ARTICLE 5

DIRECT CARE AND TREATMENT

Section 1. Minnesota Statutes 2022, section 246.71, subdivision 3, is amended to read:

Subd. 3. Patient. "Patient" means any person who is receiving treatment from or committed to a secure state-operated treatment facility program, including the Minnesota Sex Offender Program.

Sec. 2. Minnesota Statutes 2022, section 246.71, subdivision 4, is amended to read:

Subd. 4. Employee of a secure treatment facility state-operated treatment program or employee. "Employee of a secure treatment facility state-operated treatment program" means an employee of the Minnesota Security Hospital or a secure treatment facility operated by the Minnesota Sex Offender Program any state-operated treatment program.

Sec. 3. Minnesota Statutes 2022, section 246.71, subdivision 5, is amended to read:

Subd. 5. Secure treatment facility State-operated treatment program. "Secure treatment facility State-operated treatment program" means the Minnesota Security Hospital and the Minnesota Sex Offender Program facility in Moose Lake and any portion of the Minnesota Sex Offender Program operated by the Minnesota Sex Offender Program at the Minnesota Security Hospital any state-operated treatment program under the jurisdiction of the executive board, including the Minnesota Sex Offender Program, community behavioral health hospitals, crisis centers, residential facilities, outpatient services, and other community-based services under the executive board's control.

Sec. 4. Minnesota Statutes 2022, section 246.711, is amended to read:

246.711 CONDITIONS FOR APPLICABILITY OF PROCEDURES.

Subdivision 1. Request for procedures. An employee of a secure treatment facility state-operated treatment program may request that the procedures of sections 246.71 to 246.722 be followed when the employee may have experienced a significant exposure to a patient.

Subd. 2. Conditions. The secure treatment facility state-operated treatment program shall follow the procedures in sections 246.71 to 246.722 when all of the following conditions are met:

(1) a licensed physician, advanced practice registered nurse, or physician assistant determines that a significant exposure has occurred following the protocol under section 246.721;

(2) the licensed physician, advanced practice registered nurse, or physician assistant for the employee needs the patient's blood-borne pathogens test results to begin, continue, modify, or discontinue treatment in accordance with the most current guidelines of the
(3) the employee consents to providing a blood sample for testing for a blood-borne pathogen.

Sec. 5. Minnesota Statutes 2022, section 246.712, subdivision 1, is amended to read:

Subdivision 1. Information to patient. (a) Before seeking any consent required by the procedures under sections 246.71 to 246.722, a secure treatment facility state-operated treatment program shall inform the patient that the patient's blood-borne pathogen test results, without the patient's name or other uniquely identifying information, shall be reported to the employee if requested and that test results collected under sections 246.71 to 246.722 are for medical purposes as set forth in section 246.718 and may not be used as evidence in any criminal proceedings or civil proceedings, except for procedures under sections 144.4171 to 144.4186.

(b) The secure treatment facility state-operated treatment program shall inform the patient of the insurance protections in section 72A.20, subdivision 29.

(c) The secure treatment facility state-operated treatment program shall inform the patient that the patient may refuse to provide a blood sample and that the patient's refusal may result in a request for a court order to require the patient to provide a blood sample.

(d) The secure treatment facility state-operated treatment program shall inform the employee of a secure treatment facility state-operated treatment program of the confidentiality requirements and penalties before the employee's health care provider discloses any test results.

Sec. 6. Minnesota Statutes 2022, section 246.712, subdivision 2, is amended to read:

Subd. 2. Information to secure treatment facility state-operated treatment program employee. (a) Before disclosing any information about the patient, the secure treatment facility state-operated treatment program shall inform the employee of a secure treatment facility state-operated treatment program of the confidentiality requirements of section 246.719 and that the person may be subject to penalties for unauthorized release of test results about the patient under section 266.72.

(b) The secure treatment facility state-operated treatment program shall inform the employee of the insurance protections in section 72A.20, subdivision 29.
Sec. 7. Minnesota Statutes 2022, section 246.713, is amended to read:

246.713 DISCLOSURE OF POSITIVE BLOOD-BORNE PATHOGEN TEST RESULTS.

If the conditions of sections 246.711 and 246.712 are met, the secure treatment facility state-operated treatment program shall ask the patient if the patient has ever had a positive test for a blood-borne pathogen. The secure treatment facility state-operated treatment program must attempt to get existing test results under this section before taking any steps to obtain a blood sample or to test for blood-borne pathogens. The secure treatment facility state-operated treatment program shall disclose the patient's blood-borne pathogen test results to the employee without the patient's name or other uniquely identifying information.

Sec. 8. Minnesota Statutes 2022, section 246.714, is amended to read:

246.714 CONSENT PROCEDURES GENERALLY.

(a) For purposes of sections 246.71 to 246.722, whenever the secure treatment facility state-operated treatment program is required to seek consent, the secure treatment facility state-operated treatment program shall obtain consent from a patient or a patient's representative consistent with other law applicable to consent.

(b) Consent is not required if the secure treatment facility state-operated treatment program has made reasonable efforts to obtain the representative's consent and consent cannot be obtained within 24 hours of a significant exposure.

(c) If testing of available blood occurs without consent because the patient is unconscious or unable to provide consent, and a representative cannot be located, the secure treatment facility state-operated treatment program shall provide the information required in section 246.712 to the patient or representative whenever it is possible to do so.

(d) If a patient dies before an opportunity to consent to blood collection or testing under sections 246.71 to 246.722, the secure treatment facility state-operated treatment program does not need consent of the patient's representative for purposes of sections 246.71 to 246.722.

Sec. 9. Minnesota Statutes 2022, section 246.715, subdivision 1, is amended to read:

Subdivision 1. Procedures with consent. If a sample of the patient's blood is available, the secure treatment facility state-operated treatment program shall ensure that blood is tested for blood-borne pathogens with the consent of the patient, provided the conditions in sections 246.711 and 246.712 are met.

Subd. 2. Procedures without consent. If the patient has provided a blood sample, but does not consent to blood-borne pathogens testing, the secure treatment facility state-operated

Sec. 10. Minnesota Statutes 2022, section 246.715, subdivision 2, is amended to read:

Subd. 2. Procedures without consent. If the patient has provided a blood sample, but does not consent to blood-borne pathogens testing, the secure treatment facility state-operated
treatment program shall ensure that the blood is tested for blood-borne pathogens if the employee requests the test, provided all of the following criteria are met:

(1) the employee and secure treatment facility state-operated treatment program have documented exposure to blood or body fluids during performance of the employee's work duties;

(2) a licensed physician, advanced practice registered nurse, or physician assistant has determined that a significant exposure has occurred under section 246.711 and has documented that blood-borne pathogen test results are needed for beginning, modifying, continuing, or discontinuing medical treatment for the employee as recommended by the most current guidelines of the United States Public Health Service;

(3) the employee provides a blood sample for testing for blood-borne pathogens as soon as feasible;

(4) the secure treatment facility state-operated treatment program asks the patient to consent to a test for blood-borne pathogens and the patient does not consent;

(5) the secure treatment facility state-operated treatment program has provided the patient and the employee with all of the information required by section 246.712; and

(6) the secure treatment facility state-operated treatment program has informed the employee of the confidentiality requirements of section 246.719 and the penalties for unauthorized release of patient information under section 246.72.

Subd. 3. Follow-up. The secure treatment facility state-operated treatment program shall inform the patient whose blood was tested of the results. The secure treatment facility state-operated treatment program shall inform the employee's health care provider of the patient's test results without the patient's name or other uniquely identifying information.

Sec. 12. Minnesota Statutes 2022, section 246.716, subdivision 3, is amended to read:

Subd. 3. Follow-up. The secure treatment facility state-operated treatment program shall inform the patient whose blood was tested of the results. The secure treatment facility state-operated treatment program shall inform the employee's health care provider of the patient's test results without the patient's name or other uniquely identifying information. The secure treatment facility state-operated treatment program shall inform the employee of the confidentiality requirements of section 246.719 and the penalties for unauthorized release of patient information under section 246.72.

Subd. 3. Follow-up. The secure treatment facility state-operated treatment program shall inform the patient whose blood was tested of the results. The secure treatment facility state-operated treatment program shall inform the employee's health care provider of the patient's test results without the patient's name or other uniquely identifying information. The secure treatment facility state-operated treatment program shall inform the employee of the confidentiality requirements of section 246.719 and the penalties for unauthorized release of patient information under section 246.72.
or other uniquely identifying information. The secure treatment facility state-operated
program shall inform the patient of the test results.

(d) If the patient refuses to provide a blood sample for testing, the secure-treatment
facility state-operated treatment program shall inform the employee of the patient's refusal.

Sec. 13. Minnesota Statutes 2022, section 246.716, subdivision 2, as amended by Laws
2024, chapter 79; article 2, section 58, is amended to read:

Subd. 2. Procedures without consent. (a) A secure treatment facility state-operated
treatment program or an employee of a secure treatment facility state-operated treatment
program may bring a petition for a court order to require a patient to provide a blood sample
for testing for blood-borne pathogens. The petition shall be filed in the district court in the
county where the patient is receiving treatment from the secure treatment facility.
state-operated treatment program. The secure treatment facility state-operated treatment
program shall serve the petition on the patient three days before a hearing on the petition.

The petition shall include one or more affidavits attesting that:

(1) the secure treatment facility state-operated treatment program followed the procedures
in sections 246.71 to 246.722 and attempted to obtain blood-borne pathogen test results
according to those sections;

(2) a licensed physician, advanced practice registered nurse, or physician assistant
knowledgeable about the most current recommendations of the United States Public Health
Service has determined that a significant exposure has occurred to the employee of a
secure treatment facility state-operated treatment program under section 246.721; and

(3) a physician, advanced practice registered nurse, or physician assistant has documented
that the employee has provided a blood sample and consented to testing for blood-borne
pathogens and blood-borne pathogen test results are needed for beginning, continuing,
modifying, or discontinuing medical treatment for the employee under section 246.721.

(b) Secure treatment facilities State-operated treatment programs shall cooperate with
petitioners in providing any necessary affidavits to the extent that facility staff can attest
under oath to the facts in the affidavits.

c) The court may order the patient to provide a blood sample for blood-borne pathogen
testing if:

(1) there is probable cause to believe the employee of a secure-treatment facility
state-operated treatment program has experienced a significant exposure to the patient;

(2) the court imposes appropriate safeguards against unauthorized disclosure that must
specify the persons who have access to the test results and the purposes for which the test
results may be used;

(3) a licensed physician, advanced practice registered nurse, or physician assistant for
the employee of a secure-treatment facility state-operated treatment program needs the test
results may be used;

(2) the court imposes appropriate safeguards against unauthorized disclosure that must
specify the persons who have access to the test results and the purposes for which the test
results may be used;

(3) a licensed physician, advanced practice registered nurse, or physician assistant for
the employee of a secure-treatment facility state-operated treatment program needs the test

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results for beginning, continuing, modifying, or discontinuing medical treatment for the employee; and

(4) the court finds a compelling need for the test results. In assessing compelling need, the court shall weigh the need for the court-ordered blood collection and test results against the interests of the patient, including, but not limited to, privacy, health, safety, or economic interests. The court shall also consider whether involuntary blood collection and testing would serve the public interests.

(d) The court shall conduct the proceeding in camera unless the petitioner or the patient requests a hearing in open court and the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

e) The patient may arrange for counsel in any proceeding brought under this subdivision.

Sec. 14. Minnesota Statutes 2022, section 246.717, is amended to read:

A secure treatment facility state-operated treatment program shall not withhold care or treatment on the requirement that the patient consent to blood-borne pathogen testing under sections 246.71 to 246.722.

A secure treatment facility state-operated treatment program shall not withhold care or treatment on the requirement that the patient consent to blood-borne pathogen testing under sections 246.71 to 246.722.

Sec. 15. Minnesota Statutes 2022, section 246.721, is amended to read:

246.721 PENALTY FOR UNAUTHORIZED RELEASE OF INFORMATION.

Unauthorized release of the patient’s name or other uniquely identifying information to the public interest and the proper administration of justice. The court shall also consider whether involuntary blood collection and testing would serve the public interests.

(d) The court shall conduct the proceeding in camera unless the petitioner or the patient requests a hearing in open court and the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

e) The patient may arrange for counsel in any proceeding brought under this subdivision.

Sec. 16. Minnesota Statutes 2022, section 246.721, is amended to read:

246.721 PENALTY FOR UNAUTHORIZED RELEASE OF INFORMATION.

Unauthorized release of the patient’s name or other uniquely identifying information to the public interest and the proper administration of justice. The court shall also consider whether involuntary blood collection and testing would serve the public interests.

(d) The court shall conduct the proceeding in camera unless the petitioner or the patient requests a hearing in open court and the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

e) The patient may arrange for counsel in any proceeding brought under this subdivision.

Sec. 17. Minnesota Statutes 2022, section 246.722, is subject to the remedies and penalties under sections 13.08 and 13.09. This section does not preclude private causes of action against an individual, state agency, statewide system, political subdivision, or person responsible for releasing private data, or confidential or private information on the inmate patient.

Sec. 18. Minnesota Statutes 2022, section 246.722, is amended to read:

246.722 PENALTY FOR UNAUTHORIZED RELEASE OF INFORMATION.

Unauthorized release of the patient’s name or other uniquely identifying information to the public interest and the proper administration of justice. The court shall also consider whether involuntary blood collection and testing would serve the public interests.

(d) The court shall conduct the proceeding in camera unless the petitioner or the patient requests a hearing in open court and the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

e) The patient may arrange for counsel in any proceeding brought under this subdivision.

Sec. 19. Minnesota Statutes 2022, section 246.722, is amended to read:

246.722 PENALTY FOR UNAUTHORIZED RELEASE OF INFORMATION.

Unauthorized release of the patient’s name or other uniquely identifying information to the public interest and the proper administration of justice. The court shall also consider whether involuntary blood collection and testing would serve the public interests.

(d) The court shall conduct the proceeding in camera unless the petitioner or the patient requests a hearing in open court and the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

e) The patient may arrange for counsel in any proceeding brought under this subdivision.
(2) a process for an infectious disease specialist, or a licensed physician, advanced practice registered nurse, or physician assistant who is knowledgeable about the most current recommendations of the United States Public Health Service in consultation with an infectious disease specialist, (i) to determine whether a significant exposure to one or more blood-borne pathogens has occurred, and (ii) to provide, under the direction of a licensed physician, advanced practice registered nurse, or physician assistant, a recommendation or recommendations for follow-up treatment appropriate to the particular blood-borne pathogen or pathogens for which a significant exposure has been determined;

(3) if there has been a significant exposure, a process to determine whether the patient has a blood-borne pathogen through disclosure of test results, or through blood collection and testing as required by sections 246.71 to 246.722;

(4) a process for providing appropriate counseling prior to and following testing for a blood-borne pathogen regarding the likelihood of blood-borne pathogen transmission and follow-up recommendations according to the most current recommendations of the United States Public Health Service for testing and treatment;

(5) a process for providing appropriate counseling under clause (4) to the employee of a secure treatment facility state-operated treatment program and to the patient; and

(6) compliance with applicable state and federal laws relating to data practices, confidentiality, informed consent, and the patient bill of rights.

Sec. 16. Minnesota Statutes 2022, section 246.722, is amended to read:

84.23 IMMUNITY.

84.22 A secure treatment facility state-operated treatment program, licensed physician, advanced practice registered nurse, physician assistant, and designated health care personnel are immune from liability in any civil, administrative, or criminal action relating to the disclosure of test results of a patient to an employee of a secure treatment facility state-operated treatment program and the testing of a blood sample from the patient for blood-borne pathogens if a good faith effort has been made to comply with sections 246.71 to 246.722.

Sec. 17. Laws 2023, chapter 61, article 8, section 13, subdivision 2, is amended to read:

Subd. 2. Membership. (a) The task force shall consist of the following members, appointed as follows:

(1) a member appointed by the governor;

(2) the commissioner of human services, or a designee;

(3) a member representing Department of Human Services direct care and treatment services who has experience with civil commitments, appointed by the commissioner of human services;

(4) the ombudsman for mental health and developmental disabilities;
(5) a hospital representative, appointed by the Minnesota Hospital Association;
(6) a county representative, appointed by the Association of Minnesota Counties;
(7) a county social services representative, appointed by the Minnesota Association of County Social Service Administrators;
(8) a member appointed by the Minnesota Civil Commitment Defense Panel Hennepin County Commitment Defense Project;
(9) a county attorney, appointed by the Minnesota County Attorneys Association;
(10) a county sheriff, appointed by the Minnesota Sheriffs' Association;
(11) a member appointed by the Minnesota Psychiatric Society;
(12) a member appointed by the Minnesota Association of Community Mental Health Programs;
(13) a member appointed by the National Alliance on Mental Illness Minnesota;
(14) the Minnesota Attorney General;
(15) three individuals from organizations representing racial and ethnic groups that are overrepresented in the criminal justice system, appointed by the commissioner of corrections; and
(16) one member of the public with lived experience directly related to the task force's purposes, appointed by the governor.

(b) Appointments must be made no later than July 15, 2023.

(c) Member compensation and reimbursement for expenses are governed by Minnesota Statutes, section 15.059, subdivision 3.

(d) A member of the legislature may not serve as a member of the task force.