Children's Residential Facilities:
2022 Legislative changes and program implementation

The 2022 Legislature made changes to several laws that impact Department of Human Services (DHS) licensed children's residential facilities. 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.

Resident screening timeframes – *Mental health treatment certification*

Overview

This change only applies to children's residential facilities with a mental health treatment certification. A change to the children's mental health act gives programs more time to complete certain resident screenings. Providers will have up to **10 days** to complete the mental health, education, substance use disorder, and vulnerability screenings. This will allow you to complete these screens at the same time as the diagnostic assessment which programs may use to meet the requirements if all of the components of the screens are part of the diagnostic assessment. The health screening and screening for sexually abusive behavior must still occur within the timeframes in Minnesota Rules, part 2960.0070, subpart 5, item C. **Effective January 1, 2023, or upon federal approval, whichever is later.** MN Session Laws, Chapter 99, Article 1, Section 8 (245.4882)

What providers need to do

Programs with a mental health treatment certification will have up to 10 days to complete these screens:

- Mental health screen
- Education screen
- Substance use disorder screen, and
- Vulnerability screenings and assessment.

Diagnostic assessments – *Mental health treatment certification*

Overview

This change only applies to children's residential facilities with a mental health treatment certification. The timeframe to complete a diagnostic assessment extends from 5 days to within **10 days** of a client's admission. Mental health treatment programs must also meet the new diagnostic assessment requirements in Minnesota Statutes, section 245I.10, subdivision 6. Programs may still use a diagnostic assessment completed within 180 days prior to admission if the client's mental health status has not changed markedly since that diagnostic assessment. **Effective October 17, 2022.** MN Session Laws, Chapter 98, Article 4, Section 7.

Note: Similar changes are also made by MN Session Laws, Chapter 99, Article 1, Section 8.

What providers need to do

Programs should update their diagnostic assessment policies and forms to reflect the new 10 day timeframe and to ensure that all requirements for a standard diagnostic assessment in Minnesota Statutes, section 245I.10, subdivision 6 are met. The changes to the diagnostic assessment include:

- Immediate safety needs are now a required assessment element.
- To avoid retraumatizing a client or harming their willingness to engage in treatment, the program may delay assessing the elements listed in 245I.10, subdivision 6, paragraph (c) clauses (1) to (6) until a later time. The assessor must identify which of these topics will require further assessment during the course of the client's treatment.
- The components in 245I.10, subdivision 6, paragraph (e) replace the clinical summary, recommendations, and prioritization of needed mental health, ancillary, or other services.

Treatment plans – *Mental health treatment certification*

Overview

This retains existing treatment plan requirements for children's residential mental health treatment programs and exempts these programs from the new treatment plan requirements in the Uniform Service Standards (USS). These changes do not impact providers and retain existing standards. **Effective October 17, 2022.** MN Session Laws, Chapter 98, Article 4, Sections 6 and 8.

What providers need to do

Nothing. Maintains existing requirements.

Staff substance use policy – *Substance use disorder treatment certification*

Overview

This change only applies to children's residential facilities with a substance use disorder treatment certification. Several changes will simplify program personnel policy requirements for staff with substance use problems. This eliminates requirements about substance use problems **before** employment at the program, employee attestation statements about being free from problematic substance use, and archaic definitions of substance use problems. The new requirement is to simply have one personnel policy that describes the process for disciplinary action, suspension, or dismissal of a staff person if they violate the program's drug and alcohol policy required by Minnesota Statutes, section 245A.04, subdivision 1, paragraph (c).

See MN Session Laws, Chapter 98, Article 12, Sections 20 and 21. *The repeal of rule requirements in section 21 are effective January 1, 2023 and DHS intends to make the other rule changes that section 20 describes effective on this same date.*

What providers need to do

Providers must update their personnel policies to describe the program's process for disciplinary action, suspension, or dismissal of a staff person if they violate the program's drug and alcohol policy. This policy must prohibit license holders, employees, subcontractors, and volunteers (when directly responsible for clients) from abusing prescription medication or being in any manner under the influence of a chemical that impairs their ability to provide services or care.

Children's residential crisis stabilization services

Overview

A new section of statute creates licensing standards for the new optional service type of residential crisis stabilization services. This service is for children and young adults experiencing a mental health crisis. Children's residential facilities with either a mental health treatment **or** shelter certification may choose to provide this service along with their other program services or as the only service at the program. These new standards are in addition to the other licensing requirements for children's residential facilities in Minnesota Rules, chapter 2960. In some instances these standards replace rule requirements for those receiving this service.

Services. Programs that choose to provide crisis stabilization services must have the capacity to directly provide the following treatment services:

- crisis stabilization services as described in section 256B.0624, subdivision 7,
- mental health services as specified in the client's individual crisis treatment plan, according to the client's treatment needs,
- health services and medication administration, if applicable, and
- referrals for the client to community-based treatment providers and support services for the client's transition from residential crisis stabilization to another treatment setting.

A qualified staff person listed in section 256B.0624, subdivision 8, must provide these services according to the scope of practice for their position.

Assessment. Crisis stabilization programs must complete and document an immediate needs assessment within **12 hours** of a client's admission to the program. This assessment must include an assessment of the client's:

- health and safety, including the need for crisis assistance;
- need for connection to family and other natural supports;
- if applicable to the client, housing and legal issues; and
- if applicable to the client, any responsibilities they may have for children, family and other natural supports, and employers.

Mental health treatment programs **do not** have to complete a **diagnostic assessment** for clients receiving crisis stabilization services for 35 days or less.

Crisis treatment plan. A mental health professional or a clinical trainee under the supervision of a mental health professional must complete the crisis treatment plan within **24 hours** of admission to the program. If the crisis treatment plan is completed by a clinical trainee, it must contain documentation of approval, as defined in section 245I.02, subdivision 2, by a mental health professional within five business days of initial completion by the clinical trainee. The crisis treatment plan must be based on the client's referral information and the assessment of the client's immediate needs. The program must complete the crisis treatment plan according to the requirements in section 256B.0624, subdivision 11. To meet these requirements for a crisis treatment plan the provider must:

- base the plan on the client's crisis assessment;
- consider crisis assistance strategies that have been effective for the client in the past;
- for a **child** client, use a child-centered, family-driven, and culturally appropriate planning process that allows the client's parents and guardians to observe or participate in the client's individual and family treatment services, assessment, and treatment planning;
- for an **adult** client, use a person-centered, culturally appropriate planning process that allows the client's family and other natural supports to observe or participate in treatment services, assessment, and treatment planning;
- identify the participants involved in the client's treatment planning. The client, if possible, must be a participant;
- identify the client's initial treatment goals, measurable treatment objectives, and specific interventions that the license holder will use to help the client engage in treatment;
- include documentation of referral to and scheduling of services, including specific providers where applicable; and
- ensure that the client or their legal guardian approves under section 245I.02, subdivision 2, of the treatment plan.

If the client or their legal guardian disagrees with the crisis treatment plan, the license holder must document in the client file the reasons why.

If a client is 18 years of age or older, the license holder must complete an individual abuse prevention plan for the client, according to section 245A.65, subdivision 2, as part of the crisis treatment plan.

Crisis treatment plan review. A mental health professional must review the crisis treatment plan once each week and document the review in the client's file.

Staffing. Program staff must have access to a mental health professional or clinical trainee that is accessible either by telephone or in-person within 30 minutes. The program must maintain a current readily available schedule for staff that shows the mental health professional or clinical trainee that is accessible for each time period. This schedule must also include the contact information for each mental health professional or clinical trainee.

Effective July 1, 2022. MN Session Laws, Chapter 99, Article 1, Section 12 (245A.26)

What providers need to do

Please notify the licensor for the program if you are already providing this service or want to provide this service. Your licensor will then work with you to add the crisis stabilization services designation to your existing license. If you do not know who your licensor is, please email dhs.mhcdlicensing@state.mn.us.

Substance use disorder term

Overview

The more up-to-date term "substance use disorder" replaces the term "chemical dependency" in all Minnesota Statutes and Rules. **Effective July 1, 2022**. *Chapter 98, Article 4, Section 51*.

What providers need to do

Providers should update any policies or forms that reference the old term.

Physician assistants

Overview

Physician assistants may perform certain tasks or duties that previously required a physician or advanced practice registered nurse. If your program serves infants, a physician assistant may now direct alternative sleep positions for infants in your program, *Chapter 58, section 99 (245A.1435)*.

Additionally, changes to background study definitions and standards include:

- serious maltreatment definition adds serious injury that requires the care of a physician assistant, *Chapter 58, section 100 (245C.02)*, and
- continuous affiliation standards add physician assistants, *Chapter 58, section 101 (245C.04)*.

Effective August 1, 2022.

What providers need to do

Providers should update their policies and procedures to include physician assistants where applicable and may use a physician assistant instead of a physician or advanced practice registered to direct alternative sleeping positions for infants.

Vulnerable adult maltreatment law definitions

Overview

Vulnerable adult maltreatment law definitions for abuse, caregiver, and neglect changed to provide more clarity. **Effective July 1, 2022**. *Chapter 98, Article 8, Sections 47 to 49 (626.5572)*.

What providers need to do

Providers must update these definitions in any of their staff training materials or policies that contain these definitions.

Background studies

Overview

Emergency studies are now valid through Dec. 31, 2022. The DHS Background Studies Division sent providers an email about this extension. Please read the email at this link for details about the extension of emergency studies.

What providers need to do

While this extension allows more time, DHS encourages programs to:

- work with their staff to complete fully compliant fingerprint studies as quickly as possible, and
- prioritize submissions of new hires followed by resubmissions for individuals with emergency studies.

Find additional updates for background studies at "What's New" for background studies.