

# Modifications to Children's Residential Facilities Licensing Requirements

The Commissioner of Human Services has temporarily modified certain requirements for licensed children's residential facilities, whose services have been designated as essential during the peacetime emergency due to the COVID-19 pandemic. In addition to the modifications issued on March 20, 2020, which temporarily suspended routine inspections, the issuance of correction orders and other licensing actions, and extended expired training timelines, these modifications are necessary to provide flexibility to providers, mitigate the spread of the virus, and protect the health and safety of residents and staff.

These additional modifications apply to requirements for service delivery, documentation and personnel, 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 modifications to service delivery, documentation and personnel are effective retroactively from March 13, 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 children's residential facilities 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 rules that a 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 programs will need to complete the trainings, plans, evaluations, and other activities that were temporarily suspended.

The modifications of requirements for licensed programs are as follows.

## New requirement for programs operating during the peacetime emergency

During the peacetime emergency, license holders are 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, license holders need to remain familiar with the guidance as it changes.

## Service delivery

1. All spirituality services, activities, and counseling may be provided by telephone or video instead of in the community. License holders also must implement additional measures to allow for continued spirituality involvement, including the recommendations in the MDH [Interim Guidance for the Prevention of COVID-19 in DHS-Licensed Residential and Non-Residential Settings with At-Risk Persons](#).

2. Programs must ensure that a resident's participation in education is consistent with directions from the local school district and the Minnesota Department of Education.
3. The program is not required to complete the health screen, but must instead screen each resident for COVID-19 symptoms prior to admission. If a resident is symptomatic, the program must follow the MDH and CDC guidance specific to the situation and program capabilities.
4. Programs that restrict or eliminate in-person visitation based on MDH and CDC guidance must offer alternative means of communicating with people who would otherwise visit, such as virtual communications (phone, video communication). The program also must implement additional measures to allow for continued social contact including the recommendations in the MDH [\*Interim Guidance for the Prevention of COVID-19 in DHS-Licensed Residential and Non-Residential Settings with At-Risk Persons\*](#).
5. Programs may temporarily suspend group therapy and group counseling if they are unable to accommodate guidelines for social distancing and other community mitigation strategies. If programs continue to provide therapy or counseling services in a group setting, programs are encouraged to limit group sizes to no more than ten people total, including clients and staff, based on recommendations from MDH and CDC to limit group activities and maintain social distancing.
6. Mental health treatment programs may allow the mental health professional to provide their weekly face-to-face clinical supervision by telephone or video.
7. The program may obtain oral informed consent instead of written informed consent for the nonemergency administration of an antipsychotic or neuroleptic medication; however, oral consent expires in one month. If oral informed consent is obtained, the program must:
  - a. document an explanation of why written informed consent could not initially be obtained;
  - b. document that the oral consent was witnessed and the name of the witness;
  - c. provide oral and written communication of all items required in 2960.0620, subpart 7;
  - d. notify the resident's parent or legal representative that: written informed consent material is immediately being sent to them; the oral consent expires in one month; and the medication must be discontinued one month from the date of the oral consent if written consent is not received; and
  - e. consult with the prescriber for further direction if written consent is not obtained one month from the date of the oral consent.
8. Shelter programs may allow a resident to stay for more than 90 days without a variance from DHS if the program documents the reason the resident needs to stay at the program for more than 90 days.

## Documentation

9. The timeline for completing an administrative review of each use of a restrictive procedure is extended from within three working days after the use of the procedure to within **10 calendar** days after the use of the procedure.

## Personnel

10. Programs are only required to provide orientation trainings to staff persons on the following topics:  
DHS Licensing

- maltreatment reporting procedures
- emergency procedures
- confidentiality
- resident rights
- job specific responsibilities.

Orientation to these topics must be completed prior to the staff person having direct contact with a resident.

11. Annual training requirements for staff are temporarily suspended. The requirements to complete annual staff training plans and annual staff development and evaluation plans are temporarily suspended.
12. Certified mental health treatment programs (both locked and unlocked) and shelter programs, which are experiencing staffing shortages as a result of the pandemic, are allowed to reduce staffing ratios to the group residential setting ratios of:
  - one awake staff person per 12 residents when residents are awake; and
  - one awake staff person per 25 residents when residents are normally asleep.

Before a certified mental health treatment program reduces the staffing ratios, a mental health professional must determine the ratios are clinically appropriate. Before a shelter program reduces the staffing ratios, the program director must determine the ratios are appropriate. Any program that departs from the staffing ratios required prior to the peacetime emergency must ensure that adequate supervision is provided and that the health and safety of residents is maintained. The license holder must inform DHS Licensing prior to implementing these reduced staffing ratios. If additional departures from staffing requirements are needed, license holders may request a variance.

13. The minimum age for staff is lowered from 21 years of age to 18 years of age.

## 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.

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

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

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

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

[MDH community settings 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](mailto:dhs.mhcdlicensing@state.mn.us).