

2960.0080 FACILITY OPERATIONAL SERVICE POLICIES AND PRACTICES.

Subpart 1. **Exemptions.** Transitional services programs certified under part 2960.0500 are exempt from the requirements of subparts 3; 4, items C to E; 5; 6; 8 to 13; and 15.

Subp. 2. **Basic services.** The license holder must provide services that fulfill the basic rights of a resident as identified in part 2960.0050, subpart 1.

A. Basic services provided by the license holder must have stated objectives and measurable outcomes.

B. License holders who do not provide a basic service in the facility must coordinate and ensure that the service is provided by the placement agency or by resources in the community.

C. The license holder must meet the basic needs of the residents served by the facility.

Subp. 3. **Cooperation in treatment and basic service delivery.** The license holder must cooperate with the resident's case manager and other appropriate parties in creating and delivering basic services. In addition, the license holder must:

A. work with the resident, parent, or legal representative, and the resident's case manager and treatment team, if applicable, to implement the resident's case plan during the resident's stay in the facility. The license holder must also coordinate the license holder's plan for services to the resident with the placing agency's case plan for the resident and work with the placing agency to identify the resident's projected length of stay and conditions under which the family will be reunited, if appropriate, or specify the alternative permanency plan and what the license holder will do to help carry out the plan;

B. identify and share information about the resident's treatment and major treatment outcomes the resident will achieve while in the facility, including attaining developmentally appropriate life skills that the resident needs to have in order to be functional in a family and in the community, with persons who are directly involved in the resident's treatment plan in accordance with the resident's case plan;

C. communicate as necessary with the resident's previous school and the school the resident attends while the resident is in the license holder's facility as indicated in the resident's case plan;

D. report the resident's behaviors and other important information to the placing agency and others as indicated in the resident's case plan;

E. recommend case plan changes to the placing agency; and

F. upon request, unless prohibited by law, share information about the resident, the resident's family, and the license holder's plans and strategies to resolve the resident's identified problems with the placing authority; agencies that are providing services to the resident, resident's therapist, physician, or professional treating the resident; and agencies that must provide services to the resident after discharge from the facility. The records also must be provided to the resident's parent and guardian, if any, and the resident, unless a court or a mental health professional determines that the disclosure would be harmful to the resident. If an authorized person requests a resident's

records, or their release is authorized by court order or otherwise provided by law, the license holder must respond to requests for information in three business days.

Subp. 4. **Facility rules and due process system for residents.** The license holder must communicate verbally and in writing to a resident who is capable of understanding the facility's rules and the details of the due process system used in the facility. The rules must address the following topics:

- A. which behaviors are considered acceptable and unacceptable and the reasons why;
- B. the consequences that will be applied in recognizing and rewarding acceptable behavior and modifying unacceptable behavior;
- C. the circumstances, if any, that will result in time-out or the use of a restrictive procedure;
- D. the due process system that governs the facility's use of disciplinary consequences; and
- E. the relationship of the resident's individualized education program discipline recommendations, if any, to the facility's discipline plan.

Subp. 5. **Discipline policy and procedures required.** The license holder must have discipline policies and procedure that require the resident's abuse history and developmental, cultural, disability, and gender needs be taken into consideration when deciding the disciplinary action to be taken with a resident. The policy must include the requirements in items A to E.

- A. The license holder must not subject residents to:
 - (1) corporal punishment, including, but not limited to: rough handling, shoving, ear or hair pulling, shaking, slapping, kicking, biting, pinching, hitting, throwing objects, or spanking;
 - (2) verbal abuse, including, but not limited to: name calling; derogatory statements about the resident or resident's family, race, gender, disability, sexual orientation, religion, or culture; or statements intended to shame, threaten, humiliate, or frighten the resident;
 - (3) punishment for lapses in toilet habits, including bed wetting and soiling;
 - (4) withholding of basic needs, including but not limited to a nutritious diet, drinking water, clothing, hygiene facilities, normal sleeping conditions, proper lighting, educational services, exercise activities, ventilation and proper temperature, mail, family visits, positive reinforcement, nurturing, or medical care. However, a resident who destroys bedding or clothing, or uses these or other items to hurt the resident or others, may be deprived of such articles according to the resident's case plan or, for a facility licensed by the commissioner of corrections, according to part 2960.0270, subpart 6;
 - (5) assigning work that is dangerous or not consistent with the resident's case plan;
 - (6) disciplining one resident for the unrelated behavior or action of another, except for the imposition of restrictions on the resident's peer group as part of a recognized treatment program;

(7) use of restrictive techniques or procedures as punishment, for convenience of staff, to compensate for not having an adequate number of staff, or to substitute for program services;

(8) restrictions on a resident's communications beyond the restrictions specified in the resident's treatment plan or case plan; and

(9) requirements to assume uncomfortable or fixed positions for an extended length of time, or to march, stand, or kneel as punishment.

B. The delegation of authority by the license holder to a resident or group of residents to punish another resident or group of residents is prohibited.

C. The license holder must meet the requirements of part 9525.2700, subpart 2, item G, regarding the use of aversive or deprivation procedures with a resident who has a developmental disability.

D. The license holder must meet the following requirements for the use of time-out:

(1) time-out must be used as a nonemergency behavior management technique which is used to intervene in a resident's undesirable behavior and to allow the resident to reflect and become calm before returning to ongoing activities at the facility;

(2) time-out must be used under the direction of a mental health professional, the facility director, or the program manager;

(3) the use of time-out must be consistent with the resident's treatment plan;

(4) staff must escort a resident to an unlocked room or other separate living space in the facility that is safe;

(5) staff must assess the resident in time-out at least every 30 minutes and determine when the resident may return to ongoing activity at the facility;

(6) staff must have completed at least the following training before they use time-out with a resident:

(a) the needs and behaviors of residents;

(b) building relationships with residents;

(c) alternatives to time-out;

(d) de-escalation methods;

(e) avoiding power struggles with residents; and

(f) documentation standards for the use of time-out;

(7) the treatment team must include and document the review of the use of time-out for each resident during the review of the resident's treatment plan; and

(8) staff must document the use of time-out in the resident's record and include the information in units (a) to (d):

- (a) the factors or circumstances which caused the need for the use of time-out;
- (b) the resident's response to the time-out;
- (c) the resident's ability to de-escalate during the time-out procedure; and
- (d) the resident's ability to maintain acceptable behavior after the time-out.

E. The license holder must be certified to use restrictive procedures according to parts 2960.0710 to 2960.0750 before using a restrictive procedure with a resident.

Subp. 5a. Department of Corrections; discipline policies and procedures; social isolation prohibited.

A. This subpart applies to facilities licensed by the commissioner of corrections.

B. A facility's discipline policies and procedures and due process system must be updated to reflect:

(1) safety-based separation under parts 2960.0270, subpart 6; and 2960.0720 to 2960.0750; and

(2) Minnesota Statutes, section 241.0215, subdivision 4.

C. Facility staff are prohibited from socially isolating a resident as discipline by restricting the resident's right to:

- (1) talk to other residents or staff; or
- (2) interact with other residents or staff during facility programming or activities.

Subp. 6. Daily resident activities. The license holder must develop a written schedule of daily activities that generally describes the resident's activities for each day of the week. The license holder must know the whereabouts of each resident. The license holder must immediately notify the referring or placing agency if a resident runs away or is missing.

Subp. 7. Culturally appropriate care. The license holder must document the provision of culturally appropriate care to each resident that includes:

A. opportunities to associate with culturally and racially similar adults, peers, and role models;

B. opportunities to participate in positive experiences related to the resident's cultural and racial group;

C. culturally appropriate program services that address the needs of all residents in care; and

D. cultural sensitivity, including the provision of interpreters and English language skill development to meet the needs of facility residents as required by Laws 1995, chapter 226, article 3, section 60, subdivision 2, paragraph (2), clause (v).

Subp. 8. Spirituality services and counseling.

A. Residents must be given an opportunity to participate in spirituality services, activities, and counseling on a voluntary basis. A resident must not be required to attend the services or activities. All spirituality services and activities must be held in a location that the residents who do not wish to participate are not exposed to the services or activities. Attendance or lack of attendance at religious services or activities must not be considered as a basis for any right or privilege in the facility.

B. The license holder must arrange with the clergy or spiritual leaders within the area to provide spiritual counseling if requested by a resident. Every effort must be made by the license holder to accommodate a resident or a resident's family's request to meet the resident's spiritual needs, including spiritual needs related to the resident's culture, in the facility. If the resident's or resident's family's request cannot be met, the license holder must document the reason.

C. The license holder shall allow residents who request private interviews or counseling regarding spiritual, personal, or family problems the opportunity to meet with a spiritual or religious person of their choice within reasonable facility rules needed to protect the facility's security and the safety of other residents and staff within the facility.

Subp. 9. Educational services. The license holder must ensure that educational services are provided to residents according to items A to D, except where not applicable, due to the age of the resident or the resident's short stay in the facility.

A. The license holder must facilitate the resident's admission to an accredited public school or, if the resident is home-schooled or educated at a private school or school operated by the license holder, the school must meet applicable laws and rules. If the educational services are provided on the grounds of the facility, the license holder must:

- (1) arrange for educational programs that provide for instruction on a year-round basis, if required by law;
- (2) get the approval of the education services from the Department of Education; and
- (3) cooperate with the school district.

B. The license holder must facilitate the resident's school attendance and homework activities.

C. The license holder must inquire at least every 90 days to determine whether the resident is receiving the education required by law and the resident's individualized education program that is necessary for the resident to make progress in the appropriate grade level. The license holder must report the resident's educational problems to the case manager or placing agency.

D. The license holder must provide education about chemical health to the resident who has had a problem related to inappropriate chemical use, but who does not have a sufficient chemical use history to refer to treatment. The education must provide the resident with opportunities to examine the problems associated with inappropriate chemical use.

Subp. 10. **Exercise and recreation.** The license holder must develop and implement a plan that offers appropriate recreation for residents.

Subp. 11. **Health and hygiene services.** The license holder must meet the conditions in items A to F.

A. The license holder must provide a resident with timely access to basic, emergency, and specialized medical, mental health, and dental care and treatment services by qualified persons that meet the resident's needs. The license holder's health services plan must include the requirements in subitems (1) to (3).

(1) A pregnant resident must receive ongoing and appropriate prenatal care from a medically licensed person. The license holder must provide information and resources on prenatal, postnatal, and parenting topics to a pregnant resident.

(2) The license holder must ensure that appropriate medical and dental services are provided for the resident. The license holder must comply with the requirements of the medical or dental insurance that covers the resident.

(3) The license holder must consider a resident's request for a male or female health care provider. If a female resident requests a female health care provider, and one is not available, the license holder must request permission from the health care provider that an adult female be allowed to be present during the health care procedure. If a male resident requests a male health care provider, and one is not available, the license holder must request permission from the health care provider that an adult male be allowed to be present during the health care procedure.

B. The license holder must maintain a record of the illness reported by the resident, the action taken by the license holder, and the date of the resident's medical, psychological, or dental care.

C. Maintaining stock supplies of prescription drugs at the facility is prohibited.

D. The license holder, in consultation with a medically licensed person, must have a plan for the safe storage and delivery of medicine. The license holder must meet the requirements in subitems (1) to (5).

(1) The license holder must contact a newly admitted resident's prescribing medically licensed person to verify the following information regarding prescribed medication:

- (a) instructions about how the medication must be administered;
- (b) the symptoms that the medication will alleviate; and
- (c) the symptoms that would warrant consultation with the physician.

(2) The license holder must document attempts to contact the child's parent or guardian to seek permission for the facility to administer the medication. If permission is denied and the parent has the legal right to deny permission, then the medication will be discontinued under the supervision of a physician unless a court order to administer the medication is obtained.

(3) The license holder must maintain at the facility a list of the side effects of medication at the facility.

(4) The license holder must document and follow the prescribing physician's directions for monitoring medications used by the resident.

(5) Facility staff responsible for medication assistance, other than a medically licensed person, must have a certificate verifying their successful completion of a trained medication aide program for unlicensed personnel offered through a postsecondary institution, or staff must be trained to provide medication assistance according to a formalized training program offered by the license holder and taught by a registered nurse. The specific medication assistance training provided by the registered nurse to staff must be documented and placed in the unlicensed staff person's personnel records. A medically licensed person must provide consultation and review of the license holder's administration of medications at least monthly.

E. The license holder must keep records for a resident who receives prescription drugs at the facility and note: the quantity initially received from the pharmacy, amount of medication given, dosage, and time when the medication was taken. The license holder must document a resident's refusal to take prescription medication.

F. Prescription medicine belonging to a resident must be given to the resident's parent or legal guardian upon the resident's release or must be disposed of according to a pharmacy-approved plan. The license holder must note the disposition of the resident's medicine in the resident's file. The license holder must give a resident who is 18 years of age or older the prescription medication prescribed for the resident.

Subp. 12. **Food and nutrition.** The license holder must provide:

A. a balanced diet consisting of foods and beverages that are palatable, of adequate quantity and variety, and prepared and served at appropriate temperatures to protect residents from foodborne illness and conserve nutritional value;

B. a diet medically prescribed, if ordered by a resident's physician or, in the case of a pregnant resident, recommended or ordered by a prenatal care provider; and

C. a diet that does not conflict with the resident's religious or cultural dietary regimen.

Subp. 13. **Resident clothing, bedding, and laundry.** The license holder must ensure that a resident has:

A. an adequate amount of clean clothing appropriate for the season;

B. an appropriate sized, clean, fire-retardant mattress; two sheets or one sheet and clean mattress cover; sufficient clean blankets to provide comfort under existing temperature conditions;

and one pillow and one pillowcase that is antiallergenic, if required, to meet a resident's health care needs. Existing non-fire-retardant mattresses may continue to be used until they are replaced, provided that the existing mattresses are replaced no later than July 1, 2015; and

C. adequate bath towels and washcloths. Clean bedding and linens must be furnished upon each new admission, and bedding and linens must be cleaned once a week or more often as needed to maintain a clean and safe environment. Bedding and linens that are worn out or unfit for further use must not be used.

Subp. 14. **Emergency plan.** The license holder must develop a written emergency plan that specifies actions by staff and residents required for the protection of all persons in the case of an emergency, such as a fire, natural disaster, serious illness, severe weather, disappearance of a resident, or other situation that may require a law enforcement response or other emergency response. The plan must be developed with the advice of the local fire and emergency response authorities. The plan must specify responsibilities assumed by the license holder for assisting a resident who requires emergency care or special assistance to a resident in emergencies. The license holder must review the plan with staff and residents at least once every six months. The license holder must keep documentation showing compliance with the emergency plan and the semiannual review.

Subp. 15. **Communication and visitation.** The license holder must have a written policy about resident communications and visiting with others inside and outside of the facility that meets the requirements of items A and B.

A. The license holder must have a written policy about the use of the telephone, mail, adaptive communications devices, and other means of communication, compatible with the needs of other residents and the resident's case plan.

B. License holders may not restrict the visiting rights of the parents of a resident beyond the limitations placed on those rights by a court order under Minnesota Statutes, section 260C.201, subdivision 5, or limitations in the resident's case plan. The visiting policy must allow parental visits at times that accommodate the parent's schedule.

Subp. 16. **Resident records.** A license holder must:

A. maintain and make available to the commissioner of human services and corrections sufficient documentation to verify that all requirements of the rules governing the care of the resident have been met;

B. maintain and make available upon request the resident's records according to the requirements of rule and statute;

C. comply with the requirements of the case manager for the release of information about the resident, unless prohibited by law; and

D. use forms approved by the commissioner of human services or corrections and collect demographic information about residents and their families and outcome measures about the success of services that meet the requirements of Laws 1995, chapter 226, article 3, section 60, subdivision 2, clause (1)(iii).

Subp. 17. **Critical incident and maltreatment reports.** The license holder must report critical incidents and the maltreatment of a resident according to items A to D.

A. The license holder must report critical incidents of a serious nature that involve or endanger the life or safety of the resident or others to the commissioner of human services or corrections within ten days of the occurrence on forms approved by the commissioner of human services or corrections. The license holder must maintain records of all critical incidents on file in the facility.

B. The license holder must meet the reporting requirements of Minnesota Statutes, chapter 260E and section 626.557, if applicable, and other reporting requirements based on the age of the resident.

C. The license holder must develop policies and procedures to follow if maltreatment is suspected.

D. The license holder must review policies and procedures about maltreatment at least annually and revise the policies if the maltreatment laws change or if the license holder's review of incident reports or quality assurance reports indicates that a change in maltreatment policy or procedure is warranted.

Subp. 18. **Resident and family grievance procedures.**

A. The license holder must develop and follow a written grievance procedure that allows a resident, the resident's parent or legal representative, a guardian, or a concerned person in the resident's life to make a formal complaint or suggestion or express a concern about any aspect of the resident's care during the resident's stay in the facility. The license holder and staff must not attempt to influence a resident's statement about the facility in the grievance document or during an investigation resulting from the grievance. The written grievance procedure must require, at a minimum, that:

(1) the license holder must give the person who wants to make a grievance the necessary forms and assistance to file a grievance;

(2) the license holder must identify the person who is authorized to resolve the complaint and to whom an initial resolution of the grievance may be appealed and, upon request, a license holder must carry a grievance forward to the highest level of administration of the facility or placing agency;

(3) a person who reports a grievance must not be subject to adverse action by the license holder as a result of filing the grievance; and

(4) a person filing a grievance must receive a response within five days.

B. If a grievance is filed, the license holder must document the grievance along with the investigation findings and resulting action taken by the license holder. Information regarding the grievance must be kept on file at the facility for two licensing periods.

Subp. 19. **Family involvement.** If family involvement is a goal in a resident's case plan, the license holder must list procedures and program plans which are in accordance with a resident's case plan, that facilitate the involvement of the resident's family or other concerned adult, in the resident's treatment or program activities.

Statutory Authority: *MS s 241.021; 245A.03; 245A.09; L 1995 c 226 art 3 s 60; L 2023 c 52 art 11 s 34*

History: *28 SR 211; L 2005 c 56 s 2; L 2011 1Sp11 art 3 s 12; 49 SR 499*

Published Electronically: *December 9, 2024*