

# Chapter 79

2024 Regular Session

Subject Direct Care and Treatment Recodification

Bill H.F. 3987

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## Overview

This document illustrates the proposed new organization of statutes governing the programs, services, and functions of the Department of Human Services that are transferred to the new Direct Care and Treatment agency.

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## 2023 Enacted Legislation

Minnesota Laws 2023, chapter 61, article 8, now codified as Minnesota Statutes, chapter 246C, establishes Direct Care and Treatment as a separate state agency effective January 1, 2025.

The 2023 legislation also contained a direction to the nonpartisan legislative staff to “prepare legislation for introduction in the 2024 legislative session proposing the statutory changes necessary to implement the transfers of duties” required by the 2023 legislation. Chapter 79 is the product of this direction from the legislature to the nonpartisan legislative staff.

The legislature also directed the commissioner of human services to “prepare legislation for introduction during the 2024 legislative session ... for the creation and implementation of the Direct Care and Treatment executive board and defining the responsibilities, powers, and functions of the Department of Direct Care and Treatment executive board.” The commissioner’s proposals related to the executive board are not contained in chapter 79.

## **The Purpose of Chapter 79**

The purpose of chapter 79 is to make all the necessary changes to Minnesota Statutes to transfer to the Direct Care and Treatment Executive Board all the duties and authorities currently vested in the commissioner of human services with respect to the activities of the Division of Direct Care and Treatment. This act does not address the composition of the executive board nor establish any new responsibilities, powers, or functions of the executive board that do not currently exist as responsibilities, powers, or functions of the commissioner.

Nonpartisan staff reorganized the affected language for clarity and ease of use, updated terminology, and removed obsolete language.

This recodification was not intended to change existing policy or to have a fiscal impact beyond the reorganization of executive branch functions.

## **Drafting Techniques in Chapter 79**

A mix of different drafting techniques was used to accomplish the goal of transferring all relevant duties and authorities related to direct care and treatment from the commissioner of human services to Direct Care and Treatment, including renumbering existing statutes, repealing and re-enacting existing statutes, changing terminology, and making technical and editorial changes to current statutes. Many sections of the first nine articles of this act were amended and also included in the revisor instruction to renumber the sections. In these cases, the language as amended in this act will be moved as the instruction indicates.

### **Renumbering**

Chapter 79 compiles into chapter 246C all the existing language concerning the duties and authorities relating to direct care and treatment currently vested in the commissioner of human services and compiles into chapter 246 all the language relating to specific services offered by the existing Division of Direct Care and Treatment unless those services are covered by chapter 246B. These compilations are accomplished primarily via the revisor instruction.

### **Repeal and re-enactment**

Sometimes the existing language did not lend itself to being easily renumbered, usually because the language being moved was at the sentence level. In this situation, the existing language was repealed and recreated as appropriate as new language. The repealer is at the end of this act, and while most of the statutory language on the list was repealed because it was obsolete or redundant, three repealed sections were at least partially re-enacted: sections 246.01, 246.014, and 252.50, subdivision 1.

## **Changing terms**

The easiest way to accomplish the changes requested by the legislature was to change every relevant instance of “commissioner of human services” to “direct care and treatment executive board.” There are revisor instructions to make these changes during the upcoming interim prior to publishing the 2024 edition of Minnesota Statutes.

## **Inline amendments**

Any section of existing statute that nonpartisan staff determined needed to be amended in a way not captured by the revisor’s instructions was pulled into one of the first nine articles of the act. These sections include technical and editorial changes as well as language to accomplish the transfer of duties and authorities that could not be accomplished by simply changing “commissioner” to “executive board.”

## **New language**

### **Relocated language appearing as new**

Sometimes relocated language appears as new language. In these instances, the new language is nearly identical to existing language that appears elsewhere in statute, but could not be easily renumbered by a revisor instruction.

### **New language capturing existing authorities**

Article 1, section 27, contains new language that captures existing administrative functions performed by the commissioner of human services that require a mechanism for the executive board to continue. This language authorizes the executive board to contract with the commissioner to continue to perform these functions.

Article 3 is closely related to the language in article 1, section 27, and serves a similar purpose. The new language in this article is required to differentiate between which final orders following an administrative hearing are to be made by the commissioner and which by the executive board, to ensure that one agency does not infringe on the discretion of the other, and that the two agencies communicate information that the other may require.

Other examples of new language capturing existing authority include cases where the executive board is being given joint authority with the commissioner, the discretion of the executive board is being preserved, or a provision is being expanded to include both the commissioner and the executive board.

## **Chapter 246: State-Operated Services**

Below is a table showing the statutory organization of chapter 246, which has been modified to govern the services provided by the new Direct Care and Treatment agency. Several existing sections within chapter 246 have been renumbered and some existing sections from chapters

251 (Care of Tuberculosis Persons), 252 (Services for Persons with Developmental Disabilities), and 256 (Human Services), have been moved into this chapter. Additional services that will be administered by Direct Care and Treatment are in the existing chapter 246B (Sex Offender Program).

Proposed Section Coding and Headnote	Proposed Subdivision Coding and Headnote	Current Section Coding
246.0012 Definitions.	—	New
246.0141 Tobacco Use Prohibited.	Subd. 1. General prohibition on tobacco use.	246.0141, the first sentence
—	Subd. 2. Exception to prohibition on tobacco use.	246.0141, the third sentence
246.015 Consultative Services; Aftercare of Patients.	Subd. 3. Authorization.	246.015, subd. 3
246.13 Records of Persons Receiving State-Operated Services.	Subd. 1. Executive board’s responsibilities.	246.13, subd. 1
—	Subd. 2. Definitions; risk assessment and management.	246.13, subd. 2
—	Subd. 3. Community-based treatment and medical treatment.	246.13, subd. 3
—	Subd. 4. Predatory offender registration notification.	246.13, subd. 4
—	Subd. 5. Procedure for blood-borne pathogens.	246.13, subd. 5
246.141 Project Labor.	—	246.141
246.15 Money of Patients or Residents.	Subd. 1. Record keeping of money.	246.15, subd. 1
—	Subd. 3. Forensic patient transition savings account in secure treatment facilities.	246.15, subd. 3

Proposed Section Coding and Headnote	Proposed Subdivision Coding and Headnote	Current Section Coding
246.151 Compensation Paid to Patient.	Subd. 1. Compensation.	246.151, subd. 1
—	Subd. 2. Imprest cash fund.	246.151, subd. 2
246.16 Unclaimed Money or Personal Property.	Subd. 1. Unclaimed money.	246.16, subd. 1
—	Subd. 2. Unclaimed personal property.	246.16, subd. 2, except for the last sentence
—	Subd. 3. Legal action.	246.16, subd. 2, the last sentence
246.18 Disposal of Funds.	Subd. 1. Generally.	246.18, subd. 1
—	Subd. 4. Collections deposited in the general fund.	246.18, subd. 4
—	Subd. 4a. Mental health innovation account.	246.18, subd. 4a
—	Subd. 5. Funded depreciation accounts for state-operated, community-based programs.	246.18, subd. 5
—	Subd. 6. Collections dedicated.	246.18, subd. 6
246.325 Garden of Remembrance.	—	246.325
246.33 Cemetery.	Subd. 1. Cemetery and burial for individual in a state institution.	246.33, subd. 1
—	Subd. 2. Land surveyance required.	246.33, subd. 2
—	Subd. 3. Marking cemetery boundary.	246.33, subd. 3
—	Subd. 4. Plots in cemetery.	246.33, subd. 4

Proposed Section Coding and Headnote	Proposed Subdivision Coding and Headnote	Current Section Coding
—	Subd. 5. Surveyor certification.	246.33, subd. 5
—	Subd. 6. County recording.	246.33, subd. 6
246.34 Reinterment.	Subd. 1. Requirements for reinterment.	246.34, subd. 1
—	Subd. 2. District court approval needed.	246.34, subd. 2
—	Subd. 3. Court order.	246.34, subd. 3
246.35 Abandonment of Cemetery; Court Order.	—	246.35
246.50 Care of Clients in State Facilities; Definitions.	Subd. 1. Scope.	246.50, subd. 1
—	Subd. 2. Commissioner.	246.50, subd. 2
—	Subd. 3. State facility.	246.50, subd. 3
—	Subd. 4. Client.	246.50, subd. 4
—	Subd. 5. Cost of care.	246.50, subd. 5
—	Subd. 6. Relatives.	246.50, subd. 6
—	Subd. 7. Client's county.	246.50, subd. 7
—	Subd. 8. Local social services agency.	246.50, subd. 8
—	Subd. 10. State-operated community-based program.	246.50, subd. 10
—	Subd. 11. Health plan company.	246.50, subd. 11

Proposed Section Coding and Headnote	Proposed Subdivision Coding and Headnote	Current Section Coding
246.51 Payment for Care and Treatment; Determination.	Subd. 1a. Clients in state-operated community-based programs; determination.	246.51, subd. 1a
—	Subd. 1b. Clients served by regional treatment centers or nursing homes; determination.	246.51, subd. 1b
—	Subd. 2. Rules.	246.51, subd. 2
—	Subd. 3. Applicability.	246.51, subd. 3
246.511 Relative Responsibility.	—	246.511
246.52 Payment for Care; Order; Action.	—	246.52
246.53 Claim Against Estate of Deceased Client.	Subd. 1. Client's estate.	246.53, subd. 1
—	Subd. 2. Preferred status.	246.53, subd. 2
—	Subd. 4. Exception from statute of limitations.	246.53, subd. 4
246.531 Subrogation of Insurance Settlements.	Subd. 1. Subrogation of client's rights.	246.531, subd. 1
—	Subd. 2. Civil action.	246.531, subd. 2
246.54 Liability of County; Reimbursement.	Subd. 1. Generally.	246.54, subd. 1
—	Subd. 1a. Anoka-metro regional treatment center.	246.54, subd. 1a
—	Subd. 1b. Community behavioral health hospitals.	246.54, subd. 1b

Proposed Section Coding and Headnote	Proposed Subdivision Coding and Headnote	Current Section Coding
—	Subd. 1c. State-operated forensic services.	246.54, subd. 1c
—	Subd. 2. Exceptions.	246.54, subd. 2
—	Subd. 3. Administrative review of county liability for cost of care.	246.54, subd. 3
246.55 Appeal from Order of Executive Board.	—	246.55
246.554 Purpose of Regional Treatment Centers.	—	253.016
246.555 Persons Admissible to Regional Treatment Centers.	Subd. 1. State-operated substance use disorder treatment.	246.23, subd. 2
—	Subd. 2. County per diem cost.	246.23, subd. 3
—	Subd. 3. Criteria.	246.23, subd. 4
—	Subd. 4. Private and third-party payments	246.23, subd. 5
—	Subd. 5. Treatment of additional individuals.	246.23, subd. 6
246.56 Work Activity for Certain Patients or Residents.	Subd. 1. Therapeutic work activities.	246.56, subd. 1
—	Subd. 2. Powers of executive board.	246.56, subd. 2
—	Subd. 3. Indirect costs and reimbursements.	246.56, subd. 3
246.57 Shared Service Agreements.	Subd. 1. Authorized.	246.57, subd. 1
—	Subd. 4. Shared staff or services.	246.57, subd. 4



Proposed Section Coding and Headnote	Proposed Subdivision Coding and Headnote	Current Section Coding
—	Subd. 6. Dental services.	246.57, subd. 6
246.575 Provision of Nursing Home Services.	Subd. 1. Nursing home care.	251.012, subd. 1
—	Subd. 2. Technical assistance.	251.012, subd. 2
—	Subd. 3. Auxiliary services.	251.012, subd. 3
—	Subd. 4. Respite care.	251.012, subd. 4
246.581 State-Operated, Community-Based Programs.	Subd. 1. Employees of state-operated, community-based programs.	252.50, subd. 1, the third sentence
—	Subd. 2. Employment of clients by state-operated, community-based programs.	252.50, subd. 1, the fourth sentence
—	Subd. 3. Admissions to state-operated, community-based programs.	252.50, subd. 1, the eighth sentence
246.585 Crisis Services.	—	252.50, subd. 7
246.588 Spiritual Care Services.	—	252.50, subd. 8
246.591 Active Psychiatric Treatment.	—	253.017, subd. 1
246.595 Southern Cities Community Health Clinic.	Subd. 1. Service provision.	256.0121, subd. 1
—	Subd. 2. Consultation required.	256.0121, subd. 2
—	Subd. 3. Guarantee of service availability; legislative notice.	256.0121, subd. 3
246.599 Services to Courts and State Welfare Agencies.	Subd. 1. Consultation services.	246.015, subd. 3, the first sentence

Proposed Section Coding and Headnote	Proposed Subdivision Coding and Headnote	Current Section Coding
—	Subd. 2. Aftercare.	246.015, subd. 3, the first sentence
—	Subd. 3. Education programs.	246.015, subd. 3, the second sentence
—	Subd. 4. Federal and other funds.	246.015, subd. 3, the third sentence
246.611 Rules and Licensure.	—	252.50, subd. 10
246.64 Substance Use Disorder Service Agreements.	Subd. 1. Substance use disorder rates.	246.64, subd. 1
—	Subd. 2. Depreciation collections.	246.64, subd. 2
—	Subd. 3. Responsibilities of executive board.	246.64, subd. 3
—	Subd. 4. Trade secret information.	246.64, subd. 4
246.65 Rates for State-Operated, Community-Based Programs.	—	252.50, subd. 6
246.71 Definitions.	Subd. 1. Scope.	246.71, subd. 1
—	Subd. 2. Blood-borne pathogens.	246.71, subd. 2
—	Subd. 3. Patient.	246.71, subd. 3
—	Subd. 4. Employee of a secure treatment facility or employee.	246.71, subd. 4
—	Subd. 5. Secure treatment facility.	246.71, subd. 5
—	Subd. 6. Significant exposure.	246.71, subd. 6
246.711 Conditions for Applicability of Procedures.	Subd. 1. Request for procedures.	246.711, subd. 1

Proposed Section Coding and Headnote	Proposed Subdivision Coding and Headnote	Current Section Coding
—	Subd. 2. Conditions.	246.711, subd. 2
246.712 Information Required to Be Given to Individuals.	Subd. 1. Information to patient.	246.712, subd. 1
—	Subd. 2. Information to secure treatment facility employee.	246.712, subd. 2
246.713 Disclosure of Positive Blood-Borne Pathogen Test Results.	—	246.713
246.714 Consent Procedure Generally.	—	246.714
246.715 Testing of Available Blood.	Subd. 1. Procedures with consent.	246.715, subd. 1
—	Subd. 2. Procedures without consent.	246.715, subd. 2
—	Subd. 3. Follow-up.	246.715, subd. 3
246.716 Blood Sample Collection for Testing.	Subd. 1. Procedures with consent.	246.716, subd. 1
—	Subd. 2. Procedures without consent.	246.716, subd. 2
246.717 No Discrimination.	—	246.717
246.718 Use of Test Results.	—	246.718
246.719 Test Information Confidentiality.	—	246.719
246.72 Penalty for Unauthorized Release of Information.	—	246.72
246.721 Protocol for Exposure to Blood-Borne Pathogens.	—	246.721
246.722 Immunity.	—	246.722

## Chapter 246C: Department of Direct Care and Treatment

Below is a table showing the statutory organization of the new chapter 246C, which governs the duties and authorities of Direct Care and Treatment. Most of the language in this new chapter is existing language moved from chapters of statutes governing the Department of Human Services (ch. 245), state-operated services (ch. 246), and hospitals for persons with mental illness (ch. 253).

Proposed Section Coding and Headnote	Proposed Subdivision Coding and Headnote	Current Section Coding
246C.015 Definitions.	Subd. 1. Scope.	New
—	Subd. 2. Chief executive officer.	New
—	Subd. 3. Commissioner.	New
—	Subd. 4. Community preparation services.	246C.02, para. (b)
—	Subd. 5. County of financial responsibility.	246.23, subd. 1 246.50, subd. 7
—	Subd. 6. Executive board.	New
—	Subd. 7. Executive medical director.	New
—	Subd. 8. Head of the facility or head of the program.	253B.02, subd. 8
—	Subd. 9. Indian.	246.0141, the fourth sentence
—	Subd. 10. Secure treatment facility.	246.71, subd. 5
—	Subd. 11. Tobacco; tobacco-related device.	246.0141, the second sentence
246C.02 Department of Direct Care and Treatment; Establishment.	Subd. 1. Establishment.	246C.02, para. (a), the first two sentences

Proposed Section Coding and Headnote	Proposed Subdivision Coding and Headnote	Current Section Coding
—	Subd. 2. Mission.	246C.02, para. (a), the third and fourth sentences
—	Subd. 3. Direct care and treatment services.	246C.02, para. (a), the fifth sentence
—	Subd. 4. Statewide services.	246.014, para. (a), the last two sentences
—	Subd. 5. Department of Human Services as state agency.	246.01, the first para., the last sentence
246C.03 Transition of Authority; Development of a Board.	Subd. 1. Authority until board is developed and powers defined.	246C.03, subd. 1
—	Subd. 2. Development of Department of Direct Care and Treatment Board.	246C.03, subd. 2, para. (a); para. (b) is new
246C.04 Transfer of Duties.	Subd. 1. Transfer of duties.	246C.04, paras. (a) to (c), para. (d) is new
—	Subd. 2. Transfer of custody of civilly committed persons.	New
—	Subd. 3. Control of direct care and treatment.	246.01, the first para., the first, second, and third sentences
—	Subd. 4. Appropriations.	246.01, the third para.; para. (b) is new
246C.05 Employee Protections for Establishing the New Department of Direct Care and Treatment.	—	246C.05, paras. (a) to (d), para. (e) is new
246C.06 Executive Board; Powers and Duties.	Subd. 1. Establishment.	New

Proposed Section Coding and Headnote	Proposed Subdivision Coding and Headnote	Current Section Coding
—	Subd. 2. Membership of the executive board.	246C.03, subd. 2, para. (b)
—	Subd. 3. Qualifications of members.	246C.03, subd. 2, para. (c)
—	Subd. 4. Accepting contributions or gifts.	246.01, the first para., fourth and fifth sentences, and the second para.
—	Subd. 5. Federal aid or block grants.	245.71, subd. 1
—	Subd. 6. Operation of a communication systems account.	256.01, subd. 2, para. (v)
—	Subd. 7. Biennial estimates; suggestions for legislation.	246.12
—	Subd. 8. Reciprocal exchange of certain persons.	246.234
—	Subd. 9. Acceptance of voluntary, uncompensated services.	246.36
—	Subd. 10. Benefit for persons with developmental disabilities.	246.41, subs. 1 to 3
246C.09 Office of Medical Director.	Subd. 1. Established.	246.018, subd. 1
—	Subd. 2. Executive medical director.	246.018, subd. 2
—	Subd. 3. Duties.	246.018, subd. 3
—	Subd. 4. Direct care and treatment medical staff.	246.018, subd. 4
246C.10 Forensic Services.	Subd. 1. Maintenance of forensic services.	246.014, paras. (b) and (d)

Proposed Section Coding and Headnote	Proposed Subdivision Coding and Headnote	Current Section Coding
—	Subd. 2. Authority to develop services with counties.	252.50, subd. 4
—	Subd. 3. Need for services.	253.017, subd. 2
—	Subd. 4. Dissemination of admission and stay criteria.	253.017, subd. 3
246C.11 State-Operated, Community-Based Programs.	Subd. 1. State-operated, community-based programs established.	252.50, subd. 1, the first sentence
—	Subd. 2. State-operated, community-based program definition.	252.50, subd. 1, the second sentence
—	Subd. 3. Comprehensive system of services.	252.50, subd. 1, the fifth and sixth sentences
—	Subd. 4. Types of state-operated, community-based programs.	252.50, subd. 1, the seventh sentence
—	Subd. 5. Technical training; community-based programs.	245.073, para. (b) is new
246C.12 Regional Treatment Center Inpatient Services.	Subd. 1. Availability of regional treatment center inpatient services.	245.474, subd. 1
—	Subd. 2. Quality of service.	245.474, subd. 2
—	Subd. 3. Transition to community.	245.474, subd. 3
—	Subd. 4. Staff safety training.	245.474, subd. 4
246C.13 Establishment of Minnesota Sex Offender Program.	—	246B.02
246C.14 Indians, Facilities for Treatment.	—	251.17

Proposed Section Coding and Headnote	Proposed Subdivision Coding and Headnote	Current Section Coding
246C.15 Provision of Firearms and Explosives Background Check Information.	—	245.041
246C.16	Subd. 1. Leases for state-operated, community-based programs.	245.036
—	Subd. 2. Money collected as rent; state property.	245.037
—	Subd. 3. Use of space in institutions.	246.14
—	Subd. 4. Compromise of claims.	246.24
—	Subd. 5. Authorization to build or purchase.	252.50, subd. 2
246C.18	Subd. 1. Notification to legislature required.	246.128
—	Subd. 2. Operation of regional treatment centers.	246.0135, paras. (a) to (c)
—	Subd. 3. Diversion of state funds prohibited.	246.0135, para. (d)
—	Subd. 4. Legislative approval required.	246.129
—	Subd. 5. Services to families.	246.70
246C.19 Physical Examinations for Employment Required.	—	246.27
246C.20 Contract with Department of Human Services for Administrative Services.	—	New



## Other Renumbered Sections

Below is a table showing other sections of statute being renumbered in the Direct Care and Treatment recodification act to provide clarity in the organization and structure of the statutes. For example, several sections administered by the Department of Labor and Industry are moved from the chapter of statutes governing care of tuberculosis persons (ch. 251) to the chapter of statutes governing workers' compensation (ch. 176).

Proposed Section Coding and Headnote	Proposed Subdivision Coding and Headnote	Current Section Coding
176.87 Employees Contracting Tuberculosis to Receive Medical Care and Compensation.	—	251.041
176.871 Report of Illness of Employee, Hearing on Claim.	—	251.042
176.872 Findings, Payment of Medical Care and Compensation.	Subd. 1. Duty to seek treatment.	251.043, subd. 1
—	Subd. 2.	251.043, subd. 1a
—	Subd. 3.	251.042, subd. 1b
—	Subd. 4. Presumption of risk.	251.043.2
—	Subd. 5. Date of contracting tuberculosis.	251.043, subd. 3
—	Subd. 6. Hospital employee contracting tuberculosis.	251.15, subds. 1 and 2
176.873 Application.	—	251.044
176.874 Police Officers Contracting Tuberculosis.	—	251.051
176.875 Report of Illness.	—	251.052
176.876 Officers Admitted to Hospital; Payments.	—	251.053

Proposed Section Coding and Headnote	Proposed Subdivision Coding and Headnote	Current Section Coding
245A.27 Reporting by Residential Treatment Programs Required.	Subd. 1. Definition.	253C.01, subd. 1
—	Subd. 2. Information required.	253C.01, subd. 2
—	Subd. 3. Release and summary of data.	253C.01, subd. 3
253.245 Notice of Escape or Death.	—	253.13
253B.10	Subd. 6. State-operated services for persons with mental illness.	253.015, subd. 1



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