# Certified Mental Health Clinics (245I.20)
# 2023 Legislative changes and program implementation

September 2023

The 2023 Legislature made changes to several laws that impact mental health clinics certified by the Department of Human Services (DHS). 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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# Case Reviews

## Overview

Mental Health Clinics had been required to ensure that a mental health professional performed a case review every two months of each client assigned to the mental health professional when the client is receiving clinical services from a mental health practitioner or clinical trainee. This requirement for a specific means of performing treatment supervision is now removed.

**Effective July 1, 2023.** MN Laws, Chapter 70, Article 9, Section 21.

## What providers need to do

Treatment supervision of services performed by practitioners or clinical trainees should be performed according to the general requirements of 245I.06. The requirement for a mental health professional at a mental health clinic to retain responsibility for a case assigned to a practitioner or clinical trainee remains at 245I.20 Subd 5.

# Evaluation and management psychiatry services

## Overview

Allows for psychiatry billed as evaluation and management (E/M) services to not meet requirements for a diagnostic assessment and treatment plan, so long as documentation is consistent with Current Procedural Terminology (CPT) guidance from the American Medical Association (AMA). If the same client receives other services such as therapy, those will have to continue to be documented under 245I standards.

**Effective July 1, 2023.** See MN Laws, Chapter 70, Article 9, Section 22.

## What providers need to do

Psychiatric providers should follow CPT guidance for billing services they perform. Requirements for diagnostic assessments and treatment plans from 245I.10 do not apply to these services.

# 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. 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 or treatment plan.

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

### What providers need to do

Beginning July 1, 2023, documentation requirements are clarified: providers must ensure that each page of client files is marked with the client's name, and each page of staff files is marked with the staff name. 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.

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.

Additionally, provider groups sought and obtained other changes in the requirements for a diagnostic assessment. First, the CASII/ECSII are no longer required as elements of the Diagnostic Assessment. The Behavioral Health Division of DHS is releasing guidance on other situations in which a CASII/ECSII is still required, including when making a referral to a Children's Residential Facility.

Secondly, the required frequency of a Diagnostic Assessment is changed. An annual update or recompletion of the DA is removed as a requirement. An update or recompletion of the DA is now required upon client request. It remains required if the client's condition has changed markedly or the current presentation does not meet the diagnostic criteria for their assessed condition. Further language clarifying that information gathered from previous assessments performed or reviewed by the clinician can be used was added. Removal of outdated information is considered part of updating a Diagnostic Assessment.

Finally, a Brief DA may be used for a child under the age of 6.

**Effective August 1, 2023**. MN Laws, Chapter 50, Article 2, Section 21 (2023 245I.10, subd. 6), MN Laws, Chapter 70, Article 10, Section 13, MN Laws, Chapter 70, Article 10, Section 15 and MN Laws, Chapter 70, Article 10, Section 16.

### What providers need to do

Include additional required elements in diagnostic assessments. Conduct diagnostic assessments at the frequency specified the revised language of 245I.10, Subd 2.

## Treatment planning

### Overview

Clarified language in 245I.10 regarding required sequence when treatment plans are completed. Providers expressed concern that a client needed a completed ITP as soon as the standard DA was completed, which might limit opportunities to work with the client to develop shared goals and understanding of how treatment would proceed. The language added clarifies that sessions may be conducted after the DA to develop the treatment plan. There is no set limit at this time, but the sessions should focus on treatment plan completion until that is in place.

Effective July 1, 2023. See MN Laws, Chapter 70, Article 9, Sections 17-18.

### What providers need to do

Ensure that treatment plans are completed after a Standard Diagnostic assessment is completed, and that clients are engaged in the development of their goals in a person/family centered process.

## 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.

Please note that an earlier email from DHS mistakenly included information about requirements for maintaining capacity for opioid antagonists (naloxone, Narcan, etc.). 245I.20 mental health clinics are not included in this requirement. See MN Laws, Chapter 61, Article 5, Section 6. Providers may wish to evaluate the need for this capacity in their program as part of their quality assurance and improvement plan.

### 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.

## 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.