

Modifications to the Forensic Mental Health Program Licensing Requirements

The commissioner of Human Services has temporarily modified certain licensing requirements for the Forensic Mental Health Program, whose services have been designated as essential during the peacetime emergency due to the COVID-19 pandemic. The modifications are necessary to provide flexibility to the Forensic Mental Health Program, mitigate the spread of the virus, and protect the health and safety of clients and staff. These modifications are in addition to those for [All Licensed and Certified Services](#) issued on March 20, 2020, and revised on May 4, 2020, that modified licensing activities to mitigate the spread of COVID-19 and in recognition of the challenges of operating in full compliance with all applicable rules and standards during a pandemic.

These additional modifications apply to requirements for treatment delivery, documentation and staffing and impose a new requirement to be familiar with and follow the guidelines on COVID-19 from the Minnesota Department of Health (MDH) and the Centers for Disease Control and Prevention (CDC) specific to residential settings. The changes to requirements for treatment delivery, documentation and staffing are effective retroactively from May 19, 2020, until the conclusion of the peacetime emergency.

By making these modifications to licensing standards and practices, the Department of Human Services (DHS) is providing the Forensic Mental Health Program with more flexibility to operate in a pandemic and to be able to focus on the most critical health and safety measures needed during this time. Any departures from the variance requirements that the program implements from the list below must be documented in the program's emergency plan. This change does not waive or modify any requirements regarding the Positive Supports Rule under Minnesota Rules, Chapter 9544.

After the peacetime emergency ends, DHS will provide additional information regarding when the Forensic Mental Health Program will need to complete the trainings, reviews, updates, evaluations, and other activities that were temporarily suspended.

The modifications of requirements for the Forensic Mental Health Program are as follows.

New requirement for the Forensic Mental Health Program during the peacetime emergency

During the peacetime emergency, the license holder is required to be familiar with the [MDH guidance](#) and [CDC guidance](#) on COVID-19. If a person receiving services or a staff person tests positive for COVID-19 or has symptoms of COVID-19, the license holder must follow the MDH and CDC guidance specific to the situation and program capabilities. As the guidance will evolve during the pandemic, the license holder needs to remain familiar with the guidance as it changes.

Treatment Delivery

1. If the program makes a COVID-19-related program-wide restriction to a client right during the peacetime emergency, the program must include the restriction in the program's emergency plan; inform all clients of the restriction; and provide alternative methods for the clients' needs to be met. For example, if the right to receive visitors is restricted due to COVID-19, the program must provide alternative methods for visitation by telephone or video.
2. Mental health professionals may provide clinical supervision via phone or video-communication if they document that, in their professional opinion, supervision through these modalities is sufficient for safe and effective care.
3. Intermittent staff that work one shift or less a week and overnight staff are not required to attend weekly treatment team meetings in person, but they must attend by telephone or video communication or read the minutes from the meetings.
4. The timeline to complete a nursing assessment is extended from within eight hours of a client's admission to the program to within 24 hours of a client's admission to the program.
5. The timeline to complete initial social work documentation is extended from within three business days of a client's admission to within seven business days of a client's admission.
6. The requirement to complete a screening for the possibility of a co-occurring substance use disorder within 30 days of admission is temporarily suspended.
7. The timeline for a psychiatric practitioner to complete a discharge summary is extended from within five days of discharge to within 10 business days of discharge.

Documentation

8. The requirement for an annual review and update of policies and procedures is temporarily suspended.
9. Requirements for an annual review and update of the quality assurance and improvement plan and for a quarterly review of data related to the quality assurance and improvement plan are temporarily suspended.
10. A mental health professional or mental health practitioner may approve an individual abuse prevention plan (IAPP). If the approval is verbal, it must be documented and contain the date, time, and name of the person that provided the verbal approval. Additionally, a mental health professional must sign a verbally approved IAPP within 30 days.
11. A mental health professional or mental health practitioner may approve an individual treatment plan (ITP). If the approval is verbal, it must be documented and contain the date, time, and name of the person that provided the verbal approval. Additionally, a mental health professional must sign a verbally approved ITP within 30 days.

Staffing

12. Requirements for annual reviews of employee training needs, annual employee performance evaluations, and annual updates to the training schedule are temporarily suspended. This does not address, void or otherwise interfere with any terms or conditions of employment or obligations under labor contracts or waive other trainings required by the employer in addition to trainings required under the variance governing the program.
13. Programs are only required to provide orientation trainings to staff persons on the following topics:
 - maltreatment reporting procedures
 - emergency procedures (This includes behavioral emergencies.)
 - confidentiality
 - patient rights
 - job specific responsibilities.Orientation to these topics must be completed prior to the staff person providing direct care to a client. This does not address, void or otherwise interfere with any terms or conditions of employment or obligations under labor contracts or waive other trainings required by the employer in addition to trainings required under the variance governing the program.

Additional information

In addition to the links above, you may find it helpful to review the following links for more COVID-19 information and resources.

[MDH Interim Guidance for the Prevention of COVID-19 in DHS-Licensed Residential and Non-Residential Settings with At-Risk Persons](#)

[DHS Licensing COVID-19 latest information](#)

[Background studies COVID-19 temporary changes](#)

[All DHS COVID-19 waivers and modifications](#)

[MDH community settings and COVID-19](#)

[Minnesota Health Care Programs Provider Manual telemedicine and COVID-19](#)

Questions, technical assistance and variances

For questions, concerns, technical assistance, or to request a program specific [variance](#) to a requirement not addressed by these modifications, please contact the Behavioral Health and Children’s Residential Facility Licensing Unit at dhs.mhcdlicensing@state.mn.us.