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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3336

1.1 A bill for an act
1.2 relating to human services; modifying the training requirements for direct support
1.3 staff providing licensed home and community-based services; amending Minnesota
1.4 Statutes 2018, sections 245D.02, by adding a subdivision; 245D.09, subdivisions
1.5 4, 4a; Minnesota Statutes 2019 Supplement, section 245D.09, subdivision 5.

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

1.7 Section 1. Minnesota Statutes 2018, section 245D.02, is amended by adding a subdivision
1.8 to read:

1.9 Subd. 32a. Sexual violence. "Sexual violence" means the use of sexual actions or words
1.10 that are unwanted or harmful to another person.

1.11 Sec. 2. Minnesota Statutes 2018, section 245D.09, subdivision 4, is amended to read:

1.12 Subd. 4. **Orientation to program requirements.** Except for a license holder who does
1.13 not supervise any direct support staff, within 60 calendar days of hire, unless stated otherwise,
1.14 the license holder must provide and ensure completion of orientation sufficient to create
1.15 staff competency for direct support staff that combines supervised on-the-job training with
1.16 review of and instruction in the following areas:

1.17 (1) the job description and how to complete specific job functions, including:

1.18 (i) responding to and reporting incidents as required under section 245D.06, subdivision
1.19 1; and

1.20 (ii) following safety practices established by the license holder and as required in section
1.21 245D.06, subdivision 2;

2.1 (2) the license holder's current policies and procedures required under this chapter,
 2.2 including their location and access, and staff responsibilities related to implementation of
 2.3 those policies and procedures;

2.4 (3) data privacy requirements according to sections 13.01 to 13.10 and 13.46, the federal
 2.5 Health Insurance Portability and Accountability Act of 1996 (HIPAA), and staff
 2.6 responsibilities related to complying with data privacy practices;

2.7 (4) the service recipient rights and staff responsibilities related to ensuring the exercise
 2.8 and protection of those rights according to the requirements in section 245D.04;

2.9 (5) sections 245A.65, 245A.66, 626.556, and 626.557, governing maltreatment reporting
 2.10 and service planning for children and vulnerable adults, and staff responsibilities related to
 2.11 protecting persons from maltreatment and reporting maltreatment. This orientation must be
 2.12 provided within 72 hours of first providing direct contact services and annually thereafter
 2.13 according to section 245A.65, subdivision 3;

2.14 (6) the principles of person-centered service planning and delivery as identified in section
 2.15 245D.07, subdivision 1a, and how they apply to direct support service provided by the staff
 2.16 person;

2.17 (7) the safe and correct use of manual restraint on an emergency basis according to the
 2.18 requirements in section 245D.061 or successor provisions, and what constitutes the use of
 2.19 restraints, time out, and seclusion, including chemical restraint;

2.20 (8) staff responsibilities related to prohibited procedures under section 245D.06,
 2.21 subdivision 5, or successor provisions, why such procedures are not effective for reducing
 2.22 or eliminating symptoms or undesired behavior, and why such procedures are not safe;

2.23 (9) basic first aid; ~~and~~

2.24 (10) strategies to minimize the risk of sexual violence, including concepts of healthy
 2.25 relationships, consent, and bodily autonomy of people with disabilities; and

2.26 (11) other topics as determined necessary in the person's coordinated service and support
 2.27 plan by the case manager or other areas identified by the license holder.

2.28 Sec. 3. Minnesota Statutes 2018, section 245D.09, subdivision 4a, is amended to read:

2.29 Subd. 4a. **Orientation to individual service recipient needs.** (a) Before having
 2.30 unsupervised direct contact with a person served by the program, or for whom the staff
 2.31 person has not previously provided direct support, or any time the plans or procedures
 2.32 identified in paragraphs (b) to (f) are revised, the staff person must review and receive

3.1 instruction on the requirements in paragraphs (b) to (f) as they relate to the staff person's
3.2 job functions for that person.

3.3 (b) For community residential services, training and competency evaluations must include
3.4 the following, if identified in the coordinated service and support plan:

3.5 (1) appropriate and safe techniques in personal hygiene and grooming, including hair
3.6 care; bathing; care of teeth, gums, and oral prosthetic devices; and other activities of daily
3.7 living (ADLs) as defined under section 256B.0659, subdivision 1;

3.8 (2) an understanding of what constitutes a healthy diet according to data from the Centers
3.9 for Disease Control and Prevention and the skills necessary to prepare that diet; and

3.10 (3) skills necessary to provide appropriate support in instrumental activities of daily
3.11 living (IADLs) as defined under section 256B.0659, subdivision 1.

3.12 (c) The staff person must review and receive instruction on the person's coordinated
3.13 service and support plan or coordinated service and support plan addendum as it relates to
3.14 the responsibilities assigned to the license holder, and when applicable, the person's individual
3.15 abuse prevention plan, to achieve and demonstrate an understanding of the person as a
3.16 unique individual, and how to implement those plans.

3.17 (d) The staff person must review and receive instruction on medication setup, assistance,
3.18 or administration procedures established for the person when assigned to the license holder
3.19 according to section 245D.05, subdivision 1, paragraph (b). Unlicensed staff may perform
3.20 medication setup or medication administration only after successful completion of a
3.21 medication setup or medication administration training, from a training curriculum developed
3.22 by a registered nurse or appropriate licensed health professional. The training curriculum
3.23 must incorporate an observed skill assessment conducted by the trainer to ensure unlicensed
3.24 staff demonstrate the ability to safely and correctly follow medication procedures.

3.25 Medication administration must be taught by a registered nurse, clinical nurse specialist,
3.26 certified nurse practitioner, physician assistant, or physician if, at the time of service initiation
3.27 or any time thereafter, the person has or develops a health care condition that affects the
3.28 service options available to the person because the condition requires:

3.29 (1) specialized or intensive medical or nursing supervision; and

3.30 (2) nonmedical service providers to adapt their services to accommodate the health and
3.31 safety needs of the person.

3.32 (e) The staff person must review and receive instruction on the safe and correct operation
3.33 of medical equipment used by the person to sustain life or to monitor a medical condition

4.1 that could become life-threatening without proper use of the medical equipment, including
4.2 but not limited to ventilators, feeding tubes, or endotracheal tubes. The training must be
4.3 provided by a licensed health care professional or a manufacturer's representative and
4.4 incorporate an observed skill assessment to ensure staff demonstrate the ability to safely
4.5 and correctly operate the equipment according to the treatment orders and the manufacturer's
4.6 instructions.

4.7 (f) The staff person must review and receive instruction on mental health crisis response,
4.8 de-escalation techniques, and suicide intervention when providing direct support to a person
4.9 with a serious mental illness.

4.10 (g) In the event of an emergency service initiation, the license holder must ensure the
4.11 training required in this subdivision occurs within 72 hours of the direct support staff person
4.12 first having unsupervised contact with the person receiving services. The license holder
4.13 must document the reason for the unplanned or emergency service initiation and maintain
4.14 the documentation in the person's service recipient record.

4.15 (h) License holders who provide direct support services themselves must complete the
4.16 orientation required in subdivision 4, clauses (3) to ~~(10)~~ (11).

4.17 Sec. 4. Minnesota Statutes 2019 Supplement, section 245D.09, subdivision 5, is amended
4.18 to read:

4.19 Subd. 5. **Annual training.** A license holder must provide annual training to direct support
4.20 staff on the topics identified in subdivision 4, clauses (3) to ~~(10)~~ (11). If the direct support
4.21 staff has a first aid certification, annual training under subdivision 4, clause (9), is not
4.22 required as long as the certification remains current.