DATE:  November 21, 2017

TO:  245G SUBSTANCE USE DISORDER TREATMENT PROGRAMS (Formerly Rule 31)

RE:  Licensing Updates and Renewal Information for Licenses Effective January 1, 2018

A.  NEW AND UPDATED INFORMATION

1.  2017 Legislation changes.  The 2017 Minnesota Legislature passed amendments affecting Department of Human Services (DHS) license holders. As a license holder, it is your responsibility to be aware of any legislative changes that effect your licensed service and take the action necessary to comply with any new requirements.

(See section B for specific changes to Rule 31 providers)

The updated 2017 statutes are now available online through the Office of the Revisor of Statutes website.

As a reminder, the Minnesota Legislature passed the following amendments that affected your license in the last couple of years:

A.  Plan for transfer of clients and records upon closure.  Minnesota Statutes, section 245A.04, subdivision 15a required that a provider have a plan for transfer of clients and records upon closure.  An applicant for initial or continuing licensure or certification is required to have a written plan indicating how the program will ensure the transfer of clients and records for both open and closed cases if the program closes.

(i)  The plan must provide for managing private and confidential information concerning program clients. The plan must also provide for notifying affected clients of the closure at least 25 days prior to closure, including information on how to access their records. A controlling individual of the program must annually review and sign the plan.

(ii) Plans for the transfer of open cases and case records must specify arrangements the program will make to transfer clients to another provider or county agency for continuation of services and to transfer the case record with the client.

(iii) Plans for the transfer of closed case records must be accompanied by a signed agreement or other documentation indicating that a county or a similarly licensed provider has agreed to accept and maintain the program’s closed case records and to provide follow-up services as necessary to affected clients.

If you have questions about this requirement, please contact your licensor.

B.  Reporting a death in the program.  Minnesota Statutes, section 245A.04, subdivision 16.  Unless such reporting is otherwise already required under statute or rule, programs licensed under Minnesota Statutes, chapter 245A must have a written policy for reporting the death of an individual served by the program to the commissioner of
human services. Within 24 hours of receiving knowledge of the death of an individual served by the program, the license holder shall notify the commissioner of the death. If the license holder has reason to know that the death has been reported to the commissioner, a subsequent report is not required.

For clarification purposes, for a client who may be on pass or not actually at the licensed facility at the time of the death, but considered an active client, a report is required to be made within 24 hours to the Commissioner of Human Services. The report can be made in the following manner:
By phone: 651-431-6600 to the central intake unit
By fax: 651-431-7601

Please note that a death report made to the Ombudsman of Mental Health and Developmental Disabilities does not meet the above statute requirements and does not exclude your responsibility from reporting to the commissioner of DHS. However, DHS Licensing will allow the use of the ombudsman’s office death reporting form to be utilized to avoid the license holder having to complete multiple forms. Death Report Form

2. **NETStudy 2.0, the new background study system.** The Background Studies Division is continuing to move forward with development and implementation of NETStudy 2.0. More information is available on the [Background Study web page](#) under the *NETStudy 2.0 / Background Study Changes* feature. FAQs are also posted as a link to subscribe to an email list for updates about NETStudy 2.0.

3. **Positive Supports Rule.** The Positive Supports Rule (PSR) is a Minnesota rule that became effective August 31, 2015. The rule requires all DHS license holders to use person-centered principles and positive support strategies when providing services to persons with developmental disabilities or related conditions. In addition, the rule both prohibits and limits certain restrictive interventions. Information about the Positive Supports Rule is available on the [DHS website](#). The Department has developed frequently asked question (FAQ) documents to provide more direction and address specific questions submitted by license holders. This information was previously emailed to your designated Authorized Agent and continues to be available on the [DHS website](#). In addition, questions about the Positive Supports Rule can be emailed to the DHS-Disability Services Division at positivesupports@state.mn.us and informational resources are available at [Positive Supports Minnesota website](#).

4. **Minnesota Adult Abuse Reporting Center.** Minnesota has a new centralized system for reporting suspected maltreatment of vulnerable adults. On July 1, 2015, the [Minnesota Adult Abuse Reporting Center](#) (MAARC) was established. MAARC provides a web-based reporting system and a call center available 24 hours a day, seven days a week for mandated reporters. Mandated reporters are professionals or professional’s delegate identified by law ([Minnesota Statutes, section 626.5572, subdivision 16](#)) who **MUST** make a report if they have reason to believe that the abuse, neglect of financial exploitation of a vulnerable adult has occurred. Mandated reporters can use the Minnesota Adult Abuse Reporting Center’s web based report at [mn.gov/dhs/reportadultabuse](#), or make a phone report by calling the statewide toll-free number at 844-880-1574.
B. Information FOR ALL 245G SUBSTANCE USE DISORDER TREATMENT PROGRAMS

1. Substance use disorder reform-2018

Rule 31 requirements updated and codified at Chapter 245G

As part of the effort to reform Minnesota’s substance use disorder continuum of care, legislation codified and made updates to the requirements of Rule 31 to increase clarity and better protect clients. Modifications include:

- Revised time frames for the completion of an initial services plan;
- Requirement that the comprehensive assessment be conducted by an alcohol and drug counselor, either within three days of service initiation for a residential program or during the initial session for all other programs;
- Emphasis on person-centered treatment planning in individual treatment plans;
- Ability to provide services at the license holder’s licensed location or another suitable location upon notification and approval of the commissioner, and the requirement to document the reason for providing remote services;
- Requirements for standing naloxone orders and naloxone supply;
- Requirement to develop a policy and procedure to track the attendance and services provided; and
- Requirement to have a written policy regarding the use of any electronic device that can record, transmit, or make images of another client.


Providers who offer Room and Board services:

Additionally, there have been prohibitions placed on vendors from using a client’s public benefits to offset the cost of services paid under section 254B.03. Vendors are prohibited from requiring the client to use public benefits, including but not limited to cash assistance benefits under Chapters 119B, 256D, 256J, or SNAP benefits, for room and board costs. Statute has been clarified that the retention of SNAP benefits is a right of a client receiving services through the consolidated chemical dependency treatment fund or through state contracted managed care entities.


For additional information and resources or to learn more information on how to attend WebEx trainings which provides bi-weekly information related to the SUD reform, please visit the Alcohol and Drug Abuse Division’s website at https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/alcohol-drug-other-addictions/announcements-events-trainings/
2. **Billing Information:**
   In the past year, there have been a number of referrals made to the Surveillance and Integrity Unit (SIRS) within the Office of Inspector General (OIG) related to concerns around providers and their billing practices. Please note, that it is licensing’s jurisdiction to review for billing standards and practices under Minnesota Statutes, section 245A.191 when a provider agrees to meet the applicable requirements under Minnesota Statutes, 254B.05, subdivision 5. The following information is being provided to assist providers in demonstrating compliance.

**Residential Providers:**
*Providing the Required 5, 15, or 30 Hours of Clinical Services Each Week for Low, Medium, and High Intensity Residential Services is required.* Based on the client service agreement, the program is required to provide, **not just offer** 5, 15, or 30 hours of clinical services each week.

In cases when providers are struggling to get a client engaged in treatment, the expectation is that the provider is adjusting the treatment plan goals and interventions. If that does not resolve the issues, the provider must assess whether the intensity level is appropriate for the client.

In cases when clients have a conflict (court, appointments, etc.) that prevents them from attending the required number of hours that week, programs must make attempts for the client to make up the services within the remainder of the week. If this is not possible, the license holder should document in the client’s file the reason the client was unable to receive the required hours of services for that week. If patterns begin to arise related to conflicts, the provider must assess whether the intensity level is appropriate for the client.

In cases where providers do not offer these services, do not have enough qualified staff to provide the hours, or do not offer this as part of the program, a referral will be made to SIRS to determine if overpayment was made.

**Non-residential Providers:**
All treatment services that the provider bills for, must be supported by documentation contained the client record. General calendars that apply to the program as to what the program intends or plans to offer would not meet this requirement.

**Note: Approval of Requirements for Consolidated Chemical Dependency Treatment Fund (CCDTF) Services.** In addition to contacting Provider Enrollment, please contact your licensor or the licensing unit to make any changes or additions to the rates billed to the Consolidated Chemical Dependency Treatment Fund.

Additionally, DHS Licensing has recently received inquiries regarding the bulletins that were issued July 10, 2014 and January 7, 2015 related to the Consolidated Chemical Dependency Treatment Fund (CCDTF) Billing Requirements and their validity. These
Bulletins are still current interpretations being utilized by the Department. Providers are recommended to still refer to them and follow the standards outlined in them.

Please contact your licensor with questions.

C. GENERAL INFORMATION, UPDATES, AND RESOURCES

1. **Information for Tuberculosis (TB).** We are requesting when providing clients in a substance use disorder treatment program with the required tuberculosis information, please refer to the [Minnesota Department of Health](https://www.health.state.mn.us) for the most current and up to date information to provide to clients.

2. **Electronic Health Records.** Information regarding the electronic health record requirements in [Minnesota Statutes, section 62J.495](https://www.revisor.mn.gov/statutes/text/62J/s62j495/) may be obtained on the Minnesota Department of Health website at, [Minnesota Interoperable Electronic Health Record Mandate](https://www.health.state.mn.us/mhs/edp/ehrmandate/index.html).

3. **Online information.** The [Licensing Division public website](https://www.dhs.state.mn.us/lc) is your primary source of information on licensing standards and requirements. As a license holder, it is your responsibility to frequently check for updates, changes, and additions to this information. Below are highlights of the available online information.

   - [Minnesota Statutes, Chapter 245A (Human Services Licensing Act)](https://www.revisor.mn.gov/statutes/text/245a/chapter245a.html)
   - [Minnesota Statutes, Chapter 245C (Human Services Background Study Act)](https://www.revisor.mn.gov/statutes/text/245c/chapter245c.html)
   - [Minnesota Statutes, Chapter 148F (Alcohol and Drug Counselor Requirements)](https://www.revisor.mn.gov/statutes/text/148f/chapter148f.html)
   - [Minnesota Statutes, Section 626.557 (Reporting of Maltreatment of Vulnerable Adults)](https://www.revisor.mn.gov/statutes/text/626.557.html)
   - [Minnesota Statutes, Section 626.556 (Reporting of Maltreatment of Minors Act)](https://www.revisor.mn.gov/statutes/text/626.556.html)
   - [Minnesota Rules, Chapter 9544 (Positive Rule)](https://www.revisor.mn.gov/rules/chapter9544.html)

4. **Mental health and chemical health programs licensing forms.** License holders have access to various [licensing forms](https://www.dhs.state.mn.us/lc) developed by DHS, intended for use by programs, and in compliance with current licensing requirements. Many forms are designed for general use by all licensed programs. Additionally, several optional forms are available to assist in meeting Rule 31 requirements.

5. **Self-monitoring checklists.** Contact your licensor or email [dhs.mhcdlicensing@state.mn.us](mailto:dhs.mhcdlicensing@state.mn.us) if you would like to receive a self-monitoring checklist to evaluate your program against applicable licensing standards. Checklists are organized into four topic areas: physical plant, policies and procedures, personnel files, and client records.

6. **Maltreatment information.** [Sample maltreatment reporting policies and procedures](https://www.dhs.state.mn.us/lc) and general information on [maltreatment investigations](https://www.dhs.state.mn.us/maltreatment/investigations) are available online from the DHS Licensing web site.

7. **Alert information.** Information from our maltreatment investigations unit highlighting areas where injuries and harm to persons receiving services from DHS licensed facilities is
available online from the DHS Licensing web site under Alerts. Alerts are posted as needed throughout the year.

8. **Online mandated reporter training.** DHS Licensing offers online training courses for both Vulnerable Adults Mandated Reporting and Maltreatment of Minors Mandated Reporting.

   The **Vulnerable Adults Mandated Reporting course** introduces mandated reporters to:
   - The Vulnerable Adults Act
   - Definition of maltreatment
   - Who are the mandated reporters
   - The Common Entry Point (CEP)

   The **Maltreatment of Minors Mandated Reporter training** includes:
   - The Reporting of Maltreatment of Minors Act
   - An overview of the Minnesota Child Protection System
   - Definition of maltreatment
   - Who are mandated reporters

   License holders are reminded that they must ensure mandated reporters under their control also receive training on the program's own maltreatment reporting policies and procedures in addition to the online course.

9. **Licensing Lookup:** Public searches for DHS licensed programs can be done using the online DHS Licensing Information Lookup search tool or by reviewing the online DHS licensed program list.

   Since July 1, 2010, the Licensing Division has posted licensing actions and decisions issued to DHS licensed programs online through DHS Licensing Information Lookup. The licensing actions and decisions that are available include:
   
   - Correction orders;
   - Orders for conditional license;
   - Sanctions which include fines, suspensions, and revocations;
   - Commissioner’s response to license holders’ requests for reconsideration of correction; orders and orders of conditional licenses;
   - Commissioner’s final orders resulting from contested case hearings; and
   - Statements of final agency decision after appeal

   Documents are posted in accordance with the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Section 13.46.

   New licensing documents are posted daily on DHS Licensing Information Lookup. You may sign up to receive daily emails with links to newly published documents.

10. **Applying for a new license.** If you plan to submit an application for a license for a new Rule 31 Program, please note that the application forms for new licenses have changed. When
applying for a new license, the application must be submitted in this new format. The application is available on the DHS/Chemical Health web page at the bottom of the Rule 31 information section, and on the Division of Licensing’s Forms page. Previous versions of the licensing application form are no longer acceptable and will be returned to the applicant.

11. The Licensing Division’s telephone numbers and email. Please ensure that your program’s phone list and any applicable policies and procedures include current DHS telephone numbers:

- Licensing Division – (651) 431-6500
- Licensing Division’s Main Fax – (651) 431-7673
- MH/CD Licensing Unit Email - dhs.mhcdlicensing@state.mn.us
- Maltreatment Intake – (651) 431-6600
- Maltreatment Fax – (651) 431-7601

12. License renewal notice. The annually published License Renewal Notice for each service class is located under general information on the Division of Licensing website. An archive of past license renewal information is maintained.

D. LICENSE HOLDER REQUIREMENTS FOR LICENSE RENEWAL

1. License fee payment for your 2018 license. All license holders must pay for their 2018 license online. Your Authorized Agent will receive an email with instructions and a direct link to pay for your 2018 license fee(s). License fee payments must be made within 30 days from receipt of the email to allow enough time for your 2018 license(s) to be issued by January 1, 2018.

2. Failure to pay 2018 license fee. Your current license expires December 31, 2017. If you fail to pay the 2018 license fee, your current license will expire on December 31, 2017, and you will have to stop operating on January 1, 2018. You will need to apply for a new license and will not be able to operate under your expired license while your new license application is being processed. In addition, you will lose access to NETStudy to submit online background study requests.

3. Unpaid fines. If you have an outstanding debt related to a fine or settlement agreement for which payment is delinquent, your 2018 license cannot be issued until the payment is received. If you do not pay your outstanding debt and your 2018 license fee, your license will expire on December 31, 2017, and you will need to stop operating on January 1, 2018.

4. Programs closing on or before December 31, 2017. If you plan on closing your program on or before December 31, 2017, please notify your licensor immediately so we can cancel the bill for your 2018 license.

5. Your onsite licensing review. The annual renewal of your license is separate from the onsite licensing review conducted by your DHS licensor. You will receive notice from your licensor about the license review prior to your next scheduled review.

6. Change of license information. If you wish to change any information on your license, please contact your licensor immediately so those changes can be approved before we issue
your 2018 license. If you hold multiple licenses and want the change to apply to each license you must complete a separate Change of License Information form for each license. If you have not identified an Authorized Agent or your Authorized Agent information is not current, it will delay the email to your Authorized Agent and the renewal of your 2018 license.

7. **Questions regarding the license renewal process.** If you have any questions regarding the license renewal process, please contact the DHS licensor assigned to your program, or call the main Licensing Division phone number at 651-431-6500 and select option 4 to speak with a licensor, and then select option 4 to speak with a licensor of mental health or chemical dependency services.