SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 3459

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02/12/2024	11541	Introduction and first reading Referred to Human Services
02/22/2024	11721	Author added McEwen
02/29/2024	11860	Author added Maye Quade
03/13/2024	12197	Author added Dibble
03/14/2024		Comm report: To pass as amended and re-refer to Judiciary and Public Safety

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 148F.075, subdivision 2; 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; 254B.05, subdivision 1; 609.14, subdivision 2a; proposing coding for new law in Minnesota Statutes, chapter 254B.

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

Section 1. Minnesota Statutes 2022, section 148F.075, subdivision 2, is amended to read:

Subd. 2. **Requirement.** Every two years, all licensees must complete a minimum of 40 clock hours of continuing education activities that meet the requirements in this section. The 40 clock hours ~~shall~~ must include a minimum of nine clock hours on diversity, and a minimum of three clock hours on professional ethics. Professional ethics hours must include at least one clock hour on the statutory and regulatory requirements related to religious objections in substance use disorder treatment programs. Diversity training includes, but is not limited to, the topics listed in Minnesota Rules, part 4747.1100, subpart 2. Diversity training must include at least one clock hour on the use of secular treatment approaches and modalities to serve clients who object to religious or spiritual elements of substance use disorder treatment programs and clients who have experienced trauma related to religion or spirituality. A licensee may be given credit only for activities that directly relate to the practice of alcohol and drug counseling.

Sec. 2. 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. 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~~ 253B.03, and 254B.035, 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~~ 253B.03, and 254B.035, 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. **Substance use disorder treatment; religious elements.** (a) No court, corrections officer, probation officer, state agency, 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.

Subd. 2. **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. 3. **Technical assistance.** The commissioner must provide technical assistance to all licensed substance use disorder treatment providers to ensure compliance with this section.

Sec. 12. Minnesota Statutes 2023 Supplement, section 254B.05, subdivision 1, is amended to read:

Subdivision 1. **Licensure required.** (a) Programs licensed by the commissioner are eligible vendors. Hospitals may apply for and receive licenses to be eligible vendors, notwithstanding the provisions of section 245A.03. American Indian programs that provide substance use disorder treatment, extended care, transitional residence, or outpatient treatment services, and are licensed by tribal government are eligible vendors.

(b) A licensed professional in private practice as defined in section 245G.01, subdivision 17, who meets the requirements of section 245G.11, subdivisions 1 and 4, is an eligible vendor of a comprehensive assessment and assessment summary provided according to section 245G.05, and treatment services provided according to sections 245G.06 and 245G.07, subdivision 1, paragraphs (a), clauses (1) to (5), and (b); and subdivision 2, clauses (1) to (6).

(c) A county is an eligible vendor for a comprehensive assessment and assessment summary when provided by an individual who meets the staffing credentials of section 245G.11, subdivisions 1 and 5, and completed according to the requirements of section 245G.05. A county is an eligible vendor of care coordination services when provided by an individual who meets the staffing credentials of section 245G.11, subdivisions 1 and 7, and provided according to the requirements of section 245G.07, subdivision 1, paragraph (a), clause (5). A county is an eligible vendor of peer recovery services when the services are provided by an individual who meets the requirements of section 245G.11, subdivision 8.

(d) A recovery community organization that meets the requirements of clauses (1) to (10) and meets membership or accreditation requirements of the Association of Recovery Community Organizations, the Council on Accreditation of Peer Recovery Support Services, or a Minnesota statewide recovery community organization identified by the commissioner is an eligible vendor of peer support services. Eligible vendors under this paragraph must:

(1) be nonprofit organizations;

(2) be led and governed by individuals in the recovery community, with more than 50 percent of the board of directors or advisory board members self-identifying as people in personal recovery from substance use disorders;

(3) primarily focus on recovery from substance use disorders, with missions and visions that support this primary focus;

(4) be grassroots and reflective of and engaged with the community served;

(5) be accountable to the recovery community through processes that promote the involvement and engagement of, and consultation with, people in recovery and their families, friends, and recovery allies;

(6) provide nonclinical peer recovery support services, including but not limited to recovery support groups, recovery coaching, telephone recovery support, skill-building groups, and harm-reduction activities;

(7) allow for and support opportunities for all paths toward recovery and refrain from excluding anyone based on their chosen recovery path, which may include but is not limited to harm reduction paths, faith-based paths, and nonfaith-based paths;

(8) be purposeful in meeting the diverse needs of Black, Indigenous, and people of color communities, including board and staff development activities, organizational practices, service offerings, advocacy efforts, and culturally informed outreach and service plans;

(9) be stewards of recovery-friendly language that is supportive of and promotes recovery across diverse geographical and cultural contexts and reduces stigma; and

(10) maintain an employee and volunteer code of ethics and easily accessible grievance procedures posted in physical spaces, on websites, or on program policies or forms.

(e) Recovery community organizations approved by the commissioner before June 30, 2023, shall retain their designation as recovery community organizations.

(f) A recovery community organization that is aggrieved by an accreditation or membership determination and believes it meets the requirements under paragraph (d) may appeal the determination under section 256.045, subdivision 3, paragraph (a), clause (15), for reconsideration as an eligible vendor.

(g) Detoxification programs licensed under Minnesota Rules, parts 9530.6510 to 9530.6590, are not eligible vendors. Programs that are not licensed as a residential or nonresidential substance use disorder treatment or withdrawal management program by the commissioner or by tribal government or do not meet the requirements of subdivisions 1a and 1b are not eligible vendors.

(h) Hospitals, federally qualified health centers, and rural health clinics are eligible vendors of a comprehensive assessment when the comprehensive assessment is completed according to section 245G.05 and by an individual who meets the criteria of an alcohol and drug counselor according to section 245G.11, subdivision 5. The alcohol and drug counselor must be individually enrolled with the commissioner and reported on the claim as the individual who provided the service.

(i) The commissioner must identify and publish a directory of eligible vendors that provide culturally specific or culturally responsive programs, as defined in section 254B.01, subdivision 4a, and eligible vendors that offer secular treatment program options to serve individuals who may object to treatment programs with religious or spiritual elements or character.

Sec. 13. 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. 14. **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 254B.035;

(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, section 254B.035.