Amended Modifications to Substance Use Disorder Treatment Licensing Requirements

In May 2020, the commissioner issued a waiver suspending or modifying certain substance use disorder treatment program licensing requirements so that essential services could continue during the COVID-19 pandemic. The commissioner is now amending this waiver to require license holders to resume orientation trainings, annual trainings, biennial trainings, and annual performance evaluations effective January 1, 2021. In addition to this waiver specific to substance use disorder treatment programs, the commissioner also amended the waiver for all DHS-licensed and certified services to require most annual and other ongoing training requirements to resume. The existing modification to first aid and CPR training requirements in number 13 below remains unchanged.

Resuming requirements

Beginning on January 1, 2021, all substance use disorder treatment programs must resume orientation trainings, annual and biennial trainings, and annual job performance evaluations as follows:

Orientation trainings

Through December 31, 2020, programs are only required to provide orientation trainings to staff persons on the following topics: emergency procedures; client rights; confidentiality; maltreatment reporting procedures; and job specific responsibilities. Orientation to these topics must be completed prior to the staff person having direct contact with a client.

Beginning on January 1, 2021, all license holders must resume providing all orientation trainings to all required topics to all new staff persons hired on or after January 1, 2021, according to the timelines required in Minnesota Statutes, Chapter 245G.

Annual and biennial trainings

Through December 31, 2020, annual and biennial training requirements for staff members are temporarily suspended. Given the previous modification of training requirements due to the peacetime emergency, licensors will not review annual and biennial trainings that were required to be completed between March 1, 2020 and December 31, 2020.

Beginning on January 1, 2021, all license holders must resume providing all annual and biennial trainings. Annual and biennial trainings that were due in 2020, but were not completed, must instead be completed in 2021 by the same month the training was due in 2020. License holders must ensure each required training is completed as it comes due after December 31, 2020, or be subject to a correction order if the training requirements are not met.
Annual job performance evaluations

Through December 31, 2020, annual job performance evaluation requirements are temporarily suspended. Given the previous modification of performance evaluation requirements due to the peacetime emergency, licensors will not review performance evaluations that were required to be completed between March 1, 2020 and December 31, 2020.

Beginning on January 1, 2021, all license holders must resume completing annual job performance evaluations. Annual evaluations that were due in 2020, but were not completed, must instead be completed in 2021 by the same month the evaluation was due in 2020. License holders must ensure each required evaluation is completed as it comes due after December 31, 2020, or be subject to a correction order if the job performance evaluation requirements are not met.

Programs that are unable to meet these requirements due to a COVID-19 outbreak at the program may request a program specific variance by contacting the MH/SUD/CRF Licensing Unit at dhs.mhcdlicensing@state.mn.us.

Ongoing modifications

The remaining modified requirements below became effective March 13, 2020, and will be continuing. Some of these modified requirements were extended by law until June 30, 2021, as stated in Minnesota Session Laws - 2020, 1st Special Session, Chapter 7, Section 1, Subdivision 2. The requirements that were extended by law include the new requirement for programs operating during the peacetime emergency and the modified requirements numbered 1, 3, 5, 7, 9, and 11. The other remaining modified requirements will continue during the peacetime emergency until DHS issues additional information about resuming the requirements.

Any departures from statute that a program implements from the list below must be documented in the program’s emergency plan. These changes do not waive or modify any requirements regarding the Positive Supports Rule under Minnesota Rules, Chapter 9544.

The ongoing modifications of requirements include the following:

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. (extended until June 30, 2021, according to Minnesota Session Laws - 2020, 1st Special Session, Chapter 7, Section 1, Subdivision 2)

Treatment delivery

1. Programs may temporarily suspend group counseling or limit the attendance of clients or staff at sessions if they are unable to accommodate requirements for social distancing or 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. (extended until June 30, 2021, according to Minnesota Session Laws - 2020, 1st Special Session, Chapter 7, Section 1, Subdivision 2)
2. The timeline for completion of the initial services plan is extended from within 24 hours of a client’s day of service initiation to the program to within 72 hours of a client’s day of service initiation to the program.

3. Comprehensive assessments may be completed by telephone or telehealth. (extended until June 30, 2021, according to Minnesota Session Laws - 2020, 1st Special Session, Chapter 7, Section 1, Subdivision 2)

4. The frequency for completion of treatment plan reviews is extended from weekly, or after each treatment service, whichever is less frequent, to monthly.

5. A counselor, recovery peer, or treatment coordinator may provide treatment services from their home via telephone or video communication (telehealth) to a client in their home. (extended until June 30, 2021, according to Minnesota Session Laws - 2020, 1st Special Session, Chapter 7, Section 1, Subdivision 2)

6. Treatment plans for adolescent clients are not required to contain documentation of coordination with the school system.

7. Programs may follow the Substance Abuse and Mental Health Services Administration’s guidelines for allowing an increased number of take home doses as directed by the State Opioid Treatment Authority within the DHS Behavioral Health Division. Programs are still required to follow the eight-point criteria assessment for take home doses under Minnesota Statutes, section 245G.22, subdivision 6 to ensure the number or take home doses is clinically appropriate and safe. For SAMHSA guidelines, see FAQs: Provision of methadone and buprenorphine for the treatment of Opioid Use Disorder in the COVID-19 emergency. (extended until June 30, 2021, according to Minnesota Session Laws - 2020, 1st Special Session, Chapter 7, Section 1, Subdivision 2)

8. Programs are not required to have a 5% sample of clients return to the program each month to verify their number of take home medication doses in order to identify any possible diversion or misuse. Programs may continue to require clients to return to the program to verify take home medication doses when they have concerns about possible diversion or misuse.

Ancillary services

9. Opioid treatment programs are not required to conduct outreach activities in the community to encourage individuals in need of treatment to undergo treatment. (extended until June 30, 2021, according to Minnesota Session Laws - 2020, 1st Special Session, Chapter 7, Section 1, Subdivision 2)

Documentation

10. If a program limits a client’s right to have visitors in the program due to COVID-19 concerns, the limitation and the reasons are not required to be documented in the client’s file. However, the program must offer alternative means of communication for people who would otherwise visit, such as virtual communications (phone, video communication) and 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.

11. Programs may document a client’s verbal approval of a treatment plan in the client file instead of requiring the client’s signature. (extended until June 30, 2021, according to Minnesota Session Laws - 2020, 1st Special Session, Chapter 7, Section 1, Subdivision 2)

12. The timeline for completion of the discharge summary is extended from within five days of the client’s discharge to within 14 days of the client’s discharge.

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Amended Effective December 1, 2020 (CV.45.A1)
Personnel

13. Nonresidential programs are not required to have at least one staff person present at the program who is first aid and CPR certified. Residential programs are required to have at least one staff person on site who has completed online training in first aid and CPR. The requirement for an in-person assessment by a certifying agency is waived due to lack of availability of these in-person trainings during the pandemic.

Modifications previously numbered 14, 15, and 16 related to orientation trainings, annual and biennial trainings, and annual job performance evaluations are ending effective December 31, 2020.

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.

Residential Substance Use Disorder Treatment Facilities: COVID-19 Frequently Asked Questions

COVID-19 Testing in Residential Programs Licensed by the Department of Human Services: Frequently Asked Questions

COVID-19 Testing Resources for Residential Programs Licensed by the Department of Human Services

MDH community settings and COVID-19

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

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 MH/SUD/CRF Licensing Unit at dhs.mhcdlicensing@state.mn.us.