DEPARTMENT OF HUMAN SERVICES

Withdrawal Management and Detoxification 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 withdrawal management and detoxification 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 245F and how it will change is available at this link: 245F 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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Prone and contraindicated restraint prohibitions

Overview

Prone restraint prohibition. A prone restraint is a physical hold, physical restraint, or use of restraint equipment that places a person in a face-down position. Prone restraints were previously prohibited for withdrawal management programs under chapter 245F, but new requirements for all licensed and certified programs prohibit the use of prone restraints except in very specific brief instances. These exceptions include:

- a person rolling into a prone position during a restraint if the person is restored to a non-prone position as quickly as possible;
- holding a person briefly in a prone restraint to allow staff to safely exit a seclusion room; and
- **only as allowed in detoxification programs***, holding a person briefly in a prone restraint to apply mechanical restraints (restraint equipment) if the person is restored to a non-prone position as quickly as possible.

  **Withdrawal management program standards in chapter 245F do not allow the use of mechanical restraints or restraint equipment.*

Contraindicated restraint prohibition. Programs must not use any type of restraint that is contraindicated for a person's known medical or psychological conditions. Contraindicated means a restraint that increases the risk of harm to a person due to their condition. An assessment of any contraindications must occur prior to using restraints on a person and the program must document this determination.

Effective July 1, 2023. MN Laws, Chapter 70, Article 17, Section 19 (2023 245A.211)

What providers need to do

Programs will need to update all policies, procedures, and staff training materials to reflect these new requirements and notify staff of the changes. Before using any restraints on a person, the program must assess each person and document a determination of whether the person has any conditions that restraints would be contraindicated for or that they do not have any contraindicated conditions. Providers should develop a procedure to ensure this is done during the admission process to the program and if a condition becomes known at a later point. This determination must include documentation of the type of restraints that the program will not use on the person. The program must establish a process to ensure that all staff who use restraints know which restraints they cannot use for specific clients.

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. The program must have a standing order that permits maintaining a supply of opiate antagonists at the program. Staff must receive training in the specific mode of administration the program uses, which may include intranasal administration, intramuscular injection, or both.

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

Outdated cross references

Overview

Language was added to statute to replace the outdated references in the detoxification rule (Minnesota Rules, parts 9530.6510 to 9530.6590) to repealed requirements. This clarifies that a chemical use assessment must meet the requirements for a comprehensive assessment under Minnesota Statutes, section 245G.05 and that a chemical dependency assessor must meet the qualifications for an alcohol and drug counselor under Minnesota Statutes, section 245G.11, subdivisions 1 and 5. **Effective August 1, 2023**. MN Laws, Chapter 50, Article 2, Section 26 (2023 254A.19, subd. 6).

What providers need to do

Programs must ensure that chemical use assessments meet the requirements for a comprehensive assessment under Minnesota Statutes, section 245G.05 and that chemical dependency assessors at the program meet the qualifications for an alcohol and drug counselor under Minnesota Statutes, section 245G.11, subdivisions 1 and 5.

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 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.

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.

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 Withdrawal Management Programs / Detoxification Programs 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.

Supervised living facility license

Overview

A withdrawal management program may have a class A license instead of a class B supervised living facility license from the Minnesota Department of Health (MDH). MDH will continue to determine the appropriate class for the license based on the needs of the clients the program serves. Although this change does not apply to detoxification program rules, detoxification programs may request a variance from DHS. MN Laws, Chapter 49, Section 4 (2023 245F.04, subd. 1).

What providers need to do

Providers do not need to take any action unless they choose to have an SLF class A license instead of a class B. Please direct any questions regarding supervised living facility licensure to the Minnesota Department of Health.

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.