State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3486

02/12/2024 Authored by Freiberg, Curran and Hanson, J.,
The bill was read for the first time and referred to the Committee on Human Services Policy
03/18/2024 Adoption of Report: Amended and re-referred to the Committee on Public Safety Finance and Policy

A bill for an act

relating to substance use disorder treatment; modifying continuing education requirements for licensed alcohol and drug counselors; allowing for religious objections to placements in substance use disorder treatment programs; modifying comprehensive assessment requirements; prohibiting courts or other placement authorities from compelling an individual to participate in religious elements of substance use disorder treatment; requiring a report; amending Minnesota Statutes 2022, sections 244.0513, by adding a subdivision; 245F.10, subdivision 1; 245G.13, by adding a subdivision; 245G.15, subdivision 1; 253B.03, subdivisions 4, 10; 253B.04, subdivision 1; Minnesota Statutes 2023 Supplement, sections 241.415; 245I.10, subdivision 6; 609.14, subdivision 2a; proposing coding for new law in Minnesota Statutes, chapters 241; 254B.

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

Section 1. Minnesota Statutes 2023 Supplement, section 241.415, is amended to read:

241.415 RELEASE PLANS; SUBSTANCE ABUSE.

The commissioner shall cooperate with community-based corrections agencies to determine how best to address the substance ~~abuse~~ use disorder treatment needs of offenders who are being released from prison. The commissioner shall ensure that an offender's prison release plan adequately addresses the offender's needs for substance ~~abuse~~ use disorder assessment, treatment, or other services following release, within the limits of available resources. The commissioner must provide individuals with known or stated histories of opioid use disorder with emergency opiate antagonist rescue kits upon release. An offender who in good faith objects to any religious element of a substance use disorder treatment program shall not be required to participate in that treatment program as part of a prison release plan under this section. The commissioner must document the offender's good faith objection and may require the offender to participate in an equivalent alternative treatment

program to which the offender has no religious objection. If an equivalent alternative treatment program is not available within a reasonable time, the offender may decline to participate in any religious element of a treatment program to which the offender objects. The commissioner may not use an offender's good faith refusal to participate in a treatment program or element of a treatment program to adversely impact the offender's term of incarceration or supervised release conditions.

Sec. 2. **[241.417] SUBSTANCE USE DISORDER TREATMENT; RELIGIOUS ELEMENTS.**

(a) No court, corrections officer, probation officer, or other placing authority, or an organization providing services under contract with any such individual or entity, shall directly or indirectly compel an individual to participate in any religious element of a substance use disorder treatment program if the individual objects in good faith. If an individual objects to the religious character or any religious element of a substance use disorder treatment program, the entity requiring the individual to receive substance use disorder treatment must document the individual's objection and may require the individual to participate in an equivalent alternative treatment program to which the individual has no religious objection. If an equivalent alternative treatment program is not available within a reasonable time, the individual may decline to participate in any religious element of a treatment program to which the individual objects. An individual's good faith refusal to participate in a treatment program or element of a treatment program for religious reasons may not adversely impact the individual's ability to receive treatment, the duration of the individual's treatment, or requirements for discharge from treatment.

(b) For purposes of this section, "directly or indirectly compel" means:

(1) requiring an individual to receive substance use disorder treatment from a specific type of program or treatment that includes religious elements;

(2) requiring an individual to receive substance use disorder treatment that meets nonclinical criteria that limits the number of equivalent alternative providers available, such as requiring the individual to have a sponsor or prohibiting the individual from receiving medication-assisted treatment; or

(3) preventing an individual from receiving substance use disorder treatment solely because of the individual's objection to or refusal to participate in a religious element of the treatment program.

Sec. 3. Minnesota Statutes 2022, section 244.0513, is amended by adding a subdivision to read:

Subd. 5a. **Substance use disorder treatment program religious objections.** An offender who in good faith objects to any religious element of a substance use disorder treatment program must not be required to participate in that treatment program as a condition of release under this section. The commissioner must document the offender's good faith objection and may require the offender to participate in an equivalent alternative treatment program to which the offender has no religious objection. If an equivalent alternative treatment program is not available within a reasonable time, the offender may decline to participate in any religious element of a treatment program to which the offender objects. The commissioner may not use an offender's good faith refusal to participate in a treatment program or element of a treatment program to adversely impact the offender's term of incarceration or supervised release conditions.

Sec. 4. Minnesota Statutes 2022, section 245F.10, subdivision 1, is amended to read:

Subdivision 1. **Patient rights.** Patients have the rights in sections 144.651, 148F.165, ~~and~~ 241.417, and 253B.03, as applicable. The license holder must give each patient, upon admission, a written statement of patient rights. Program staff must review the statement with the patient.

Sec. 5. Minnesota Statutes 2022, section 245G.13, is amended by adding a subdivision to read:

Subd. 2a. **Staff continuing education workshops.** The commissioner shall develop and make available continuing education workshops for licensee program staff members who are not licensed by a health-related licensing board, including recovery peers. The workshops must include information on:

(1) statutory and regulatory requirements related to religious objections in substance use disorder treatment programs;

(2) serving clients who object to religious or spiritual elements of substance use disorder treatment programs;

(3) serving clients who have experienced trauma related to religion or spirituality; and

(4) offering a variety of substance use disorder treatment and peer recovery support approaches and modalities to best serve a diverse range of clients.

Sec. 6. Minnesota Statutes 2022, section 245G.15, subdivision 1, is amended to read:

Subdivision 1. **Explanation.** A client has the rights identified in sections 144.651, 148F.165, ~~and~~ 241.417, and 253B.03, as applicable. The license holder must give each client on the day of service initiation a written statement of the client's rights and responsibilities. A staff member must review the statement with a client at that time.

Sec. 7. Minnesota Statutes 2023 Supplement, section 245I.10, subdivision 6, is amended to read:

Subd. 6. **Standard diagnostic assessment; required elements.** (a) Only a mental health professional or a clinical trainee may complete a standard diagnostic assessment of a client. A standard diagnostic assessment of a client must include a face-to-face interview with a client and a written evaluation of the client. The assessor must complete a client's standard diagnostic assessment within the client's cultural context. An alcohol and drug counselor may gather and document the information in paragraphs (b) and (c) when completing a comprehensive assessment according to section 245G.05.

(b) When completing a standard diagnostic assessment of a client, the assessor must gather and document information about the client's current life situation, including the following information:

(1) the client's age;

(2) the client's current living situation, including the client's housing status and household members;

(3) the status of the client's basic needs;

(4) the client's education level and employment status;

(5) the client's current medications;

(6) any immediate risks to the client's health and safety, including withdrawal symptoms, medical conditions, and behavioral and emotional symptoms;

(7) the client's perceptions of the client's condition;

(8) the client's description of the client's symptoms, including the reason for the client's referral;

(9) the client's history of mental health and substance use disorder treatment;

(10) cultural influences on the client; ~~and~~

(11) the client's religious preference, if any; and

~~(11)~~ (12) substance use history, if applicable, including:

(i) amounts and types of substances, frequency and duration, route of administration, periods of abstinence, and circumstances of relapse; and

(ii) the impact to functioning when under the influence of substances, including legal interventions.

(c) If the assessor cannot obtain the information that this paragraph requires without retraumatizing the client or harming the client's willingness to engage in treatment, the assessor must identify which topics will require further assessment during the course of the client's treatment. The assessor must gather and document information related to the following topics:

(1) the client's relationship with the client's family and other significant personal relationships, including the client's evaluation of the quality of each relationship;

(2) the client's strengths and resources, including the extent and quality of the client's social networks;

(3) important developmental incidents in the client's life;

(4) maltreatment, trauma, potential brain injuries, and abuse that the client has suffered;

(5) the client's history of or exposure to alcohol and drug usage and treatment; and

(6) the client's health history and the client's family health history, including the client's physical, chemical, and mental health history.

(d) When completing a standard diagnostic assessment of a client, an assessor must use a recognized diagnostic framework.

(1) When completing a standard diagnostic assessment of a client who is five years of age or younger, the assessor must use the current edition of the DC: 0-5 Diagnostic Classification of Mental Health and Development Disorders of Infancy and Early Childhood published by Zero to Three.

(2) When completing a standard diagnostic assessment of a client who is six years of age or older, the assessor must use the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(3) When completing a standard diagnostic assessment of a client who is 18 years of age or older, an assessor must use either (i) the CAGE-AID Questionnaire or (ii) the criteria in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders

published by the American Psychiatric Association to screen and assess the client for a substance use disorder.

(e) When completing a standard diagnostic assessment of a client, the assessor must include and document the following components of the assessment:

(1) the client's mental status examination;

(2) the client's baseline measurements; symptoms; behavior; skills; abilities; resources; vulnerabilities; safety needs, including client information that supports the assessor's findings after applying a recognized diagnostic framework from paragraph (d); and any differential diagnosis of the client; and

(3) an explanation of: (i) how the assessor diagnosed the client using the information from the client's interview, assessment, psychological testing, and collateral information about the client; (ii) the client's needs; (iii) the client's risk factors; (iv) the client's strengths; and (v) the client's responsivity factors.

(f) When completing a standard diagnostic assessment of a client, the assessor must consult the client and the client's family about which services that the client and the family prefer to treat the client. The assessor must make referrals for the client as to services required by law.

(g) Information from other providers and prior assessments may be used to complete the diagnostic assessment if the source of the information is documented in the diagnostic assessment.

Sec. 8. Minnesota Statutes 2022, section 253B.03, subdivision 4, is amended to read:

Subd. 4. **Special visitation; religion.** (a) A patient has the right to meet with or call a personal physician, advanced practice registered nurse, or physician assistant; spiritual advisor; and counsel at all reasonable times. The patient has the right to continue the practice of religion.

(b) A patient has the right to refrain from any religious or spiritual exercise or activity. A patient who in good faith objects to the religious character of a treatment facility or program or state-operated treatment program has the right to participate in an equivalent alternative treatment program to which the patient has no religious objection. If an equivalent alternative facility or treatment program is not available within a reasonable time or is not clinically appropriate, the patient may decline to participate in any religious element of a treatment program to which the patient objects. A patient's good faith refusal to participate

in a treatment program or element of a treatment program for religious reasons may not adversely impact the duration of the patient's civil commitment or requirements for discharge.

Sec. 9. Minnesota Statutes 2022, section 253B.03, subdivision 10, is amended to read:

Subd. 10. **Notification.** (a) All patients admitted or committed to a treatment facility or state-operated treatment program, or temporarily confined under section 253B.045, shall be notified in writing of their rights regarding hospitalization and other treatment.

(b) This notification must include:

(1) patient rights specified in this section and section 144.651, including nursing home discharge rights;

(2) the right to obtain treatment and services voluntarily under this chapter;

(3) the right to voluntary admission and release under section 253B.04;

(4) rights in case of an emergency admission under section 253B.051, including the right to documentation in support of an emergency hold and the right to a summary hearing before a judge if the patient believes an emergency hold is improper;

(5) the right to request expedited review under section 62M.05 if additional days of inpatient stay are denied;

(6) the right to continuing benefits pending appeal and to an expedited administrative hearing under section 256.045 if the patient is a recipient of medical assistance or MinnesotaCare; ~~and~~

(7) the right to participate in an equivalent alternative treatment program or to decline to participate in any element of a treatment program if the patient objects in good faith to the religious character of a treatment facility or element of a treatment program; and

~~(7)~~ (8) the right to an external appeal process under section 62Q.73, including the right to a second opinion.

Sec. 10. Minnesota Statutes 2022, section 253B.04, subdivision 1, is amended to read:

Subdivision 1. **Voluntary admission and treatment.** (a) Voluntary admission is preferred over involuntary commitment and treatment. Any person 16 years of age or older may request to be admitted to a treatment facility or state-operated treatment program as a voluntary patient for observation, evaluation, diagnosis, care and treatment without making formal written application. Any person under the age of 16 years may be admitted as a patient with the consent of a parent or legal guardian if it is determined by independent

examination that there is reasonable evidence that (1) the proposed patient has a mental illness, developmental disability, or chemical dependency; and (2) the proposed patient is suitable for treatment. The head of the treatment facility or head of the state-operated treatment program shall not arbitrarily refuse any person seeking admission as a voluntary patient. In making decisions regarding admissions, the treatment facility or state-operated treatment program shall use clinical admission criteria consistent with the current applicable inpatient admission standards established by professional organizations including the American Psychiatric Association, the American Academy of Child and Adolescent Psychiatry, the Joint Commission, and the American Society of Addiction Medicine. These criteria must be no more restrictive than, and must be consistent with, the requirements of section 62Q.53. The treatment facility or head of the state-operated treatment program may not refuse to admit a person voluntarily solely because the person does not meet the criteria for involuntary holds under section 253B.051 or the definition of a person who poses a risk of harm due to mental illness under section 253B.02, subdivision 17a.

(b) In addition to the consent provisions of paragraph (a), a person who is 16 or 17 years of age who refuses to consent personally to admission may be admitted as a patient for mental illness or chemical dependency treatment with the consent of a parent or legal guardian if it is determined by an independent examination that there is reasonable evidence that the proposed patient is chemically dependent or has a mental illness and is suitable for treatment. The person conducting the examination shall notify the proposed patient and the parent or legal guardian of this determination.

(c) A person who is voluntarily participating in treatment for a mental illness is not subject to civil commitment under this chapter if the person:

(1) has given informed consent or, if lacking capacity, is a person for whom legally valid substitute consent has been given; and

(2) is participating in a medically appropriate course of treatment, including clinically appropriate and lawful use of neuroleptic medication and electroconvulsive therapy. The limitation on commitment in this paragraph does not apply if, based on clinical assessment, the court finds that it is unlikely that the patient will remain in and cooperate with a medically appropriate course of treatment absent commitment and the standards for commitment are otherwise met. This paragraph does not apply to a person for whom commitment proceedings are initiated pursuant to rule 20.01 or 20.02 of the Rules of Criminal Procedure, or a person found by the court to meet the requirements under section 253B.02, subdivision 17. This paragraph shall not be construed to compel a person to participate in a course of treatment for substance use disorder to which they object in good faith based on the religious character

of the treatment or to prevent a person from transferring to an equivalent alternative course of treatment if clinically appropriate and available within a reasonable time.

(d) Legally valid substitute consent may be provided by a proxy under a health care directive, a guardian or conservator with authority to consent to mental health treatment, or consent to admission under subdivision 1a or 1b.

Sec. 11. **[254B.035] SUBSTANCE USE DISORDER TREATMENT; RELIGIOUS OBJECTIONS.**

Subdivision 1. **Equivalent alternative substance use disorder treatment programs.** To ensure that an individual has equivalent alternative treatment options if the individual objects to religious elements of a treatment program, the commissioner must license a broad range of programs that are eligible vendors of services identified in section 254B.05 to provide substance use disorder treatment, including programs that exclusively use secular treatment modalities.

Subd. 2. **Technical assistance.** The commissioner must provide technical assistance to all licensed substance use disorder treatment providers to ensure compliance with section 241.417.

Sec. 12. Minnesota Statutes 2023 Supplement, section 609.14, subdivision 2a, is amended to read:

Subd. 2a. **Alternatives to incarceration.** (a) A probation agent must present the court with local options to address and correct the violation, including~~,~~ but not limited to~~,~~ inpatient ~~chemical dependency~~ substance use disorder treatment when the defendant at a summary hearing provided by subdivision 2 is:

(1) a nonviolent controlled substance offender;

(2) subject to supervised probation;

(3) appearing based on a technical violation; and

(4) admitting or found to have violated any of the conditions of probation.

(b) For purposes of this subdivision, "nonviolent controlled substance offender" is a person who meets the criteria described under section 244.0513, subdivision 2, clauses (1), (2), and (5), and "technical violation" has the meaning given in section 244.195, subdivision 15.

(c) A defendant who in good faith objects to any religious element of a substance use disorder treatment program shall not be required to participate in that treatment program as an alternative to incarceration under this subdivision. The court must document the defendant's good faith objection and may require the defendant to participate in an equivalent alternative treatment program to which the defendant has no religious objection. If an equivalent alternative treatment program is not available within a reasonable time, the defendant may decline to participate in any religious element of a treatment program to which the defendant objects. The commissioner may not use an offender's good faith refusal to participate in a treatment program or element of a treatment program to adversely impact the offender's term of incarceration or supervised release conditions.

Sec. 13. **DIRECTION TO COMMISSIONER; RELIGION IN SUBSTANCE USE DISORDER TREATMENT REPORT.**

By January 15, 2026, the commissioner of human services shall submit a report to the legislative committees with jurisdiction over substance use disorder treatment and criminal justice, evaluating the prevalence of religion in substance use disorder treatment programs and providing information on secular treatment options. The report must include:

(1) information on the number of individuals who have been required by a court or other placing authority to participate in substance use disorder treatment programs with religious elements, and the number of individuals who submit good faith objections under Minnesota Statutes, section 241.417;

(2) an evaluation of the systems, processes, and barriers that result in these individuals being required to participate in substance use disorder treatment programs with religious elements to which they object;

(3) the statewide availability of substance use disorder treatment programs using treatment approaches and modalities that do not include religious elements; and

(4) the status of the implementation of the requirements and prohibitions in Minnesota Statutes, sections 241.417 and 254B.035.