

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 3909

(SENATE AUTHORS: WIKLUND)

DATE
03/10/2022

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Introduction and first reading
 Referred to Human Services Licensing Policy

OFFICIAL STATUS

1.1 A bill for an act

1.2 relating to human services; amending human services licensing provisions;

1.3 amending Minnesota Statutes 2020, sections 245A.07, subdivisions 2a, 3; 245F.15,

1.4 subdivision 1; 245F.16, subdivision 1; 245G.01, subdivisions 4, 17; 245G.06,

1.5 subdivision 3, by adding subdivisions; 245G.08, subdivision 5; 245G.09,

1.6 subdivision 3; 245G.11, subdivisions 1, 10; 245G.13, subdivision 1; 245G.20;

1.7 245G.22, subdivision 7; repealing Minnesota Statutes 2020, sections 245F.15,

1.8 subdivision 2; 245G.11, subdivision 2; Minnesota Rules, parts 2960.0460, subpart

1.9 2; 9530.6565, subpart 2.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. Minnesota Statutes 2020, section 245A.07, subdivision 2a, is amended to read:

1.12 Subd. 2a. **Immediate suspension expedited hearing.** (a) Within five working days of

1.13 receipt of the license holder's timely appeal, the commissioner shall request assignment of

1.14 an administrative law judge. The request must include a proposed date, time, and place of

1.15 a hearing. A hearing must be conducted by an administrative law judge within 30 calendar

1.16 days of the request for assignment, unless an extension is requested by either party and

1.17 granted by the administrative law judge for good cause. The commissioner shall issue a

1.18 notice of hearing by certified mail or personal service at least ten working days before the

1.19 hearing. The scope of the hearing shall be limited solely to the issue of whether the temporary

1.20 immediate suspension should remain in effect pending the commissioner's final order under

1.21 section 245A.08, regarding a licensing sanction issued under subdivision 3 following the

1.22 immediate suspension. For suspensions under subdivision 2, paragraph (a), clause (1), the

1.23 burden of proof in expedited hearings under this subdivision shall be limited to the

1.24 commissioner's demonstration that reasonable cause exists to believe that the license holder's

1.25 actions or failure to comply with applicable law or rule poses, or the actions of other

1.26 individuals or conditions in the program poses an imminent risk of harm to the health, safety,

or rights of persons served by the program. "Reasonable cause" means there exist specific articulable facts or circumstances which provide the commissioner with a reasonable suspicion that there is an imminent risk of harm to the health, safety, or rights of persons served by the program. When the commissioner has determined there is reasonable cause to order the temporary immediate suspension of a license based on a violation of safe sleep requirements, as defined in section 245A.1435, the commissioner is not required to demonstrate that an infant died or was injured as a result of the safe sleep violations. For suspensions under subdivision 2, paragraph (a), clause (2), the burden of proof in expedited hearings under this subdivision shall be limited to the commissioner's demonstration by a preponderance of the evidence that, since the license was revoked, the license holder committed additional violations of law or rule which may adversely affect the health or safety of persons served by the program.

(b) The administrative law judge shall issue findings of fact, conclusions, and a recommendation within ten working days from the date of hearing. The parties shall have ten calendar days to submit exceptions to the administrative law judge's report. The record shall close at the end of the ten-day period for submission of exceptions. The commissioner's final order shall be issued within ten working days from the close of the record. When an appeal of a temporary immediate suspension is withdrawn or dismissed, the commissioner shall issue a final order affirming the temporary immediate suspension within ten calendar days of the commissioner's receipt of the withdrawal or dismissal. Within 90 calendar days after an immediate suspension has been issued and the license holder has not submitted a timely appeal under subdivision 2, paragraph (b), or within 90 calendar days after a final order affirming an immediate suspension, the commissioner shall ~~make a determination regarding~~ determine:

(1) whether a final licensing sanction shall be issued under subdivision 3, paragraph (a), clauses (1) to (5). The license holder shall continue to be prohibited from operation of the program during this 90-day period; or

(2) whether the outcome of related, ongoing investigations or judicial proceedings are necessary to determine if a final licensing sanction under subdivision 3, paragraph (a), clauses (1) to (5), will be issued, and persons served by the program remain at an imminent risk of harm during the investigation period or proceedings. If so, the commissioner shall issue a suspension in accordance with subdivision 3.

(c) When the final order under paragraph (b) affirms an immediate suspension or the license holder does not submit a timely appeal of the immediate suspension, and a final licensing sanction is issued under subdivision 3 and the license holder appeals that sanction,

the license holder continues to be prohibited from operation of the program pending a final commissioner's order under section 245A.08, subdivision 5, regarding the final licensing sanction.

(d) The license holder shall continue to be prohibited from operation of the program while a suspension order issued under paragraph (b), clause (2), remains in effect.

~~(d)~~ (e) For suspensions under subdivision 2, paragraph (a), clause (3), the burden of proof in expedited hearings under this subdivision shall be limited to the commissioner's demonstration by a preponderance of the evidence that a criminal complaint and warrant or summons was issued for the license holder that was not dismissed, and that the criminal charge is an offense that involves fraud or theft against a program administered by the commissioner.

Sec. 2. Minnesota Statutes 2020, section 245A.07, subdivision 3, is amended to read:

Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may suspend or revoke a license, or impose a fine if:

(1) a license holder fails to comply fully with applicable laws or rules including but not limited to the requirements of this chapter and chapter 245C;

(2) a license holder, a controlling individual, or an individual living in the household where the licensed services are provided or is otherwise subject to a background study has been disqualified and the disqualification was not set aside and no variance has been granted;

(3) a license holder knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license, in connection with the background study status of an individual, during an investigation, or regarding compliance with applicable laws or rules;

(4) a license holder is excluded from any program administered by the commissioner under section 245.095; ~~or~~

(5) revocation is required under section 245A.04, subdivision 7, paragraph (d); or

(6) suspension is necessary under subdivision 2a, paragraph (b), clause (2).

A license holder who has had a license issued under this chapter suspended, revoked, or has been ordered to pay a fine must be given notice of the action by certified mail or personal service. If mailed, the notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state in plain language the reasons the license was suspended or revoked, or a fine was ordered.

(b) If the license was suspended or revoked, the notice must inform the license holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking a license. The appeal of an order suspending or revoking a license must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the license has been suspended or revoked. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a timely appeal of an order suspending or revoking a license, the license holder may continue to operate the program as provided in section 245A.04, subdivision 7, paragraphs (f) and (g), until the commissioner issues a final order on the suspension or revocation.

(c)(1) If the license holder was ordered to pay a fine, the notice must inform the license holder of the responsibility for payment of fines and the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal of an order to pay a fine must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the fine has been ordered. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order.

(2) The license holder shall pay the fines assessed on or before the payment date specified. If the license holder fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

(3) A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify the license holder by certified mail or personal service that a second fine has been assessed. The license holder may appeal the second fine as provided under this subdivision.

(4) Fines shall be assessed as follows:

(i) the license holder shall forfeit \$1,000 for each determination of maltreatment of a child under chapter 260E or the maltreatment of a vulnerable adult under section 626.557 for which the license holder is determined responsible for the maltreatment under section 260E.30, subdivision 4, paragraphs (a) and (b), or 626.557, subdivision 9c, paragraph (c);

(ii) if the commissioner determines that a determination of maltreatment for which the license holder is responsible is the result of maltreatment that meets the definition of serious maltreatment as defined in section 245C.02, subdivision 18, the license holder shall forfeit \$5,000;

(iii) for a program that operates out of the license holder's home and a program licensed under Minnesota Rules, parts 9502.0300 to 9502.0445, the fine assessed against the license holder shall not exceed \$1,000 for each determination of maltreatment;

(iv) the license holder shall forfeit \$200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, including but not limited to the provision of adequate staff-to-child or adult ratios, and failure to comply with background study requirements under chapter 245C; and

(v) the license holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those subject to a \$5,000, \$1,000, or \$200 fine in items (i) to (iv).

For purposes of this section, "occurrence" means each violation identified in the commissioner's fine order. Fines assessed against a license holder that holds a license to provide home and community-based services, as identified in section 245D.03, subdivision 1, and a community residential setting or day services facility license under chapter 245D where the services are provided, may be assessed against both licenses for the same occurrence, but the combined amount of the fines shall not exceed the amount specified in this clause for that occurrence.

(5) When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder will be personally liable for payment. In the case of a corporation, each controlling individual is personally and jointly liable for payment.

(d) Except for background study violations involving the failure to comply with an order to immediately remove an individual or an order to provide continuous, direct supervision, the commissioner shall not issue a fine under paragraph (c) relating to a background study violation to a license holder who self-corrects a background study violation before the commissioner discovers the violation. A license holder who has previously exercised the provisions of this paragraph to avoid a fine for a background study violation may not avoid

a fine for a subsequent background study violation unless at least 365 days have passed since the license holder self-corrected the earlier background study violation.

Sec. 3. Minnesota Statutes 2020, section 245F.15, subdivision 1, is amended to read:

Subdivision 1. **Qualifications for all staff who have direct patient contact.** ~~(a) All staff who have direct patient contact must be at least 18 years of age and must, at the time of hiring, document that they meet the requirements in paragraph (b), (c), or (d).~~

~~(b) Program directors, supervisors, nurses, and alcohol and drug counselors must be free of substance use problems for at least two years immediately preceding their hiring and must sign a statement attesting to that fact.~~

~~(c) Recovery peers must be free of substance use problems for at least one year immediately preceding their hiring and must sign a statement attesting to that fact.~~

~~(d) Technicians and other support staff must be free of substance use problems for at least six months immediately preceding their hiring and must sign a statement attesting to that fact.~~

EFFECTIVE DATE. This section is effective January 1, 2023.

Sec. 4. Minnesota Statutes 2020, section 245F.16, subdivision 1, is amended to read:

Subdivision 1. **Policy requirements.** A license holder must have written personnel policies and must make them available to staff members at all times. The personnel policies must:

(1) ensure that a staff member's retention, promotion, job assignment, or pay are not affected by a good-faith communication between the staff member and the Department of Human Services, Department of Health, Ombudsman for Mental Health and Developmental Disabilities, law enforcement, or local agencies that investigate complaints regarding patient rights, health, or safety;

(2) include a job description for each position that specifies job responsibilities, degree of authority to execute job responsibilities, standards of job performance related to specified job responsibilities, and qualifications;

(3) provide for written job performance evaluations for staff members of the license holder at least annually;

(4) describe ~~behavior that constitutes grounds~~ the process for disciplinary action, suspension, or dismissal, ~~including policies that address substance use problems and meet~~

~~the requirements of section 245F.15, subdivisions 1 and 2. The policies and procedures must list behaviors or incidents that are considered substance use problems. The list must include:~~ of a staff person for violating the drug and alcohol policy described in section 245A.04, subdivision 1, paragraph (c);

~~(i) receiving treatment for substance use disorder within the period specified for the position in the staff qualification requirements;~~

~~(ii) substance use that has a negative impact on the staff member's job performance;~~

~~(iii) substance use that affects the credibility of treatment services with patients, referral sources, or other members of the community; and~~

~~(iv) symptoms of intoxication or withdrawal on the job;~~

(5) include policies prohibiting personal involvement with patients and policies prohibiting patient maltreatment as specified under sections 245A.65, 626.557, and 626.5572 and chapters 260E and 604;

(6) include a chart or description of organizational structure indicating the lines of authority and responsibilities;

(7) include a written plan for new staff member orientation that, at a minimum, includes training related to the specific job functions for which the staff member was hired, program policies and procedures, patient needs, and the areas identified in subdivision 2, paragraphs (b) to (e); and

(8) include a policy on the confidentiality of patient information.

EFFECTIVE DATE. This section is effective January 1, 2023.

Sec. 5. Minnesota Statutes 2020, section 245G.01, subdivision 4, is amended to read:

Subd. 4. **Alcohol and drug counselor.** "Alcohol and drug counselor" ~~has the meaning given in section 148F.01, subdivision 5~~ means a person who is qualified according to section 245G.11, subdivision 5.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 6. Minnesota Statutes 2020, section 245G.01, subdivision 17, is amended to read:

Subd. 17. **Licensed professional in private practice.** (a) "Licensed professional in private practice" means an individual who:

(1) is licensed under chapter 148F, or is exempt from licensure under that chapter but is otherwise licensed to provide alcohol and drug counseling services;

(2) practices solely within the permissible scope of the individual's license as defined in the law authorizing licensure; and

(3) does not affiliate with other licensed or unlicensed professionals to provide alcohol and drug counseling services. ~~Affiliation does not include conferring with another professional or making a client referral.~~

(b) For purposes of this subdivision, affiliate includes but is not limited to:

(1) using the same electronic record system as another professional, except when the system prohibits each professional from accessing the records of another professional;

(2) advertising the services of more than one professional together;

(3) accepting client referrals made to a group of professionals;

(4) providing services to another professional's clients when that professional is absent;
or

(5) appearing in any way to be a group practice or program.

(c) For purposes of this subdivision, affiliate does not include:

(1) conferring with another professional;

(2) making a client referral to another professional;

(3) contracting with the same agency as another professional for billing services;

(4) using the same waiting area for clients in an office as another professional; or

(5) using the same receptionist as another professional if the receptionist supports each professional independently.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 7. Minnesota Statutes 2020, section 245G.06, is amended by adding a subdivision to read:

Subd. 2a. Documentation of treatment services. The license holder must ensure that the staff member who provides the treatment service documents in the client record the date, type, and amount of each treatment service provided to a client and the client's response to each treatment service within seven days of providing the treatment service.

EFFECTIVE DATE. This section is effective August 1, 2022.

9.1 Sec. 8. Minnesota Statutes 2020, section 245G.06, is amended by adding a subdivision to
9.2 read:

9.3 Subd. 2b. **Client record documentation requirements.** (a) The license holder must
9.4 document in the client record any significant event that occurs at the program on the day
9.5 the event occurs. A significant event is an event that impacts the client's relationship with
9.6 other clients, staff, or the client's family, or the client's treatment plan.

9.7 (b) A residential treatment program must document in the client record the following
9.8 items on the day that each occurs:

9.9 (1) medical and other appointments the client attended;

9.10 (2) concerns related to medications that are not documented in the medication
9.11 administration record; and

9.12 (3) concerns related to attendance for treatment services, including the reason for any
9.13 client absence from a treatment service.

9.14 (c) Each entry in a client's record must be accurate, legible, signed, dated, and include
9.15 the job title or position of the staff person that made the entry. A late entry must be clearly
9.16 labeled "late entry." A correction to an entry must be made in a way in which the original
9.17 entry can still be read.

9.18 **EFFECTIVE DATE.** This section is effective August 1, 2022.

9.19 Sec. 9. Minnesota Statutes 2020, section 245G.06, subdivision 3, is amended to read:

9.20 Subd. 3. ~~Documentation of treatment services; Treatment plan review.~~ (a) ~~A review~~
9.21 ~~of all treatment services must be documented weekly and include a review of:~~

9.22 ~~(1) care coordination activities;~~

9.23 ~~(2) medical and other appointments the client attended;~~

9.24 ~~(3) issues related to medications that are not documented in the medication administration~~
9.25 ~~record; and~~

9.26 ~~(4) issues related to attendance for treatment services, including the reason for any client~~
9.27 ~~absence from a treatment service.~~

9.28 ~~(b) A note must be entered immediately following any significant event. A significant~~
9.29 ~~event is an event that impacts the client's relationship with other clients, staff, the client's~~
9.30 ~~family, or the client's treatment plan.~~

~~(e)~~ A treatment plan review must be entered in a client's file weekly or after each treatment service, whichever is less frequent, by the ~~staff member providing the service~~ alcohol and drug counselor responsible for the client's treatment plan. The review must indicate the span of time covered by the review and each of the six dimensions listed in section 245G.05, subdivision 2, paragraph (c). The review must:

~~(1) indicate the date, type, and amount of each treatment service provided and the client's response to each service;~~

~~(2)~~ (1) address each goal in the treatment plan and whether the methods to address the goals are effective;

~~(3)~~ (2) include monitoring of any physical and mental health problems;

~~(4)~~ (3) document the participation of others;

~~(5)~~ (4) document staff recommendations for changes in the methods identified in the treatment plan and whether the client agrees with the change; and

~~(6)~~ (5) include a review and evaluation of the individual abuse prevention plan according to section 245A.65.

~~(d) Each entry in a client's record must be accurate, legible, signed, and dated. A late entry must be clearly labeled "late entry." A correction to an entry must be made in a way in which the original entry can still be read.~~

EFFECTIVE DATE. This section is effective August 1, 2022.

Sec. 10. Minnesota Statutes 2020, section 245G.08, subdivision 5, is amended to read:

Subd. 5. **Administration of medication and assistance with self-medication.** (a) A license holder must meet the requirements in this subdivision if a service provided includes the administration of medication.

(b) A staff member, other than a licensed practitioner or nurse, who is delegated by a licensed practitioner or a registered nurse the task of administration of medication or assisting with self-medication, must:

(1) successfully complete a medication administration training program for unlicensed personnel through an accredited Minnesota postsecondary educational institution. A staff member's completion of the course must be documented in writing and placed in the staff member's personnel file;

(2) be trained according to a formalized training program that is taught by a registered nurse and offered by the license holder. The training must include the process for administration of naloxone, if naloxone is kept on site. A staff member's completion of the training must be documented in writing and placed in the staff member's personnel records; or

(3) demonstrate to a registered nurse competency to perform the delegated activity. A registered nurse must be employed or contracted to develop the policies and procedures for administration of medication or assisting with self-administration of medication, or both.

(c) A registered nurse must provide supervision as defined in section 148.171, subdivision 23. The registered nurse's supervision must include, at a minimum, monthly on-site supervision or more often if warranted by a client's health needs. The policies and procedures must include:

(1) a provision that a delegation of administration of medication is limited to a method a staff member has been trained to administer and limited to the administration of:

(i) a medication that is administered orally, topically, or as a suppository, an eye drop, an ear drop, or an inhalant, or an intranasal; and

(ii) an intramuscular injection of naloxone or epinephrine;

(2) a provision that each client's file must include documentation indicating whether staff must conduct the administration of medication or the client must self-administer medication, or both;

(3) a provision that a client may carry emergency medication such as nitroglycerin as instructed by the client's physician or advanced practice registered nurse;

(4) a provision for the client to self-administer medication when a client is scheduled to be away from the facility;

(5) a provision that if a client self-administers medication when the client is present in the facility, the client must self-administer medication under the observation of a trained staff member;

(6) a provision that when a license holder serves a client who is a parent with a child, the parent may only administer medication to the child under a staff member's supervision;

(7) requirements for recording the client's use of medication, including staff signatures with date and time;

12.1 (8) guidelines for when to inform a nurse of problems with self-administration of
12.2 medication, including a client's failure to administer, refusal of a medication, adverse
12.3 reaction, or error; and

12.4 (9) procedures for acceptance, documentation, and implementation of a prescription,
12.5 whether written, verbal, telephonic, or electronic.

12.6 **EFFECTIVE DATE.** This section is effective the day following final enactment.

12.7 Sec. 11. Minnesota Statutes 2020, section 245G.09, subdivision 3, is amended to read:

12.8 Subd. 3. **Contents.** Client records must contain the following:

12.9 (1) documentation that the client was given information on client rights and
12.10 responsibilities, grievance procedures, tuberculosis, and HIV, and that the client was provided
12.11 an orientation to the program abuse prevention plan required under section 245A.65,
12.12 subdivision 2, paragraph (a), clause (4). If the client has an opioid use disorder, the record
12.13 must contain documentation that the client was provided educational information according
12.14 to section 245G.05, subdivision 1, paragraph (b);

12.15 (2) an initial services plan completed according to section 245G.04;

12.16 (3) a comprehensive assessment completed according to section 245G.05;

12.17 (4) an assessment summary completed according to section 245G.05, subdivision 2;

12.18 (5) an individual abuse prevention plan according to sections 245A.65, subdivision 2,
12.19 and 626.557, subdivision 14, when applicable;

12.20 (6) an individual treatment plan according to section 245G.06, subdivisions 1 and 2;

12.21 (7) documentation of treatment services, significant events, appointments, concerns, and
12.22 treatment plan review reviews according to section 245G.06, ~~subdivision~~ subdivisions 2a,
12.23 2b, and 3; and

12.24 (8) a summary at the time of service termination according to section 245G.06,
12.25 subdivision 4.

12.26 **EFFECTIVE DATE.** This section is effective August 1, 2022.

12.27 Sec. 12. Minnesota Statutes 2020, section 245G.11, subdivision 1, is amended to read:

12.28 Subdivision 1. **General qualifications.** (a) All staff members who have direct contact
12.29 must be 18 years of age or older. ~~At the time of employment, each staff member must meet~~
12.30 ~~the qualifications in this subdivision. For purposes of this subdivision, "problematic substance~~

13.1 use" means a behavior or incident listed by the license holder in the personnel policies and
13.2 procedures according to section 245G.13, subdivision 1, clause (5).

13.3 (b) A treatment director, supervisor, nurse, counselor, student intern, or other professional
13.4 must be free of problematic substance use for at least the two years immediately preceding
13.5 employment and must sign a statement attesting to that fact.

13.6 (c) A paraprofessional, recovery peer, or any other staff member with direct contact
13.7 must be free of problematic substance use for at least one year immediately preceding
13.8 employment and must sign a statement attesting to that fact.

13.9 **EFFECTIVE DATE.** This section is effective January 1, 2023.

13.10 Sec. 13. Minnesota Statutes 2020, section 245G.11, subdivision 10, is amended to read:

13.11 Subd. 10. **Student interns.** A qualified staff member must supervise and be responsible
13.12 for a treatment service performed by a student intern and must review and sign each
13.13 assessment, ~~progress note, and~~ individual treatment plan, and treatment plan review prepared
13.14 by a student intern. A student intern must receive the orientation and training required in
13.15 section 245G.13, subdivisions 1, clause (7), and 2. No more than 50 percent of the treatment
13.16 staff may be students or licensing candidates with time documented to be directly related
13.17 to the provision of treatment services for which the staff are authorized.

13.18 **EFFECTIVE DATE.** This section is effective January 1, 2023.

13.19 Sec. 14. Minnesota Statutes 2020, section 245G.13, subdivision 1, is amended to read:

13.20 Subdivision 1. **Personnel policy requirements.** A license holder must have written
13.21 personnel policies that are available to each staff member. The personnel policies must:

13.22 (1) ensure that staff member retention, promotion, job assignment, or pay are not affected
13.23 by a good faith communication between a staff member and the department, the Department
13.24 of Health, the ombudsman for mental health and developmental disabilities, law enforcement,
13.25 or a local agency for the investigation of a complaint regarding a client's rights, health, or
13.26 safety;

13.27 (2) contain a job description for each staff member position specifying responsibilities,
13.28 degree of authority to execute job responsibilities, and qualification requirements;

13.29 (3) provide for a job performance evaluation based on standards of job performance
13.30 conducted on a regular and continuing basis, including a written annual review;

(4) describe behavior that constitutes grounds for disciplinary action, suspension, or dismissal, including ~~policies that address staff member problematic substance use and the requirements of section 245G.11, subdivision 1,~~ policies prohibiting personal involvement with a client in violation of chapter 604, and policies prohibiting client abuse described in sections 245A.65, 626.557, and 626.5572, and chapter 260E;

~~(5) identify how the program will identify whether behaviors or incidents are problematic substance use, including a description of how the facility must address:~~

~~(i) receiving treatment for substance use within the period specified for the position in the staff qualification requirements, including medication-assisted treatment;~~

~~(ii) substance use that negatively impacts the staff member's job performance;~~

~~(iii) substance use that affects the credibility of treatment services with a client, referral source, or other member of the community;~~

~~(iv) symptoms of intoxication or withdrawal on the job; and~~

~~(v) the circumstances under which an individual who participates in monitoring by the health professional services program for a substance use or mental health disorder is able to provide services to the program's clients;~~

(5) describe the process for disciplinary action, suspension, or dismissal of a staff person for violating the drug and alcohol policy described in section 245A.04, subdivision 1, paragraph (c);

(6) include a chart or description of the organizational structure indicating lines of authority and responsibilities;

(7) include orientation within 24 working hours of starting for each new staff member based on a written plan that, at a minimum, must provide training related to the staff member's specific job responsibilities, policies and procedures, client confidentiality, HIV minimum standards, and client needs; and

(8) include policies outlining the license holder's response to a staff member with a behavior problem that interferes with the provision of treatment service.

EFFECTIVE DATE. This section is effective January 1, 2023.

15.1 Sec. 15. Minnesota Statutes 2020, section 245G.20, is amended to read:

15.2 **245G.20 LICENSE HOLDERS SERVING PERSONS WITH CO-OCCURRING**
15.3 **DISORDERS.**

15.4 A license holder specializing in the treatment of a person with co-occurring disorders
15.5 must:

15.6 (1) demonstrate that staff levels are appropriate for treating a client with a co-occurring
15.7 disorder, and that there are adequate staff members with mental health training;

15.8 (2) have continuing access to a medical provider with appropriate expertise in prescribing
15.9 psychotropic medication;

15.10 (3) have a mental health professional available for staff member supervision and
15.11 consultation;

15.12 (4) determine group size, structure, and content considering the special needs of a client
15.13 with a co-occurring disorder;

15.14 (5) have documentation of active interventions to stabilize mental health symptoms
15.15 present in the individual treatment plans and ~~progress notes~~ treatment plan reviews;

15.16 (6) have continuing documentation of collaboration with continuing care mental health
15.17 providers, and involvement of the providers in treatment planning meetings;

15.18 (7) have available program materials adapted to a client with a mental health problem;

15.19 (8) have policies that provide flexibility for a client who may lapse in treatment or may
15.20 have difficulty adhering to established treatment rules as a result of a mental illness, with
15.21 the goal of helping a client successfully complete treatment; and

15.22 (9) have individual psychotherapy and case management available during treatment
15.23 service.

15.24 **EFFECTIVE DATE.** This section is effective January 1, 2023.

15.25 Sec. 16. Minnesota Statutes 2020, section 245G.22, subdivision 7, is amended to read:

15.26 Subd. 7. **Restrictions for unsupervised use of methadone hydrochloride.** (a) If a
15.27 medical director or prescribing practitioner assesses and determines that a client meets the
15.28 criteria in subdivision 6 and may be dispensed a medication used for the treatment of opioid
15.29 addiction, the restrictions in this subdivision must be followed when the medication to be
15.30 dispensed is methadone hydrochloride. The results of the assessment must be contained in
15.31 the client file. The number of unsupervised use medication doses per week in paragraphs

(b) to (d) is in addition to the number of unsupervised use medication doses a client may receive for days the clinic is closed for business as allowed by subdivision 6, paragraph (a).

(b) During the first 90 days of treatment, the unsupervised use medication supply must be limited to a maximum of a single dose each week and the client shall ingest all other doses under direct supervision.

(c) In the second 90 days of treatment, the unsupervised use medication supply must be limited to two doses per week.

(d) In the third 90 days of treatment, the unsupervised use medication supply must not exceed three doses per week.

(e) In the remaining months of the first year, a client may be given a maximum six-day unsupervised use medication supply.

(f) After one year of continuous treatment, a client may be given a maximum two-week unsupervised use medication supply.

(g) After two years of continuous treatment, a client may be given a maximum one-month unsupervised use medication supply, but must make monthly visits to the program.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 17. DIRECTION TO COMMISSIONER OF HUMAN SERVICES; AMENDING CHILDREN'S RESIDENTIAL FACILITY AND DETOXIFICATION PROGRAM RULES.

(a) The commissioner of human services must amend Minnesota Rules, part 2960.0460, to remove all references to repealed Minnesota Rules, part 2960.0460, subpart 2.

(b) The commissioner must amend Minnesota Rules, part 2960.0470, to require license holders to have written personnel policies that describe the process for disciplinary action, suspension, or dismissal of a staff person for violating the drug and alcohol policy described in Minnesota Statutes, section 245A.04, subdivision 1, paragraph (c), and Minnesota Rules, part 2960.0030, subpart 9.

(c) The commissioner must amend Minnesota Rules, part 9530.6565, subpart 1, to remove items A and B and the documentation requirement that references these items.

(d) The commissioner must amend Minnesota Rules, part 9530.6570, subpart 1, item D, to remove the existing language and insert language to require license holders to have written personnel policies that describe the process for disciplinary action, suspension, or

17.1 dismissal of a staff person for violating the drug and alcohol policy described in Minnesota
17.2 Statutes, section 245A.04, subdivision 1, paragraph (c).

17.3 (e) For purposes of this section, the commissioner may use the good cause exempt
17.4 process under Minnesota Statutes, section 14.388, subdivision 1, clause (3), and Minnesota
17.5 Statutes, section 14.386, does not apply.

17.6 **EFFECTIVE DATE.** This section is effective the day following final enactment.

17.7 Sec. 18. **REPEALER.**

17.8 (a) Minnesota Statutes 2020, sections 245F.15, subdivision 2; and 245G.11, subdivision
17.9 2, are repealed.

17.10 (b) Minnesota Rules, parts 2960.0460, subpart 2; and 9530.6565, subpart 2, are repealed.

17.11 **EFFECTIVE DATE.** This section is effective January 1, 2023.

245F.15 STAFF QUALIFICATIONS.

Subd. 2. **Continuing employment; no substance use problems.** License holders must require staff to be free from substance use problems as a condition of continuing employment. Staff are not required to sign statements attesting to their freedom from substance use problems after the initial statement required by subdivision 1. Staff with substance use problems must be immediately removed from any responsibilities that include direct patient contact.

245G.11 STAFF QUALIFICATIONS.

Subd. 2. **Employment; prohibition on problematic substance use.** A staff member with direct contact must be free from problematic substance use as a condition of employment, but is not required to sign additional statements. A staff member with direct contact who is not free from problematic substance use must be removed from any responsibilities that include direct contact for the time period specified in subdivision 1. The time period begins to run on the date of the last incident of problematic substance use as described in the facility's policies and procedures according to section 245G.13, subdivision 1, clause (5).

2960.0460 STAFF QUALIFICATIONS.

Subp. 2. **Qualifications applying to employees with direct resident contact.** An employee working directly with residents must be at least 21 years of age and must, at the time of hiring, document meeting the qualifications in item A or B.

A. A program director, supervisor, counselor, or any other person who has direct resident contact must be free of chemical use problems for at least the two years immediately preceding hiring and freedom from chemical use problems must be maintained during employment.

B. Overnight staff must be free of chemical use problems for at least one year preceding their hiring and maintain freedom from chemical use problems during their employment.

9530.6565 STAFF QUALIFICATIONS.

Subp. 2. **Continuing employment requirement.** License holders must require freedom from chemical use problems as a condition of continuing employment. Staff must remain free of chemical use problems although they are not required to sign statements after the initial statement required by subpart 1, item A. Staff with chemical use problems must be immediately removed from any responsibilities that include direct client contact.