

PROGRAM LICENSING AND OVERSIGHT

Minnesota Sex Offender Program

Issue Date: 9/3/19

Effective Date: 10/1/19

Policy Number: 110-5011

POLICY: The Minnesota Sex Offender Program (MSOP) is subject to governance including, but not limited to:

- A. Minn. Rule 9515.3000 to 9515.3110 (Rule 26) (Department of Human Services Licensing), subject to approved variances.
- B. Per Minn. Stat. § 246.B.03, each facility site is licensed as a Supervised Living Facility under applicable sections of Minn. Rule Chap. 4665 (Department of Health Licensing), subject to approved waivers.
- C. Per Minn. Rule Chap. 4665, the program is subject to standards of the Minnesota State Fire Marshal, Minnesota food code (Minn. Rule Chap. 4626), and Minnesota Occupational Safety and Health Administration (OSHA).
- D. MSOP interacts with these regulatory agencies as outlined below.

AUTHORITY: Minn. Stat. § 246.014, subd (d)

APPLICABILITY: MSOP, program-wide

PURPOSE: To outline procedures for collaboration with Minnesota Department of Human Services (DHS) Licensing Division (Rule 26) and Minnesota Department of Health (MDH) Compliance Monitoring Unit, the Minnesota Office of Ombudsman for Mental Health and Developmental Disabilities (Ombudsman), and other regulatory agencies.

DEFINITIONS: None

PROCEDURES:

- A. Overview
 - 1. Department of Human Services (Rule 26)
 - a) DHS Licensing Division
The DHS Licensing Division issues renewed Rule 26 licenses, conducts background studies of individuals providing direct services to clients (see DHS Administrative Policy, "Policy on Background Checks"), approves variance requests, conducts site visits to assess compliance to rules and variances, receives/approves "change in terms of Rule 26 license" requests for updated bed totals, provides guidance regarding interpretation/application of rules, and monitors program responses to Orders for Correction.
 - b) DHS Licensing Investigations Unit
The DHS Licensing Investigations Unit conducts investigations into alleged maltreatment or allegations of noncompliance with rules and/or program policy. This may include site visits, interviews with staff/clients, or document review.
 - 2. Minnesota Department of Health (MDH) Compliance Monitoring Unit
 - a) Licensing and Certification Unit

- (1) An MDH regional supervisor coordinates oversight of each facility.
- (2) The Licensing and Certification Unit issues renewed Supervised Living Facility (SLF) licenses, receives and approves waiver requests, conducts site visits to assess compliance to rules and waivers, monitors program responses to Licensing Orders, provides guidance regarding interpretation/application of rules, and (in coordination with MDH Engineering Services and State Fire Marshal) approves adjustments to licensed SLF bed totals for expansion or new construction.

b) Engineering Services

Engineering Services reviews and approves plans for new construction or changes in the physical plant of existing facility sites.

c) Office of Health Facility Complaints

The Office of Health Facility Complaints accepts and investigates complaints about health care, including reports of neglect or abuse (maltreatment). This may include site visits, interviews with staff/clients, or document review.

B. Annual Renewal of Licenses

1. Rule 26

The DHS Licensing Division re-issues facility Rule 26 licenses annually, subject to ongoing inspection/assessment.

2. SLF

The MSOP Policy and Compliance Director initiates required paperwork annually for each facility to maintain the Program's licensure under Minn Rules Chap. 4665, which may include a site visit/assessment.

3. The MSOP Policy and Compliance Director coordinates site visits, documentation, and consultation with licensing authorities as appropriate.

C. Change in Terms of License/Licensed Bed Totals

The MSOP Policy and Compliance Director coordinates updates to program licenses as needed for bed space, staff contact information, etc.

1. Rule 26

The MSOP Policy and Compliance Director requests a "Change in License Information" form from DHS Licensing Division, denotes updated information, and submits to DHS Licensing Division.

2. SLF

The MSOP Policy and Compliance Director communicates the need for an update to the SLF license to MDH Compliance Monitoring Unit.

- a) If the update is due to expanded or new construction, a designated MSOP project manager must contact the MSOP Policy and Compliance Director to arrange for pre-design review and approval of construction plans with the lead architect and MDH Engineering Section.

- b) MDH Engineering Services and the State Fire Marshal must approve completed construction, which may include inspections/site visits. The MSOP Policy and Compliance Director coordinates communications to/from the program and MDH

Engineering Section, which includes notification to the MDH Compliance Monitoring Unit regional supervisor of planned changes to licensed bed totals.

- c) Upon approval of completed construction by MDH Engineering Services and the State Fire Marshal, the MDH Compliance Monitoring Unit issues approval for occupancy and an updated license. This may include an inspection/site visits.

D. Variations and Waivers

1. Rule 26

- a) The MSOP Policy and Compliance Director communicates variance requests to the DHS Licensing Division.
- b) The MSOP Policy and Compliance Director and the DHS Licensing Division maintain documentation of approved variances.

2. SLF

a) Submission of Waiver Requests

- (1) For waiver requests regarding program practices, the MSOP Policy and Compliance Director communicates the waiver request to the MDH Compliance Monitoring Unit regional supervisor.
- (2) For waiver requests regarding physical plant items, the MSOP Policy and Compliance Director communicates the waiver request to the MDH Engineering Section (with a copy to the MDH Compliance Monitoring Unit regional supervisor).

- b) The MSOP Policy and Compliance Director and the MDH Compliance Monitoring Unit maintain documentation of approved waivers.

E. Inspections/Site Visits

- 1. When oversight officials arrive unexpectedly at a facility for a site visit, the facility director/designee notifies the MSOP Policy and Compliance Director and appoints a staff liaison to coordinate the visit. The staff liaison may refer to the Licensing Audit Checklist (110-5011a) as needed.
- 2. Rule 26
The MSOP Policy and Compliance Director coordinates licensing site visits as needed for ongoing monitoring, license renewal, or investigations.
- 3. SLF
The MSOP Policy and Compliance Director coordinates licensing site visits as needed for ongoing monitoring, license renewal, or investigations. MDH Compliance Monitoring Unit site visits may include a State Fire Marshal inspection.
- 4. Food Service
Each facility food service is responsible for ongoing coordination of compliance with MDH food code (Minn. Rule Chap. 4626).
- 5. State Fire Marshal

Each facility physical plant director and/or the MSOP Safety Administrator coordinate annual inspection by the State Fire Marshal and response to orders for correction, as well as approval of facility renovation or new construction.

F. Orders for Correction/Licensing Orders/Fines

The MSOP Policy and Compliance Director receives, coordinates and documents program response(s) to licensing Orders for Correction, Licensing Orders, and payment of fines, which may include program documentation and/or corrective action plans.

H. Incident Reporting

The facility registered nurse supervisor (RNS)/designee immediately notifies the Ombudsman if any client events occur meeting criteria in Minn. Stat. §§ 245.91 subd. 6, or 245.94 subd. 2a.

I. Investigation of Incidents or Complaints

1. The MSOP Policy and Compliance Director is the point of contact for licensing investigators and the Ombudsman in the event of investigations, questions, or requests for information.
2. The MSOP Policy and Compliance Director coordinates program response to informational requests and orders for correction.
3. The program provides licensing investigators and the Ombudsman with access to program facilities, staff, and records upon request.

REVIEW: Annually

REFERENCES: Minn. Rule 9515.3000 to 9515.3110 (Rule 26) (Department of Human Services Licensing)
 Minn. Stat. § 246B.03 (Department of Health Licensing)
 Minn. Rule Chap. 4665 (Department of Health Licensing)
 Minn. Stat. § 245.94 (Ombudsman)
Minnesota Ombudsman for Mental Health and Developmental Disabilities' Reporting Instructions for Deaths and Serious Injuries.
DCT Policy 145-1000, "Office of Special Investigations"
DHS Administrative Policy, "Policy on Background Checks"
DCT Policy 110-1015, "Ombudsman"
DCT Policy 120-1035, "Expected Death of a Client"
DCT Policy 120-1045, "Unexpected Death of a Client"

ATTACHMENTS: Licensing Audit Checklist (110-5011a)

SUPERSESSON: MSOP Division Policy 110-5011, "Program Licensing and Oversight," 1/3/17.
 All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

/s/

Nancy A. Johnston, Executive Director
 Minnesota Sex Offender Program