~~  
 151.27 ~~begun proceedings to suspend or revoke a license or certification, has suspended or revoked~~  
 151.28 ~~a license or certification, or has decided to deny an application for licensure or certification~~  
 151.29 ~~of the program; or (2) it appears to the commissioner that the health, safety, or rights of the~~

151.30 residents or persons receiving care from the program may be in jeopardy because of the  
151.31 manner in which the program may close, the program's financial condition, or violations  
151.32 committed by the program of federal or state laws or rules. If the license holder, applicant,  
151.33 or controlling individual operates more than one program, the commissioner's petition must  
151.34 specify and be limited to the program for which it seeks receivership. The affidavit submitted  
152.1 by the commissioner must set forth alternatives to receivership that have been considered,  
152.2 including rate adjustments. The order to show cause is returnable not less than five days  
152.3 after service is completed and must provide for personal service of a copy to the program  
152.4 administrator and to the persons designated as agents by the controlling individuals to accept  
152.5 service on their behalf.

152.6 (1) the commissioner has commenced proceedings to suspend or revoke the program's  
152.7 license or refused to renew the program's license;

152.8 (2) there is a threat of imminent abandonment by the program or its controlling  
152.9 individuals;

152.10 (3) the program has shown a pattern of failure to meet ongoing financial obligations  
152.11 such as failing to pay for food, pharmaceuticals, personnel costs, or required insurance;

152.12 (4) the health, safety, or rights of the residents or persons receiving care from the program  
152.13 appear to be in jeopardy due to the manner in which the program may close, the program's  
152.14 financial condition, or violations of federal or state law or rules committed by the program;  
152.15 or

152.16 (5) the commissioner has notified the program or its controlling individuals that the  
152.17 program's federal Medicare or Medicaid provider agreement will be terminated, revoked,  
152.18 canceled, or not renewed.

152.19 (b) If the license holder, applicant, or controlling individual operates more than one  
152.20 program, the commissioner's petition must specify and be limited to the program for which  
152.21 it seeks receivership.

152.22 (c) The order to show cause shall be personally served on the program through its  
152.23 authorized agent or, in the event the authorized agent cannot be located, on any controlling  
152.24 individual for the program.

152.25 Sec. 7. Minnesota Statutes 2022, section 245A.13, subdivision 2, is amended to read:

152.26 Subd. 2. **Appointment of receiver.** (a) If the court finds that involuntary receivership  
152.27 is necessary as a means of protecting the health, safety, or rights of persons being served  
152.28 by the program, the court shall appoint the commissioner as receiver to operate the program.  
152.29 The commissioner as receiver may contract with another entity or group to act as the  
152.30 managing agent during the receivership period. The managing agent will be responsible for  
152.31 the day-to-day operations of the program subject at all times to the review and approval of  
152.32 the commissioner. A managing agent shall not:

- 153.1 (1) be the license holder or controlling individual of the program;
- 153.2 (2) have a financial interest in the program at the time of the receivership;
- 153.3 (3) be otherwise affiliated with the program; or
- 153.4 (4) have had a licensed program that has been ordered into receivership.
- 153.5 (b) Notwithstanding state contracting requirements in chapter 16C, the commissioner
- 153.6 shall establish and maintain a list of qualified persons or entities with experience in delivering
- 153.7 services and with winding down programs under chapter 245A, 245D, or 245G, or other
- 153.8 service types licensed by the commissioner. The list shall be a resource for selecting a
- 153.9 managing agent, and the commissioner may update the list at any time.
- 153.10 Sec. 8. Minnesota Statutes 2022, section 245A.13, subdivision 3, is amended to read:
- 153.11 Subd. 3. **Powers and duties of receiver.** ~~Within 36 months after the receivership order,~~
- 153.12 ~~the receiver shall provide for the orderly transfer of the persons served by the program to~~
- 153.13 ~~other programs or make other provisions to protect their health, safety, and rights. The~~
- 153.14 ~~receiver or the managing agent shall correct or eliminate deficiencies in the program that~~
- 153.15 ~~the commissioner determines endanger the health, safety, or welfare of the persons being~~
- 153.16 ~~served by the program unless the correction or elimination of deficiencies at a residential~~
- 153.17 ~~program involves major alteration in the structure of the physical plant. If the correction or~~
- 153.18 ~~elimination of the deficiencies at a residential program requires major alterations in the~~
- 153.19 ~~structure of the physical plant, the receiver shall take actions designed to result in the~~
- 153.20 ~~immediate transfer of persons served by the residential program. During the period of the~~
- 153.21 ~~receivership, the receiver and the managing agent shall operate the residential or~~
- 153.22 ~~nonresidential program in a manner designed to preserve the health, safety, rights, adequate~~
- 153.23 ~~care, and supervision of the persons served by the program. The receiver or the managing~~
- 153.24 ~~agent may make contracts and incur lawful expenses. The receiver or the managing agent~~
- 153.25 ~~shall collect incoming payments from all sources and apply them to the cost incurred in the~~
- 153.26 ~~performance of the functions of the receivership including the fee set under subdivision 4.~~
- 153.27 ~~No security interest in any real or personal property comprising the program or contained~~
- 153.28 ~~within it, or in any fixture of the physical plant, shall be impaired or diminished in priority~~
- 153.29 ~~by the receiver or the managing agent. (a) A receiver appointed pursuant to this section~~
- 153.30 ~~shall, within 18 months after the receivership order, determine whether to close the program~~
- 153.31 ~~or to make other provisions with the intent to keep the program open. If the receiver~~
- 153.32 ~~determines that program closure is appropriate, the commissioner shall provide for the~~
- 153.33 ~~orderly transfer of individuals served by the program to other programs or make other~~
- 153.34 ~~provisions to protect the health, safety, and rights of individuals served by the program.~~
- 154.1 (b) During the receivership, the receiver or the managing agent shall correct or eliminate
- 154.2 deficiencies in the program that the commissioner determines endanger the health, safety,
- 154.3 or welfare of the persons being served by the program unless the correction or elimination
- 154.4 of deficiencies at a residential program involves major alteration in the structure of the
- 154.5 physical plant. If the correction or elimination of the deficiencies at a residential program

- 154.6 requires major alterations in the structure of the physical plant, the receiver shall take actions  
 154.7 designed to result in the immediate transfer of persons served by the residential program.  
 154.8 During the period of the receivership, the receiver and the managing agent shall operate the  
 154.9 residential or nonresidential program in a manner designed to preserve the health, safety,  
 154.10 rights, adequate care, and supervision of the persons served by the program.
- 154.11 (c) The receiver or the managing agent may make contracts and incur lawful expenses.
- 154.12 (d) The receiver or the managing agent shall use the building, fixtures, furnishings, and  
 154.13 any accompanying consumable goods in the provision of care and services to the clients  
 154.14 during the receivership period. The receiver shall take action as is reasonably necessary to  
 154.15 protect or conserve the tangible assets or property during receivership.
- 154.16 (e) The receiver or the managing agent shall collect incoming payments from all sources  
 154.17 and apply them to the cost incurred in the performance of the functions of the receivership,  
 154.18 including the fee set under subdivision 4. No security interest in any real or personal property  
 154.19 comprising the program or contained within it, or in any fixture of the physical plant, shall  
 154.20 be impaired or diminished in priority by the receiver or the managing agent.
- 154.21 (f) The receiver has authority to hire, direct, manage, and discharge any employees of  
 154.22 the program, including management level staff for the program.
- 154.23 (g) The commissioner, as the receiver appointed by the court, may hire a managing agent  
 154.24 to work on the commissioner's behalf to operate the program during the receivership. The  
 154.25 managing agent is entitled to a reasonable fee. The receiver and managing agent shall be  
 154.26 liable only in an official capacity for injury to persons and property by reason of the  
 154.27 conditions of the program. The receiver and managing agent shall not be personally liable,  
 154.28 except for gross negligence or intentional acts. The commissioner shall assist the managing  
 154.29 agent in carrying out the managing agent's duties.
- 154.30 Sec. 9. Minnesota Statutes 2022, section 245A.13, subdivision 6, is amended to read:
- 154.31 Subd. 6. **Emergency procedure.** (a) If it appears from the petition filed under subdivision  
 154.32 1, from an affidavit or affidavits filed with the petition, or from testimony of witnesses  
 154.33 under oath if the court determines it necessary, that there is probable cause to believe that  
 155.1 an emergency exists in a residential or nonresidential program, the court shall issue a  
 155.2 temporary order for appointment of a receiver within five two days after receipt of the  
 155.3 petition. Notice of the petition must be served on the program administrator and on the  
 155.4 persons designated as agents by the controlling individuals to accept service on their behalf.  
 155.5 A hearing on the petition must be held within five days after notice is served unless the  
 155.6 administrator or authorized agent consents to a later date. After the hearing, the court may  
 155.7 continue, modify, or terminate the temporary order.
- 155.8 (b) Notice of the petition must be served on the authorized agent of the program that is  
 155.9 subject to the receivership petition or, if the authorized agent is not immediately available  
 155.10 for service, on at least one of the controlling individuals for the program. A hearing on the  
 155.11 petition must be held within five days after notice is served unless the authorized agent or

155.12 other controlling individual consents to a later date. After the hearing, the court may continue,  
155.13 modify, or terminate the temporary order.

155.14 Sec. 10. Minnesota Statutes 2022, section 245A.13, subdivision 7, is amended to read:

155.15 Subd. 7. **Rate recommendation.** For any program receiving Medicaid funds and ordered  
155.16 into receivership, the commissioner of human services may review rates of a residential or  
155.17 nonresidential program participating in the medical assistance program which is in  
155.18 receivership and that has needs or deficiencies documented by the Department of Health  
155.19 or the Department of Human Services. If the commissioner of human services determines  
155.20 that a review of the rate established under sections 256B.5012 and 256B.5013 is needed,  
155.21 the commissioner shall:

155.22 (1) review the order or determination that cites the deficiencies or needs; and

155.23 (2) determine the need for additional staff, additional annual hours by type of employee,  
155.24 and additional consultants, services, supplies, equipment, repairs, or capital assets necessary  
155.25 to satisfy the needs or deficiencies.

155.26 Sec. 11. Minnesota Statutes 2022, section 245A.13, subdivision 9, is amended to read:

155.27 Subd. 9. **Receivership accounting.** The commissioner may ~~use~~ adjust Medicaid rates  
155.28 and use Medicaid funds, including but not limited to waiver funds, and the medical assistance  
155.29 account and funds for receivership cash flow, receivership administrative fees, and accounting  
155.30 purposes, to the extent permitted by the state's approved Medicaid plan.