Substance Use Disorder Treatment:
2022 Legislative changes and program implementation

The 2022 Legislature made changes to several laws that impact Department of Human Services (DHS) licensed substance use disorder treatment programs. 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.

Weekly treatment plan reviews

Overview

Weekly treatment plan reviews no longer include documentation of treatment services. Programs will document each treatment service separately according to the standards in the below section titled "Treatment service documentation". The requirements now specify that the alcohol and drug counselor responsible for the client's treatment plan must complete the treatment plan review. If that counselor is on vacation or is away from the program for another reason, the program should assign a different counselor to be responsible for the client's treatment plan and treatment plan review for that week. **Effective August 1, 2022**. *Chapter 98, Article 12, Section 10 (245G.06)*.

What providers need to do

Programs should update their treatment plan review forms and procedures to reflect the new requirements.

Treatment service documentation

Overview

Documentation of treatment services moves from being part of the weekly treatment plan review to a standalone requirement for each service. This aligns with billing requirements and allows providers more time to document the treatment service. For each treatment service, the staff person who provides the service must document:

- the **date** the service occurs on,
- the **type** of the treatment service (individual counseling, group counseling, client education, and other types as listed in 245G.07)
- the **amount** (hours and/or minutes of service provided), and
- the client's **response** to each service. This does not need to be a client's verbal response and can instead be the staff person's observation during the service of how the client responded to the content of the service.

The staff person must enter this documentation in the client's record within **7 days** from the date the service takes place on. **Effective August 1, 2022**. *Chapter 98, Article 12, Section 8 (245G.06)*.

What providers need to do

Providers should ensure that staff enter all of this information for each treatment service within **7 days** of each service.

Residential program documentation

Overview

For **residential programs** only. If any of the following items happen, a staff person must enter information about it in the client's record on the day each item occurs:

- medical and other appointments the client attended
- concerns related to medications not documented in the medication administration record, and
- concerns related to attendance for treatment services, including the reason for any client absence from a treatment service.

If none of these occur, there is nothing to document. Any staff person that knows about the appointment or concern may enter this information in the client record. These items were previously part of the weekly review of services. **Effective August 1, 2022**. *Chapter 98, Article 12, Section 9 (245G.06)*.

What providers need to do

Programs may stop completing the weekly reviews specific to these items. If one of the above items occurs, **residential** programs must ensure that a staff person enters information about it on the day it occurs.

Significant event documentation timeline

Overview

The timeframe for documenting a significant event lengthens from immediately to **on the day the event occurs**. A significant event is any event that impacts the client's relationship with their family, other clients, or program staff, or an event that impacts the client's treatment plan. **Effective August 1, 2022**. *Chapter 98, Article 12, Section 9 (245G.06)*.

What providers need to do

If a significant even occurs, the program must ensure that a staff person enters information about the event in the client record by 11:59 p.m. on the day the event takes place. If the program does not become aware of the event until a later date, staff must enter the event in the client record on the day the program becomes aware of it along with the label "late entry" and the date the event reportedly took place on.

Removing outdated progress note term

Overview

The term "treatment plan review" replaces the outdated term "progress note" in two requirements that still had the old term. These replacements are in the student intern document review requirements and co-occurring program requirements to document active interventions to stabilize mental health symptoms. **Effective January 1, 2023**. *Chapter 98, Article 12, Sections 14 and 16 (245G.11, 245G.20)*.

What providers need to do

If a student intern prepares an assessment, individual treatment plan, or *treatment plan review*, a qualified staff person must review and sign it. If your program is licensed to specialize in the treatment of people with co-occurring disorders, ensure there is documentation of active interventions to stabilize mental health symptoms in the client's treatment plan and *treatment plan reviews*.

Staff person substance use problems

Overview

Several changes 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). **Effective January 1, 2023**. *Chapter 98, Article 12, Sections 13, 15, and 21 (245G.11, 245G.13)*.

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.

Guest Speakers

Overview

Licensing requirements now allow for people without the typical professional qualifications or license to present information to clients during a treatment service. The requirements refer to these people as guest speakers. A guest speaker may present information to clients but only as a part of a treatment service that an alcohol and drug counselor provides. The alcohol and drug counselor is still responsible for the service and all information the guest speaker presents. Before the guest speaker presents, the program must determine that the guest speaker has expertise that is beneficial to a client's recovery. An alcohol and drug counselor must visually observe and listen to the guest speaker's presentation the entire time.

The new standards clarify that background study laws and training requirements apply to guest speakers but allows for less orientation trainings if they provide direct contact services one day a month or less. A program's description of treatment services must identify the groups and topics a guest speaker could be part of. **Effective July 1, 2022**. *Chapter 98, Article 4, Sections 15 to 17 (245G.01, 245G.07, 245G.12)*.

What providers need to do

Personnel files. The program must maintain a personnel file for each guest speaker that contains documentation of:

- A background study that complies with chapter 245C. If the guest speaker is a **volunteer** and the program chooses to not initiate a background study for the volunteer, the program **must** provide continuous direct supervision of the person according to section 245C.03, subd. 1, (a), (4); and
- All orientation and trainings for a staff member. If they provide direct contact services **one day a month or less**, the program must only provide orientation trainings on:
    - mandatory reporting of maltreatment, as specified in sections 245A.65, 626.557, and 626.5572 and chapter 260E
    - applicable client confidentiality rules and regulations
    - ethical standards for client interactions, and
    - emergency procedures.

Policies. Programs must update their description of treatment services policy to identify the groups and topics a guest speaker could present in while under the direct observation of an alcohol and drug counselor.

Services. The license holder may allow guest speakers to present information as a part of a treatment service if an **alcohol and drug counselor**:

- provides the service;
- is responsible for the service and all information the guest speaker presents; and
- visually observes and listens to the guest speaker's presentation the entire time.

Medication administration

Overview

All staff with appropriate training may now administer medications through additional routes or methods. This includes the addition of:

- Intramuscular injections of naloxone or epinephrine, and
- Intranasal administration of any type of medication.

Effective June 3, 2022 (day following final enactment). *Chapter 98, Article 12, Section 11 (245G.08)*.

What providers need to do

A registered nurse should update the program's medication administration policies and procedures to reflect the new types of administration methods. Staff that may administer these medications must receive training in these additional methods of administration.

Alcohol and drug counselor definition

Overview

The definition for the term "alcohol and drug counselor" changes to include all types of licensed professionals that meet the qualifications in Minnesota Statutes, section 245G.11, subdivision 5. This is only a technical clarification to eliminate a contradiction and does not impact the requirements or how DHS reviews for this requirement. **Effective June 3, 2022** (day following final enactment). *Chapter 98, Article 12, Section 6 (245G.01)*.

What providers need to do

Providers continue to meet existing requirements. There is no change to the following existing alcohol and drug counselor qualification requirements.

Minnesota Statutes, section 245G.11, subdivision 5 allows for **two** different ways meet the qualifications for an alcohol and drug counselor:

1. The person is a current Licensed Alcohol and Drug Counselor (LADC) according the Minnesota Board of Behavioral Health and Therapy (BBHT); **or**

2. The person meets **all** of these criteria:
    a. the person holds a current Minnesota license or qualification that includes the alcohol and drug counseling functions in its scope of practice;
    b. the BBHT exempts a person with this license or qualification from needing an LADC license as allowed by Minnesota Statutes, section 148F.11, subdivision 1; ***and***
    c. the person meets **one** of the additional sets of qualifications in **paragraph (b), clauses (1) to (5)** in Minnesota Statutes, section 245G.11, subdivision 5.

Parents with children residential programs – child safety

Overview

Only for **residential** programs that serve parents that have their child living with them at the program, adjustments are made to clarify and simplify existing safe sleep and other child safety requirements. This incorporates feedback from programs about how to improve the requirements and make them easier to follow**.**

The requirement to provide parents education about child safety practices changes to require programs to use specific material that DHS develops. DHS will notify programs as soon as this education material is available. If a parent refuses to comply with the child safety practices, the program must provide additional education until the parent agrees to comply with the safeguards. The requirement to provide this education weekly changes to instead allow programs to determine the best frequency for each client. To do this, the program must develop a parental supervision plan that includes the intervention, frequency, and staff responsible for continuing to help the parent understand the safeguards until the parent agrees to follow them.

Programs must document each parent's capacity to meet the health and safety needs of the child while at the program considering specific factors. The factors to consider and document change slightly to this new list:

1. the parent's physical and mental health,
2. the parent being under the influence of drugs, alcohol, medications, or other chemicals,
3. the child's physical and mental health, and
4. any other information available to the license holder that indicates the parent may not be able to adequately care for the child.

If a parent is unable to adequately care for their child, there is a new requirement for the program to develop a parental supervision plan with the client. This plan must account for any factors in the list above that contribute to the parent's inability to adequately care for the child. **Effective January 1, 2023**. *Chapter 98, Article 12, Section 3 (245A.1443)*.

What providers need to do

Providers must use the new DHS child safety educational material for parents. DHS will provide the new educational material later this year. The program must develop a parental supervision plan for any client that does not agree to comply with the child safety education or that is unable to adequately care for their child. Update policies and forms with the new version of the statutory language.

Opioid treatment programs – methadone take-home doses

Overview

For opioid treatment programs only, the requirements for the number of unsupervised methadone doses (take-home doses) a client may have now align with federal standards. This clarifies that the number of allowable take-home doses in the first 270 days of treatment is in addition to the number of take-home doses a client may receive for days the clinic closes for business on Sundays and state and federal holidays. These changes align with how DHS has previously reviewed programs for these standards. **Effective June 3, 2022** (day following final enactment). *Chapter 98, Article 12, Section 17 (245G.22)*.

What providers need to do

If policies contain the statutory language, update the policy to reflect the change. Providers do not need to take any further action as the new language does not change how DHS monitors these requirements.

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. These changes are that a physician assistant may now:

- approve procedures for obtaining medical interventions for clients, *Chapter 58, section 107 (245G.08)*
- write standing order protocols for naloxone at the program, *Chapter 58, section 108 (245G.08)*
- instruct programs to allow clients to carry emergency medication, *Chapter 58, section 109 (245G.08)*
- visit a client at all reasonable times regardless of normal visiting hours, *Chapter 58, section 110 (245G.21)*
- determine if a medication is harmful or approve it for use, *Chapter 58, section 111 (245G.21)*, and

- direct sleep positions for infants that are in the *parents with children programs*, *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 nurse for the above duties.

Vulnerable adult maltreatment 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.

Licensed professionals in private practice definition

Overview

New language clarifies the activities of licensed professionals in private practice which require a substance use disorder treatment program license and the activities that do not require a program license. **Effective June 3, 2022** (day following final enactment). *Chapter 98, Article 12, Section 7 (245G.01)*.

What providers need to do

Licensed programs do nothing. These standards only exempt certain individuals that meet these criteria from a program license.

Background studies

Overview

Emergency background studies and the supervision waiver now extend through Dec. 31, 2022. The DHS Background Studies Division sent providers emails about these changes. For details about the extension of:

- **emergency studies**, please read the email at this link
- **direct contact supervision waiver**, please read the email at this link.

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.