Substance Use Disorder Treatment Programs: 2023 Legislative changes and program implementation

The 2023 Legislature made changes to several laws that impact Department of Human Services (DHS) licensed substance use disorder treatment 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.

A side-by-side comparison of the existing statutory language in Minnesota Statutes, chapter 245G and how it will change is also available at this link: 245G Side-by-Side Legislative Changes 2023. Additional side-by-sides for related chapters are also available under the legislative heading on the webpage at this link.

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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. Existing requirements to have a standing order and to train staff for this type of medication continue but move to a different part of statute in section 245A.242. 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, which 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. If an outpatient program does not administer client medications and only uses emergency opiate antagonists, the license holder is **not** required to have the policies and procedures required in section 245G.08, subdivisions 5 and 6. Outpatient programs that do not administer client medications must instead add a description about the program's procedures for administering opiate antagonist medications to the description of health care services that section 245G.08, subd. 1 requires.

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 to assist providers with obtaining this medication and staff training resources.

Comprehensive assessment–days to complete

Overview

The days to complete a comprehensive assessment is increased. For **residential** programs, it increases to **5 days** after service initiation. For **nonresidential** programs, it increases to **5 days** on which the program provides a treatment service to the client. The requirements now clarify that the number of days to complete the assessment do **not** include the day of service initiation. The changes also specify that an alcohol and drug counselor must sign and date all reviews and updates to an assessment.

Example–Nonresidential assessment days to complete:

January 2: Service initiation and individual counseling	(Do not count day of service initiation)
January 3: Individual counseling	**(Day 1)**
January 4: Individual counseling	**(Day 2)**
January 5: Individual and group counseling	**(Day 3)**
January 6-7: No services provided	(Do not count)
January 8: Individual counseling and client education	**(Day 4)**
January 9-10: No services provided	(Do not count)
January 11: Individual and group counseling	**(Day 5, must complete comprehensive assessment)**

Effective January 1, 2024. MN Laws, Chapter 50, Article 2, Section 12 (2023 245G.05, subd.1).

What providers need to do

Beginning January 1, 2024, providers must complete comprehensive assessments within the longer timeframes the section above describes.

Comprehensive assessment–contents

Overview

The comprehensive assessment content changes to align several items with the components in a mental health diagnostic assessment to streamline the client assessment process. The assessment will still require several substance use specific items. The assessment summary requirements combine into the comprehensive assessment which will eliminate the separate assessment summary.

The alcohol and drug counselor may delay some specific topics if gathering the information would retraumatize the client or harm their willingness to engage in treatment. These specific topics below include this note in parentheses **(may gather later)**. If delaying these items, the alcohol and drug counselor must document in the assessment that the topic will require further assessment at a later point during the client's treatment.

The comprehensive assessment must document information about the client's current life situation, including all the following information:

- Client's age
- Client's current living situation, including the client's housing status and household members
- Status of the client's basic needs
- Client's education level and employment status
- Client's current medications
- Immediate risks to the client's health and safety, including withdrawal symptoms, medical conditions, and behavioral and emotional symptoms
- Client's perceptions of the client's condition
- Client's description of the client's symptoms, including the reason for the client's referral
- Client's history of mental health and substance use disorder treatment
- Cultural influences on the client
- Substance use history, including:
    - amounts and types of substances, frequency and duration, route of administration, periods of abstinence, and circumstances of relapse; and
    - the impact to functioning when under the influence of substances, including legal interventions.
- Client's relationship with the client's family and other significant personal relationships, including the client's evaluation of the quality of each relationship **(may gather later)**
- Client's strengths and resources, including the extent and quality of the client's social networks **(may gather later)**
- Important developmental incidents in the client's life **(may gather later)**
- Maltreatment, trauma, potential brain injuries, and abuse that the client has suffered **(may gather later)**
- Client's history of or exposure to alcohol and drug usage and treatment **(may gather later)**
- Client's health history and the client's family health history, including the client's physical, chemical, and mental health history **(may gather later)**
- Diagnosis of a substance use disorder or a finding that the client does not meet the criteria for a substance use disorder
- Determination of whether the individual screens positive for co-occurring mental health disorders using a screening tool approved by the commissioner pursuant to section 245.4863
- Risk rating and summary to support the risk ratings within each of the dimensions listed in section 254B.04, subdivision 4, and
- Recommendation for the ASAM level of care identified in section 254B.19, subdivision 1.

Effective January 1, 2024.

The new assessment content requirements are in MN Laws, Chapter 50, Article 2, Section 13 (2023 245G.05, subd. 3) and the required items for 245I.10, subdivision 6, paragraphs **(b) and (c)** are in MN Laws, Chapter 50, Article 2, Section 21 (2023 245I.10, subd. 6).
The repeal of the separate assessment summary requirements is in MN Laws, Chapter 50, Article 2, Section 63.

What providers need to do

Providers should begin updating forms and electronic records documents and train staff so the new contents will be ready by the effective date. Beginning January 1, 2024, all new assessments must contain the information the section above lists.

Opioid use disorder education

Overview

Programs have been required to provide clients the educational material in Options for Opioid Treatment in Minnesota and Overdose Prevention. This requirement will continue but who you must provide it to changes to only clients **assessed** for an opioid use disorder. The requirements also now specify that the program must provide the material within 24 hours of service initiation. If the client has not yet been assessed for an opioid use disorder, the program must instead provide the material at the time the client is identified as having an opioid use disorder. **Effective January 1, 2024.** See MN Laws, Chapter 50, Article 2, Section 13 (2023 245G.05, subd. 3).

What providers need to do

Beginning January 1, 2024, providers can limit this education to only clients assessed as having an opioid use disorder. You must provide the education to these clients within 24 hours of service initiation. If the client has not yet been assessed for an opioid use disorder, you must provide the education at the time you assess the client as having an opioid use disorder.

Individual treatment plan–days to complete

Overview

For **nonresidential** programs, the days to complete a treatment plan increases to **ten days** on which the program provides a treatment service to the client. If you do not provide a treatment service to a client on a day, then you do not include that day in the calculation. Regardless of the number of days of treatment services, a nonresidential program must complete the treatment plan within **30 days**.

Example–Nonresidential treatment plan days to complete:

January 2: Service initiation and individual counseling	(Do not count day of service initiation)
January 3: Individual counseling	**(Day 1)**
January 4: Individual counseling	**(Day 2)**
January 5: Individual and group counseling	**(Day 3)**
January 6-7: No services provided	(Do not count)
January 8: Individual counseling and client education	**(Day 4)**
January 9-10: No services provided	(Do not count)
January 11: Individual and group counseling	**(Day 5, must complete comprehensive assessment)**
January 12: Individual counseling	**(Day 6)**
January 13-15: No services provided	(Do not count)
January 16: Peer support and treatment coordination	**(Day 7)**
January 17: No services provided	(Do not count)
January 18: Stress management	**(Day 8)**
January 19: Individual Counseling	**(Day 9)**
January 20-21: No services provided	(Do not count)
January 22: Individual counseling	**(Day 10, must complete treatment plan)**

For **residential programs**, the days to complete the treatment plan stays the same at 10 days from the day of service initiation. For **residential programs** this includes every day of the week including weekends and holidays.

For **opioid treatment programs** the days to complete the treatment plan stays the same at 21 days from the day of service initiation.

For **all programs**, the requirements clarify that the number of days to complete the treatment plan does **not** include the day of service initiation. **Effective January 1, 2024.** See MN Laws, Chapter 50, Article 2, Section 14 (2023 245G.06, subd. 1).

What providers need to do

Beginning January 1, 2024, **nonresidential** providers must complete comprehensive assessments within the longer timeframes the section above describes. Residential programs and opioid treatment programs continue to complete comprehensive assessments within the existing timeframes.

Individual treatment plan–contents and process

Overview

The information that a treatment plan must include and the process for completing it changes. This includes additional requirements for participation in the treatment process, American Society of Addiction Medicine (ASAM) level documentation, details about treatment goals and objectives, and identifying maintenance strategy and goals. Several components align with treatment plan requirements for mental health services under the Uniform Services Standards to assist service integration. When completing an individual treatment

plan, the alcohol and drug counselor must base the client's individual treatment plan on the client's most recent comprehensive assessment.

The counselor must create the treatment plan with the client. The counselor must use a person-centered and culturally appropriate process and allow the client's family and other natural supports to observe and participate in the assessment and treatment planning process and individual treatment services, as the client chooses. If the license holder does **not** involve the client's family or other natural supports in the client's treatment planning, the license holder must **document the reasons** why. The counselor may document the reasons outside of the treatment plan in a progress note or in another location in the client file.

Each treatment plan must include:

- Client treatment goals in relation to any or all of the applicable ASAM six dimensions identified in section 254B.04, subdivision 4
- Measurable treatment objectives
- Schedule for accomplishing the client's treatment goals and objectives
- A treatment strategy
- Maintenance strategy goals and methods designed to address relapse prevention and to strengthen the client's protective factors
- ASAM level of care the client is receiving services under as listed in section 254B.19, subdivision 1 (for example, 1.0, 2.1, 3.5)
- Resources to refer the client to when the client's needs will be addressed concurrently by another provider, and
- Participants involved in the client's treatment planning.

Effective January 1, 2024. The new treatment plan contents are in MN Laws, Chapter 50, Article 2, Section 15 (2023 245G.06, subd. 1a). The repeal of the existing treatment plan content requirements is in MN Laws, Chapter 50, Article 2, Section 63.

What providers need to do

Providers should begin updating forms and electronic records documents and train staff so the new contents will be ready by the effective date. Beginning January 1, 2024, all new individual treatment plans must contain the information the section above lists.

Treatment plan reviews–completion frequency

Overview

The frequency for completing treatment plan reviews will depend on the level and type of services the client receives. For most service types, the ASAM level of care the client is receiving services at determines the frequency of the treatment plan reviews according to the following table. For clients receiving the lowest

intensity of services, the skilled treatment service hours the treatment plan indicates the client should receive each month determines the frequency. The tables below explain the frequency for each service type and level.

Service level client receives	**Treatment plan review frequency**
ASAM level 1.0 or lower outpatient **and** less than 5 hours of skilled treatment services each month (treatment plan must indicate hours)	90 days
ASAM level 1.0 outpatient	30 days
ASAM level 2.1 intensive outpatient	30 days
ASAM level 2.5 partial hospitalization	14 days
Outpatient level of service not listed	30 days
ASAM level 3.1 low-intensity residential	30 days
ASAM level 3.3 population-specific high-intensity residential	14 days
ASAM level 3.5 clinically managed high-intensity residential	14 days
Residential hospital-based services	14 days
Residential level of service not listed	30 days

Outpatient opioid treatment programs (OTP) under 245G.22 (residential OTPs must follow above table)	**Treatment plan review frequency**
10 weeks following completion of treatment plan	Weekly
After these 10 weeks	Monthly
After 10 weeks **and** client receives less than 5 hours of skilled treatment services each month (treatment plan must indicate hours)	90 days

Example for treatment plan review completion for 14 day frequencies

August 1: Treatment plan is completed
August 15: First treatment plan review is due
August 29: Second treatment plan review is due
September 12: Third treatment plan review is due

The date to complete the next treatment plan review will always depend on the date of when the last treatment plan review is completed, even if the previous review was completed earlier than required.

For all program types, service types, and levels treatment plan reviews must be completed more frequently when clinical needs warrant. **Effective January 1, 2024**. MN Laws, Chapter 50, Article 2, Section 17 (2023 245G.06, subd. 3a).

What providers need to do

Effective January 1, 2024, license holders must ensure counselors complete treatment plan reviews according to the frequencies in the tables above. Because the ASAM level for each client or hours of skilled treatment services will determine the frequency, treatment plans must clearly indicate these as applicable.

Treatment plan reviews–contents

Overview

Treatment plan reviews must contain additional information including toxicology results when available and any referrals for the client made since the last review. Changes are made to existing items to clarify when and how documentation for each must occur. This includes removing the requirement to document a review in each of the six dimensions. The list below includes all requirements for treatment plan reviews. The language below inside brackets [example] was added to the existing requirements to clarify or add new components.

Each treatment plan review must include documentation of:

- span of time covered by the review (example, January 1 to January 13, 2023)
- client goals [addressed since the last treatment plan] review and whether the identified methods [continue to be] effective
- monitoring of any physical and mental health problems
- [toxicology results for alcohol and substance use, when available]
- participation of others [involved in the treatment planning, including when services are offered to the client's family or significant others]
- [if changes to the treatment plan are necessary], staff recommendations for changes in the methods in the treatment plan
- whether the client agrees with the changes to the treatment plan
- [any referrals made since the previous treatment plan review], and
- if the client is a vulnerable adult, a review and evaluation of the individual abuse prevention plan.

Effective January 1, 2024. MN Laws, Chapter 50, Article 2, Section 16 (2023 245G.06, subd. 3).

What providers need to do

Providers should begin updating forms and electronic records documents and train staff so the new contents will be ready by the effective date. Beginning January 1, 2024, all new treatment plan reviews must contain the information the section above lists.

Discharge summary

Overview

The requirements clarify that a discharge summary must contain a risk rating in addition to a risk description for each of the ASAM six dimensions. **Effective January 1, 2024**. MN Laws, Chapter 50, Article 2, Section 18 (2023 245G.06, subd. 4).

What providers need to do

Beginning January 1, 2024, providers must ensure that each discharge summary contains a risk rating in addition to a risk description for each of the ASAM six dimensions. The risk ratings and descriptions are in the 3rd edition of the *ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions*.

Significant events

Overview

The amount of time to document a client's significant events increases from the day the event occurs to within **24 hours** of the event. A significant event is any event that impacts the client's relationship with other clients, staff, or the client's family or the client's treatment plan. **Effective August 1, 2023.** MN Laws, Chapter 49, Section 5 (2023 245G.06, subd. 2b).

What providers need to do

Providers must document significant events within 24 hours of the event.

Former students

Overview

Former students who have completed certain educational requirements may practice alcohol and drug counseling without a permit or license for 90 days. The 90-day period begins from the degree conferral date from an accredited school or educational program or from the last date the former student received credit for an alcohol and drug counseling course from an accredited school or educational program. Former students may only practice at the site where the student completed their internship or practicum and must be paid for work during the 90-day practice period.

In DHS-licensed substance used disorder treatment programs, an alcohol and drug counselor (ADC) must supervise and be responsible for all treatment services that a former student performs. Additionally, an ADC must review and sign each assessment, individual treatment plan, and treatment plan review that a former student prepares. Former students must receive the same orientation and trainings as those for staff. No more

than 50 percent of the treatment staff may be students, former students, or licensing candidates. **Effective August 1, 2023.**

- The definition for a former student that lists the educational requirements that must be met to be considered a former student is in MN Laws, Chapter 49, Section 1 (2023 148F.01, subd. 14a).
- The practice limits are in MN Laws, Chapter 49, Section 2 (2023 148F.11, subd. 2a).
- The requirements for supervision and staffing in a licensed program are in MN Laws, Chapter 70, Article 6, Section 35 (2023 245G.11, subd. 10)**.**

What providers need to do

Personnel policies must include a job description for the former student position that specifies the responsibilities, degree of authority to execute those responsibilities, and the qualifications for the position. License holders that have former students at their programs must document in the personnel file that the person meets all requirements to be a former student and must verify and document the start date of the 90-day period. On an ongoing basis, the program must meet all requirements for former student supervision, alcohol and drug counselor review and signing of documents, and staff ratios.

Recovery peer qualifications and scope of practice

Overview

Recovery peer qualifications change slightly and move to a different chapter of statute. The changes also require recovery peers to provide services according to a specific scope of practice. The scope of practice is that a recovery peer must:

- Be under the supervision of an alcohol and drug counselor
- Provide individualized peer support to each client
- Promote a client's recovery goals, self-sufficiency, self-advocacy, and development of natural supports, and
- Support a client's maintenance of skills that the client has learned from other services.

Effective upon federal approval. MN Laws, Chapter 50, Article 3, Sections 1 to 4.

What providers need to do

DHS will notify providers when federal approval is obtained. License holders must ensure that recovery peers provide services according to the scope of practice.

Maltreatment of minors reporting orientation training

Overview

In addition to the existing annual training requirement, programs must also provide an orientation to each mandatory reporter at the program on the maltreatment of minors reporting requirements and definitions in Minnesota Statutes, chapter 260E. This orientation must occur **before** the mandatory reporter has direct contact with a person served by the program. **Effective January 1, 2024**. MN Laws, Chapter 70, Article 8, Section 36 (2023 245G.13, subd. 2).

What providers need to do

License holders must ensure that each new mandatory reporter at the program receives this orientation before they are in direct contact with a person served by the program.

HIV training

Overview

A change to requirements for the HIV minimum standards requires DHS to outline the content for the annual training programs must provide to staff. The outline is available on the Substance use disorder treatment licensing webpage by clicking the HIV minimum standards heading. When you click this hyperlink, a summary will appear that explains the annual training content outline. There is also a link to a new 3-page condensed document to use for staff and client orientations. This document also contains a list of referral sources providers may use to meet the requirement in 245A.19, paragraph (c). A more expansive resource guide is also available to inform your policies and procedures and to provide additional optional training contents. **Effective August 1, 2023**. MN Laws, Chapter 49, Section 3 (2023 245A.19).

What providers need to do

Providers may begin using the new material as soon as they wish but must transition to the new content in all trainings, policies, and procedures by **January 1, 2024**. The email at this link was sent to programs to notify them of these changes.

Document date of first direct contact

Overview

License holders must document the first date that each background study subject has direct contact with a client at the program. The program may document this date in the personnel file, on a centralized list, or in another location. Wherever these dates are documented, the license holder must be able to provide the dates to DHS upon request. Documenting this date is important to demonstrate your program has met requirements for the timely completion of background studies and staff trainings. **Effective January 1, 2024**. See MN Laws, Chapter 70, Article 17, Section 13 (2023 245A.041, subdivision 6).

What providers need to do

License holders must establish a process to identify when each background study subject first has direct contact with a client at the program, record that date in the program's records, and provide the dates to DHS upon request.

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.

Opioid treatment programs–client supervision ratio

Overview

For programs licensed as an opioid treatment program under section 245G.22, each counselor may supervise up to 60 clients. This increase will only be in effect for one year and reverts to 50 clients per counselor on July 1, 2024. Programs will not have to discharge existing clients to return to 50 clients per counselor on July 1, 2024. **Effective July 1, 2023.** MN Laws, Chapter 50, Article 1, Section 18.

What providers need to do

Until June 30, 2024, license holders must ensure that each counselor does not supervise more than 60 clients. On July 1, 2024, programs must return to only allowing counselors to supervise up to 50 clients but will not have to discharge existing clients to return to 50 clients per counselor.

Infant safe sleep

Overview

This section only applies to programs that provide services to parents with their infants at the program.

For programs with staff who directly supervise infants:

New language has been added to Minnesota Statutes, section 245A.1435 to align with the American Association of Pediatrics' (AAP) recommendations for infant safe sleep and to provide greater clarity for license holders. When an infant is placed down to sleep, the infant's pacifier cannot have anything attached to it and the infant's clothing or sleepwear cannot have weighted materials, a hood, or a bib. An infant may wear a helmet while sleeping if the license holder has specific documentation. A plain language definition of swaddling has been incorporated into the statute, as well as clarity on the type of sleepwear that is appropriate for swaddling. License holders have the option to request a variance to permit the use of a cradleboard, if requested by a parent or guardian for a cultural accommodation. More information about these changes will be provided prior to the January 1, 2024, effective date.

For residential parents with children programs

License holders are not directly required to meet the standards in 245A.1435 while the infant's parent is responsible for supervising them. However, the license holder must provide education to parents about these important safety standards as required by Minnesota Statutes, section 245A.1443. DHS will make minor updates to the educational material that license holders must provide to parents in residential parents with children programs to reflect some of these changes. DHS will notify programs when the new version is available later this fall.

Effective January 1, 2024. Chapter 70, Article 8, Sections 4, 19, 20, 21 (2023 245A.02, subd. 5b; 245A.1435; 245A.146, subd. 3; 245A.16, subd. 1)

What providers need to do

For programs that directly supervise infants

Programs must ensure staff are familiar with the new language and do not place infants down to sleep wearing clothing or sleepwear that has weighted materials, a hood, or a bib; or a pacifier with an attachment. If a swaddle is used, it must be wrapped over the infant's arms, fastened securely across the infant's upper torso, and not constrict the infant's hips or legs. Like other clothing or sleepwear, a swaddle cannot have weighted materials, a hood, or a bib.

If an infant under one year of age requires a helmet for their development and would wear it while being placed down to sleep, programs must use the DHS form to obtain signed documentation from a physician, advanced practice registered nurse, physician assistant, licensed occupational therapist, or licensed physical therapist. The DHS helmet documentation form will be developed and shared prior to the January 1, 2024, effective date.

If a parent or guardian requests the use of a cradleboard for a cultural accommodation, programs may request a variance to Minnesota Statutes, section 245A.1435. The DHS cradleboard variance request form will be developed and shared prior to the January 1, 2024, effective date. A cradleboard variance may only be issued by the DHS commissioner. If a variance is granted, the license holder must check the cradleboard not less than monthly to ensure it is structurally sound and there are no loose or protruding parts and maintain written documentation of this review.

The DHS Sudden Unexpected Infant Death Training in Develop will be updated in the coming months to reflect the new legislative language.

For residential parents with children programs

Beginning January 1, 2024, provide the new education material to parents who need it and who have not yet received the existing version.

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.