

Community Residential Settings: Alternate Overnight Supervision Technology Implementation Plan

Updated- February 2024

New laws passed by the 2023 Legislature include several provisions that impact alternate overnight supervision technology (AOST) for community residential settings (CRS). This document outlines an overview of each change, instructions for what CRS license holders need to do about the change, and guidance on how licensors will monitor these changes.

A license holder must use technology that meets the definition in Minnesota Statutes, Section 245D.261, subdivision 1, to operate AOST in a CRS. License holders must ensure that the technology is in working order and allows for two-way communication at all times.

See [MN Statutes, Section 245D.261, Subdivision 1](#) for the definitions of the terms “resident” and “technology.”

Commissioner notification and documentation

Overview

Community residential settings no longer need to apply for a license to use alternate overnight supervision technology. However, a license holder needs to notify their CRS county licensor of their intent to use technology to provide overnight supervision in lieu of on-site staff.

A license holder must document information about the use of technology for overnight supervision in each person’s support plan addendum.

See [2023 Session Law, Chapter 61, Article 1, Section 4](#) for the removal of the requirement to apply for a license.

See [MN Statutes, Section 245D.261, Subdivisions 2 and 3](#) for documentation requirements.

See [MN Statutes, Section 245D.261, Subdivision 3](#) for notification requirements.

What license holders need to do: Notification requirements

Community residential settings no longer need to apply for a license to use alternate overnight supervision technology.

A license holder using remote overnight supervision technology in a CRS must notify their CRS county licensor of the program's intent to use technology in lieu of on-site staff. The CRS county licensor will then notify DHS. The license holder must complete DHS' notification form, including:

- 1) indicating the start date for the use of technology,
- 2) attesting that all requirements for AOST are met, and
- 3) attesting that all policies are available upon request.

Note: Until further notice, CRS license holders should use the existing [AOST form](#) to provide notification. DHS will provide an updated notification form at a later date and will notify license holders and county licensors with the updated form and instructions.

If remote overnight supervision technology will no longer be used by the license holder, the license holder must notify their CRS county licensor.

What license holders need to do: Documentation requirements

The license holder must document in the person's support plan or support plan addendum that remote overnight supervision will be used in lieu of on-site direct support staff.

License holders must document in each person's support plan addendum:

- That the CRS does not have in-person direct support overnight;
- The license holder's protocols for responding to situations that present a serious risk to the health, safety, or rights of residents served by the program; and
- The person's maximum permissible response time as determined by the person's support team.

What CRS county licensors need to do

A CRS county licensor must notify DHS after receiving notification of a program's intent to use technology in lieu of on-site staff. CRS licensors need to submit a 3324 form with an update to add AOST to the license. The license will display the AOST status on Licensing Lookup and ELMS.

If a license holder notifies their CRS county licensor that remote overnight supervision technology will no longer be used, the licensor must notify DHS. CRS licensors need to submit a 3324 form with an update to remove AOST from the license.

What DHS licensors need to do

DHS licensors will monitor for compliance with other AOST requirements outlined above, including individual support plan addendums.

Required policies and procedures for AOST

Overview

A license holder providing remote overnight supervision must have certain policies and procedures. License holders are not expected to develop or maintain duplicative policies, procedures, documentation, consent forms, or individual plans.

See [MN Statutes, Section 245D.261, Subdivision 4](#) for policy and procedure requirements.

What license holders need to do

A license holder providing remote overnight supervision must have policies and procedures that:

- 1) protect the residents' health, safety, and rights;
- 2) explain the backup system for technology in times of electrical outages or other equipment malfunctions;
- 3) explain how the license holder trains the direct support staff on the use of the technology; and
- 4) establish a plan for dispatching emergency response personnel to the site in the event of an identified emergency.

A license holder must have a policy and procedure that explains the discharge process if a person served by the program needs in-person supervision or other services that cannot be provided by the license holder due to the limited hours that direct support staff are on-site. The policy and procedure must include information explaining that if a resident provides informed consent to use monitoring technology but later revokes their consent, they may be subject to a service termination.

The license holder's policies and procedures must ensure that any person or resident currently served by the program and receiving in-person services is not terminated solely because they decline to provide informed consent to change to using monitoring technology. This means all residents of a CRS must agree to the use of technology for overnight supervision before it can be used in the program.

A license holder is not required to develop or maintain separate or duplicative policies, procedures, documentation, consent forms, or individual plans. The policies and procedures for remote overnight supervision may be incorporated into existing documents, including the program abuse prevention plan, that are used to meet other licensing requirements.

What CRS county licensors need to do

As a county licensor reviews the program abuse prevention plan, the use of alternative overnight supervision technology should be identified. This has been added to the CRS checklist.

What DHS licensors need to do

DHS licensors will monitor for compliance with other policies, procedures, and training.

Physical presence response

Overview

If while using the monitoring technology, an incident has occurred that may jeopardize the health, safety, or rights of a resident, the license holder must take steps to document and evaluate the need for the physical presence.

If a program has not required a physical response during the night for a 3-month period, then the license holder must conduct a physical presence response drill.

See [MN Statutes, Section 245D.261, Subdivisions 3 and 4](#) for physical presence response requirements.

What license holders need to do

If while using the monitoring technology, an incident has occurred that may jeopardize the health, safety, or rights of a resident, the license holder must: 1) document an evaluation of the need for the physical presence of a staff member and 2) determine whether a physical presence is needed in a time that is less than the person's maximum permissible response time. If it is determined that a physical presence is needed that requires a response time less than the maximum response time in the person's support plan addendum, the license holder must implement the plan for dispatching emergency response personnel.

If a program has not required a physical response during the night for a 3-month period, then the license holder must conduct a physical presence response drill. The effectiveness of the response protocol must be reviewed and documented.

What CRS county licensors need to do

A CRS county licensor must monitor through planned licensing renewal activities that a license holder conducts a physical presence response drill every three months if the program has not otherwise responded to a program in-person during the overnight hours. A CRS county licensor will assess records to ensure that the license holder reviewed and documented the effectiveness of the response protocol. This has been added to the CRS checklist.

What DHS licensors need to do

DHS licensors will review documentation of incidents for completeness and to verify that appropriate action was taken.

Consent to use monitoring technology

Overview

If a license holder uses monitoring technology in a community residential setting, the license holder must obtain a signed informed consent form.

See [MN Statutes, Section 245D.261, Subdivision 5](#) for requirements for consent to use monitoring technology.

What license holders need to do

If a license holder uses monitoring technology in a community residential setting, the license holder must obtain a signed informed consent form from each resident served by the program or the resident's legal representative. The consent form must document the resident's or legal representative's agreement to the use of the specific monitoring technology used in the setting.

The informed consent form documenting this agreement must also explain:

- 1) how the license holder uses monitoring technology to provide remote supervision;
- 2) the risks and benefits of using monitoring technology;
- 3) how the license holder protects each resident's privacy while monitoring technology is being used in the setting; and
- 4) how the license holder protects each resident's privacy when the monitoring technology system electronically records personally identifying data.

What DHS licensors need to do

DHS licensors will monitor for compliance with the items outlined above.