IRTS/RCS (245I.23) Programs:
2023 Legislative changes and program implementation

September 2023

The 2023 Legislature made changes to several laws that impact Department of Human Services (DHS) licensed Intensive Residential Treatment Services (IRTS) and Residential Crisis Stabilization (RCS) programs. The sections below contain an overview of each change, instructions for what providers need to do about the change, the date the change is effective, and a link to the change in law.

The hyperlinks within this document go to where the new law can be found. When reviewing the new law:

- Text that is stricken with a line through it reflects words that are being removed from the law.
- Text that is underlined reflects words that are being added to the law.
- Text that is unchanged reflects what the law was before and continues to be the law.

Later this year, the Minnesota Office of the Revisor of Statutes will update the statute sections on their website to reflect the new laws.

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Opioid overdose medication

Overview

All programs must maintain a supply of an opiate antagonist (example, naloxone or Narcan) that is available at the program for the emergency treatment of an opioid overdose. To ensure broad and quick access in an emergency, requirements for other types of medications will not apply to these opiate antagonists as the sections below will explain.

Orders

The program must have a written standing order protocol by a physician, advanced practice registered nurse, or physician assistant, that permits the license holder to maintain a supply of opiate antagonists on site. Providers without a prescriber on staff can work with another organization, medical provider, or pharmacy to obtain a standing order. The Steve Rummler HOPE Network provides assistance with standing orders and obtaining naloxone. Additional information about accessing naloxone can be found on the Minnesota Department of Health's Drug Overdose Prevention Resources webpage under the naloxone heading.

Storage

Due the need for immediate access, emergency opiate antagonist medications such as naloxone are not required to be stored in a locked area and staff may carry this medication on them or store it in an unlocked location at the program.

Staff training

All staff who provide direct care services must receive training in the specific mode of administration of opiate antagonists the program uses. This could include intranasal administration, intramuscular injection, or both. The program can use any training from any person or organization that includes instruction on how to safely administer these medications, a registered nurse is **not** required to provide the training.

Effective July 1, 2023. MN Laws, Chapter 61, Article 5, Section 6 (2023 245A.242)

What providers need to do

Programs must ensure that a supply of an opiate antagonist is always available at the program to respond to a potential overdose and that staff receive training on how to administer the medication. The license holder must maintain a copy of the written standing order that permits the program to maintain a supply of opiate antagonists on site. The Minnesota Department of Health's Drug Overdose Prevention Resources webpage under the naloxone heading contains resources for to assist providers with obtaining this medication and staff training resources.

Training Requirements

Overview

Several training requirements were changed or clarified.

- Clinical trainees are not required to complete the specified trainings that are listed within 90 days of first providing direct contact services for adult or child client (paragraphs (d) and (e)).
- A requirement for 30 hours of pre-service training for mental health rehabilitation workers, mental health behavioral aides, and a limited group of mental health practitioners was clarified to be only required once per individual.

Effective July 1, 2023. MN Laws, Chapter 70, Article 9, Section 9.

What providers need to do

All staff continue need to require training based on the agency's training plan, and an individual assessment of their training needs. Providers should modify their training plans to reflect these changes.

Documentation Standards

Overview

Documentation requirements were revised in 245I.08. One minor change was made to clarify how records need to be marked with client and staff names. A requirement to specify service modality in addition to the method was removed. Another more significant change was to allow 10 business days, instead of 5, for a treatment supervisor to sign off on a diagnostic assessment, functional assessment, level of care assessment, or treatment plan.

Effective July 1, 2023. MN Laws, Chapter 70, Article 9, Sections 10 to 12

What providers need to do

Instead of including both client and staff names on all pages of all files, providers only need to include the client's name on each page of the client file, and the staff name on each page of the staff file. Progress notes may omit "service modality" and simply record the method of service delivery. (e.g., individual psychotherapy, Group DBT, Skills Training, etc.). Treatment supervisors must ensure documents are reviewed and approved in the revised timeframe.

Diagnostic Assessments

Overview

To better support integrated care, DHS sought changes to the required elements of a comprehensive assessment required to 245G programs and the diagnostic assessment required for 245I services. The combined elements are in 245I.10, subd 6, paragraph b.

The required elements of assessment for immediate risks to health and safety now include "withdrawal symptoms, medical conditions, and behavioral and emotional symptoms." Additionally, the provider must gather the client's substance use treatment history as well as "substance use history, if applicable, including:

(i) amounts and types of substances, frequency and duration, route of administration, periods of abstinence, and circumstances of relapse; and

(ii) the impact to functioning when under the influence of substances, including legal interventions."

However, language from paragraph c continues to allow a provider to delay gathering several items including information on substance use and treatment if it will retraumatize the client or reduce their willingness to engage in treatment. If this is the case, providers should note what information is not gathered and a brief notation as to why.

Providers should also remember that if a client has a current SUD diagnosis or a positive screen for the possibility of a SUD, an assessment of the client's substance use must be completed within 30 days for a client in an IRTS. See 245I.23 Subd 7, paragraph h.

Effective August 1, 2023. MN Laws, Chapter 50, Article 2, Section 21 (2023 245I.10, subd. 6).

What providers need to do

Include additional required elements in diagnostic assessments. Please note that language changing the frequency of Diagnostic Assessments in 245I.10 does not remove the requirement to perform or update the Diagnostic assessment within ten days of admission for an IRTS client. (245I.23, Subd 7 (e))

Medication Policies

Overview

DHS sought changes to medication storage policies to better align requirements with 245G Substance Use Disorder programs, and to reflect the needs of non-residential programs.

Only Schedule II drugs require separate storage. Schedule II to V drugs require a documentation procedure, which does not need to occur each shift. A certification holder that stores, prescribes, or administers medications does not need to obtain renewals as a certification requirement. See MN Laws, Chapter 70, Article 9, Sections 19-20.

What providers need to do

Store Schedule II drugs separately from other medications. Ensure that a registered nurse or licensed prescriber responsible for overseeing storage and administration of medications must develop a documentation procedure that describes how frequently to account for the medications.

Client Rights

Overview

Sex and gender identity are now specifically enumerated as protected elements in the required client bill of rights. This is consistent with how DHS has interpreted "gender" in the language as it previously existed. See MN Laws, Chapter 52, Article 19, Sec. 44

What must providers do

Review and ensure that their non-discrimination policy as required by 245I.12 is inclusive of sex and gender identity.

Nonprofit corporation controlling individual

Overview

The definitions for **owner** and **controlling individual** changed to include a nonprofit corporation as one type of owner of a licensed program and therefore also a controlling individual. Programs with a nonprofit corporation included as a controlling individual can change their board of directors without applying for a new license. This eliminates a burdensome and redundant licensing process for nonprofit corporations that other types of organizations do not have to complete. This change also clarifies the definition of a controlling individual by including the president and treasurer of the board of directors of a nonprofit corporation which were previously part of the owner definition. **Effective July 1, 2023**. MN Laws, Chapter 70, Article 17, Sections 9 and 10 (2023 245A.02, subds. 5a and 10b).

What providers need to do

License holders that are a nonprofit corporation and that are not listed as a controlling individual for the license will need to update their license information with DHS. To update this information, please contact the licensor for your program. If you do not know who your licensor is, email: dhs.mhcdlicensing@state.mn.us.

Questions

If you have questions about this implementation plan or other licensing requirements, please contact your licensor directly or email dhs.mhcdlicensing@state.mn.us.

Background studies

Updates on legislative changes related to background studies are posted on the "What's new" for background studies webpage.