

CHAPTER 254A

TREATMENT FOR ALCOHOL AND DRUG ABUSE

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254A.001 MS 2006 [Renumbered 15.001]

254A.01 PUBLIC POLICY.

It is hereby declared to be the public policy of this state that scientific evidence shows that addiction to alcohol or other drugs is a chronic brain disorder with potential for recurrence, and as with many other chronic conditions, people with substance use disorders can be effectively treated and can enter recovery. The interests of society are best served by reducing the stigma of substance use disorder and providing persons who are dependent upon alcohol or other drugs with a comprehensive range of rehabilitative and social services that span intensity levels and are not restricted to a particular point in time. Further, it is declared that treatment under these services shall be voluntary when possible: treatment shall not be denied on the basis of prior treatment; treatment shall be based on an individual treatment plan for each person undergoing treatment; treatment shall include a continuum of services available for a person leaving a program of treatment; treatment shall include all family members at the earliest possible phase of the treatment process.

History: 1973 c 572 s 1; 1Sp2017 c 6 art 8 s 38

254A.02 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of chapter 254A, unless the context clearly indicates otherwise, the terms defined in this section have the meanings given them.

Subd. 2. **Approved treatment program.** "Approved treatment program" means care and treatment services provided by any individual, organization or association to persons with a substance use disorder, which meets the standards established by the commissioner of human services.

Subd. 3. **Comprehensive program.** "Comprehensive program" means the range of services which are to be made available for the purpose of prevention, care and treatment of substance misuse and substance use disorder.

Subd. 4. [Repealed, 1Sp2017 c 6 art 8 s 77]

Subd. 5. **Drug dependent person.** "Drug dependent person" means any person incapable of self-management or management of personal affairs or unable to function physically or mentally in an effective manner because of the abuse of a drug, including alcohol.

Subd. 6. **Facility.** "Facility" means any treatment facility administered under an approved treatment program.

Subd. 6a. **Substance misuse.** "Substance misuse" means the use of any psychoactive or mood-altering substance, without compelling medical reason, in a manner that results in mental, emotional, or physical impairment and causes socially dysfunctional or socially disordering behavior and that results in psychological dependence or physiological addiction as a function of continued use. Substance misuse has the same meaning as drug abuse or abuse of drugs.

Subd. 7. [Repealed, 2007 c 147 art 11 s 27]

Subd. 8. **Other drugs.** "Other drugs" means any psychoactive substance other than alcohol.

Subd. 8a. **Placing authority.** "Placing authority" means a county, prepaid health plan, or tribal governing board governed by Minnesota Rules, parts 9530.6600 to 9530.6655.

Subd. 9. [Repealed, 2007 c 147 art 11 s 27]

Subd. 10. **State authority.** "State authority" is a division established within the Department of Human Services for the purpose of relating the authority of state government in the area of substance misuse and substance use disorder to the substance misuse and substance use disorder-related activities within the state.

Subd. 10a. **Substance use disorder.** "Substance use disorder" has the meaning given in the current Diagnostic and Statistical Manual of Mental Disorders.

Subd. 11. **American Indian.** "American Indian" means a person who is a member of an Indian tribe. The commissioner shall use the definitions of "Indian" and "Indian tribe" and "Indian organization" provided in United States Code, title 25, section 450(b), as amended through December 31, 1992.

Subd. 12. [Repealed, 2007 c 147 art 11 s 27]

Subd. 13. **Commissioner.** "Commissioner" means the commissioner of human services.

Subd. 14. [Repealed, 2007 c 147 art 11 s 27]

Subd. 15. [Repealed, 2007 c 147 art 11 s 27]

Subd. 16. [Repealed, 2007 c 147 art 11 s 27]

Subd. 17. **Purchase of service agreement.** "Purchase of service agreement" means a contract between a contractor and service provider for the provision of services. The agreement shall specify the services to be provided, the method of delivery, the type of staff to be employed, and a method of evaluation of the services to be provided.

History: 1973 c 572 s 2; 1974 c 575 s 1; 1976 c 125 s 1,2; 1979 c 243 s 3; 1984 c 654 art 5 s 58; 1986 c 444; 1994 c 529 s 4; 2009 c 79 art 7 s 5; 1Sp2017 c 6 art 8 s 39-46

254A.03 STATE AUTHORITY ON ALCOHOL AND DRUG ABUSE.

Subdivision 1. **Alcohol and Other Drug Abuse Section.** There is hereby created an Alcohol and Other Drug Abuse Section in the Department of Human Services. This section shall be headed by a director. The commissioner may place the director's position in the unclassified service if the position meets the criteria established in section 43A.08, subdivision 1a. The section shall:

(1) conduct and foster basic research relating to the cause, prevention and methods of diagnosis, treatment and rehabilitation of persons with substance misuse and substance use disorder;

(2) coordinate and review all activities and programs of all the various state departments as they relate to problems associated with substance misuse and substance use disorder;

(3) develop, demonstrate, and disseminate new methods and techniques for prevention, early intervention, treatment and recovery support for substance misuse and substance use disorder;

(4) gather facts and information about substance misuse and substance use disorder, and about the efficiency and effectiveness of prevention, treatment, and recovery support services from all comprehensive programs, including programs approved or licensed by the commissioner of human services or the commissioner of health or accredited by the Joint Commission on Accreditation of Hospitals. The state authority is authorized to require information from comprehensive programs which is reasonable and necessary to fulfill these duties. When required information has been previously furnished to a state or local governmental agency, the state authority shall collect the information from the governmental agency. The state authority shall disseminate facts and summary information about problems associated with substance misuse and substance use disorder to public and private agencies, local governments, local and regional planning agencies, and the courts for guidance to and assistance in prevention, treatment and recovery support;

(5) inform and educate the general public on substance misuse and substance use disorder;

(6) serve as the state authority concerning substance misuse and substance use disorder by monitoring the conduct of diagnosis and referral services, research and comprehensive programs. The state authority shall submit a biennial report to the governor and the legislature containing a description of public services delivery and recommendations concerning increase of coordination and quality of services, and decrease of service duplication and cost;

(7) establish a state plan which shall set forth goals and priorities for a comprehensive continuum of care for substance misuse and substance use disorder for Minnesota. All state agencies operating substance misuse or substance use disorder programs or administering state or federal funds for such programs shall annually set their program goals and priorities in accordance with the state plan. Each state agency shall annually submit its plans and budgets to the state authority for review. The state authority shall certify whether proposed services comply with the comprehensive state plan and advise each state agency of review findings;

(8) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using federal funds, and state funds as authorized to pay for costs of state administration, including evaluation, statewide programs and services, research and demonstration projects, and American Indian programs;

(9) receive and administer money available for substance misuse and substance use disorder programs under the alcohol, drug abuse, and mental health services block grant, United States Code, title 42, sections 300X to 300X-9;

(10) solicit and accept any gift of money or property for purposes of Laws 1973, chapter 572, and any grant of money, services, or property from the federal government, the state, any political subdivision thereof, or any private source;

(11) with respect to substance misuse and substance use disorder programs serving the American Indian community, establish guidelines for the employment of personnel with considerable practical experience in substance misuse and substance use disorder, and understanding of social and cultural problems related to substance misuse and substance use disorder, in the American Indian community.

Subd. 2. **American Indian programs.** There is hereby created a section of American Indian programs, within the Alcohol and Drug Abuse Section of the Department of Human Services, to be headed by a special assistant for American Indian programs on substance misuse and substance use disorder and two assistants to that position. The section shall be staffed with all personnel necessary to fully administer programming for substance misuse and substance use disorder services for American Indians in the state. The special assistant position shall be filled by a person with considerable practical experience in and understanding of substance misuse and substance use disorder in the American Indian community, who shall be responsible to the director of the Alcohol and Drug Abuse Section created in subdivision 1 and shall be in the unclassified service. The special assistant shall meet and consult with the American Indian Advisory Council as described in section 254A.035 and serve as a liaison to the Minnesota Indian Affairs Council and tribes to report on the status of substance misuse and substance use disorder among American Indians in the state of Minnesota. The special assistant with the approval of the director shall:

(1) administer funds appropriated for American Indian groups, organizations and reservations within the state for American Indian substance misuse and substance use disorder programs;

(2) establish policies and procedures for such American Indian programs with the assistance of the American Indian Advisory Board; and

(3) hire and supervise staff to assist in the administration of the American Indian program section within the Alcohol and Drug Abuse Section of the Department of Human Services.

Subd. 3. **Rules for substance use disorder care.** (a) The commissioner of human services shall establish by rule criteria to be used in determining the appropriate level of chemical dependency care for each recipient of public assistance seeking treatment for substance misuse or substance use disorder. Upon federal approval of a comprehensive assessment as a Medicaid benefit, or on July 1, 2018, whichever is later, and notwithstanding the criteria in Minnesota Rules, parts 9530.6600 to 9530.6655, an eligible vendor of comprehensive assessments under section 254B.05 may determine and approve the appropriate level of substance use disorder treatment for a recipient of public assistance. The process for determining an individual's financial eligibility for the consolidated chemical dependency treatment fund or determining an individual's enrollment in or eligibility for a publicly subsidized health plan is not affected by the individual's choice to access a comprehensive assessment for placement.

(b) The commissioner shall develop and implement a utilization review process for publicly funded treatment placements to monitor and review the clinical appropriateness and timeliness of all publicly funded placements in treatment.

History: 1973 c 572 s 3; 1974 c 575 s 2; 1979 c 243 s 4; 1981 c 355 s 30; 1981 c 360 art 2 s 18; 1982 c 560 s 53; 1982 c 607 s 13; 1984 c 545 s 1; 1984 c 654 art 5 s 58; 1992 c 513 art 9 s 23; 2001 c 161 s 44; 2007 c 147 art 11 s 10; 1Sp2017 c 6 art 8 s 47

254A.031 AMERICAN INDIAN PROGRAMS.

The commissioner shall enter into one or more purchase of service agreements to provide programs for American Indians. The agreements shall provide for residential and aftercare treatment programs, programs relating to prevention, education, and community awareness, and training programs. All programs shall be designed to meet the needs identified by the American Indian community, and appropriate recognition shall be given to the cultural and social needs of American Indians. The commissioner shall enter into the agreements after consultation with the special assistant for American Indian programs of the Alcohol and

Drug Abuse Section of the Department of Human Services, and all agreements shall be reviewed pursuant to section 254A.03.

History: 1976 c 125 s 3; 1979 c 243 s 5; 1984 c 654 art 5 s 58

254A.035 AMERICAN INDIAN ADVISORY COUNCIL.

Subdivision 1. **Establishment.** There is created an American Indian Advisory Council to assist the state authority on substance misuse and substance use disorder in proposal review and formulating policies and procedures relating to substance misuse and substance use disorder by American Indians.

Subd. 2. **Membership terms, compensation, removal and expiration.** The membership of this council shall be composed of 17 persons who are American Indians and who are appointed by the commissioner. The commissioner shall appoint one representative from each of the following groups: Red Lake Band of Chippewa Indians; Fond du Lac Band, Minnesota Chippewa Tribe; Grand Portage Band, Minnesota Chippewa Tribe; Leech Lake Band, Minnesota Chippewa Tribe; Mille Lacs Band, Minnesota Chippewa Tribe; Bois Forte Band, Minnesota Chippewa Tribe; White Earth Band, Minnesota Chippewa Tribe; Lower Sioux Indian Reservation; Prairie Island Sioux Indian Reservation; Shakopee Mdewakanton Sioux Indian Reservation; Upper Sioux Indian Reservation; International Falls Northern Range; Duluth Urban Indian Community; and two representatives from the Minneapolis Urban Indian Community and two from the St. Paul Urban Indian Community. The terms, compensation, and removal of American Indian Advisory Council members shall be as provided in section 15.059. The council expires June 30, 2018.

History: 1984 c 545 s 2; 1988 c 629 s 49; 1993 c 337 s 14; 1997 c 192 s 33; 1Sp2005 c 4 art 3 s 6; 2008 c 286 art 2 s 1; 2012 c 271 s 1; 2013 c 142 art 2 s 2; 2014 c 286 art 7 s 6; 2014 c 291 art 3 s 4; 1Sp2017 c 6 art 8 s 48

254A.04 CITIZENS ADVISORY COUNCIL.

There is hereby created an Alcohol and Other Drug Abuse Advisory Council to advise the Department of Human Services concerning the problems of substance misuse and substance use disorder, composed of ten members. Five members shall be individuals whose interests or training are in the field of alcohol-specific substance use disorder and alcohol misuse; and five members whose interests or training are in the field of substance use disorder and misuse of substances other than alcohol. The terms, compensation and removal of members shall be as provided in section 15.059. The council expires June 30, 2018. The commissioner of human services shall appoint members whose terms end in even-numbered years. The commissioner of health shall appoint members whose terms end in odd-numbered years.

History: 1973 c 572 s 4; 1975 c 315 s 17; 1984 c 654 art 5 s 58; 1985 c 285 s 45; 1993 c 337 s 15; 1997 c 192 s 34; 1Sp2005 c 4 art 3 s 7; 2008 c 286 art 2 s 2; 2012 c 271 s 2; 2013 c 142 art 2 s 3; 2014 c 286 art 7 s 7; 2014 c 291 art 3 s 5; 1Sp2017 c 6 art 8 s 49

254A.05 Subdivision 1. [Repealed, 2014 c 262 art 3 s 18]

Subd. 2. [Repealed, 1975 c 315 s 26]

254A.06 [Repealed, 1981 c 356 s 247]

254A.07 Subdivision 1. [Repealed, 2014 c 262 art 3 s 18]

Subd. 2. [Repealed, 2014 c 262 art 3 s 18]

Subd. 3. [Repealed, 1979 c 324 s 50]

254A.08 DETOXIFICATION CENTERS.

Subdivision 1. **Detoxification services.** Every county board shall provide detoxification services for any person incapable of self-management or management of personal affairs or unable to function physically or mentally in an effective manner because of the use of a drug, including alcohol. The board may utilize existing treatment programs and other agencies to meet this responsibility.

Subd. 2. **Program requirements.** For the purpose of this section, a detoxification program means a social rehabilitation program licensed by the Department of Human Services under chapter 245A, and governed by the standards of Minnesota Rules, parts 9530.6510 to 9530.6590, and established for the purpose of facilitating access into care and treatment by detoxifying and evaluating the person and providing entrance into a comprehensive program. Evaluation of the person shall include verification by a professional, after preliminary examination, that the person is intoxicated or has symptoms of substance misuse or substance use disorder and appears to be in imminent danger of harming self or others. A detoxification program shall have available the services of a licensed physician for medical emergencies and routine medical surveillance. A detoxification program licensed by the Department of Human Services to serve both adults and minors at the same site must provide for separate sleeping areas for adults and minors.

Subd. 3. [Repealed, 1979 c 324 s 50]

History: 1973 c 572 s 8; 1976 c 286 s 1; 1978 c 674 s 26; 1979 c 324 s 45; 1981 c 355 s 33; 1989 c 282 art 2 s 101; 1Sp2017 c 6 art 8 s 50

254A.085 [Repealed, 2007 c 147 art 11 s 27]

254A.086 [Repealed, 2007 c 147 art 11 s 27]

254A.09 CONFIDENTIALITY OF RECORDS.

The Department of Human Services shall assure confidentiality to individuals who are the subject of research by the state authority or are recipients of substance misuse or substance use disorder information, assessment, or treatment from a licensed or approved program. The commissioner shall withhold from all persons not connected with the conduct of the research the names or other identifying characteristics of a subject of research unless the individual gives written permission that information relative to treatment and recovery may be released. Persons authorized to protect the privacy of subjects of research may not be compelled in any federal, state or local, civil, criminal, administrative or other proceeding to identify or disclose other confidential information about the individuals. Identifying information and other confidential information related to substance misuse or substance use disorder information, assessment, treatment, or aftercare services may be ordered to be released by the court for the purpose of civil or criminal investigations or proceedings if, after review of the records considered for disclosure, the court determines that the information is relevant to the purpose for which disclosure is requested. The court shall order disclosure of only that information which is determined relevant. In determining whether to compel disclosure, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the treatment relationship in the program affected and in other programs similarly situated, and the actual or potential harm to the ability of programs to attract and retain patients if disclosure occurs. This section does not exempt any person from the reporting obligations under section 626.556, nor limit the use of information reported in any proceeding arising out of the abuse or neglect of a child. Identifying information and other confidential information related to substance misuse or substance use disorder, assessment, treatment, or aftercare services may be ordered to be released by the court for the purpose of civil or criminal investigations or proceedings.

No information may be released pursuant to this section that would not be released pursuant to section 595.02, subdivision 2.

History: 1973 c 572 s 16; 1981 c 240 s 1; 1984 c 654 art 5 s 58; 1985 c 298 s 43; 1986 c 444; 1Sp2017 c 6 art 8 s 51

254A.10 RULES.

The commissioner of human services, pursuant to the Administrative Procedure Act, shall promulgate rules to implement Laws 1973, chapter 572.

History: 1973 c 572 s 17; 1984 c 654 art 5 s 58

254A.12 [Repealed, 2007 c 147 art 11 s 27]

254A.14 [Repealed, 2007 c 147 art 11 s 27]

254A.145 [Repealed, 1999 c 245 art 5 s 29]

254A.15 [Repealed, 2007 c 147 art 11 s 27]

254A.16 RESPONSIBILITIES OF THE COMMISSIONER.

Subdivision 1. [Repealed, 2014 c 262 art 3 s 18]

Subd. 2. **Program and service guidelines.** (a) The commissioner shall provide program and service guidelines and technical assistance to the county boards in carrying out services authorized under section 254A.08.

(b) The commissioner shall recommend to the governor means of improving the efficiency and effectiveness of comprehensive program services in the state and maximizing the use of nongovernmental funds for providing comprehensive programs.

Subd. 3. [Repealed, 1994 c 529 s 19]

Subd. 4. [Repealed, 1994 c 529 s 19]

Subd. 5. [Repealed, 2007 c 147 art 11 s 27]

Subd. 6. **Monitoring.** The commissioner shall gather and placing authorities shall provide information to measure compliance with Minnesota Rules, parts 9530.6600 to 9530.6655. The commissioner shall specify the format for data collection to facilitate tracking, aggregating, and using the information.

History: 1976 c 125 s 7; 1979 c 324 s 48; 1982 c 607 s 14; 1984 c 545 s 5,6; 1987 c 85 s 1; 1997 c 7 art 2 s 39; 2007 c 147 art 11 s 11; 2009 c 79 art 7 s 6

254A.17 [Repealed, 1Sp2003 c 14 art 11 s 12]

254A.171 INTERVENTION AND ADVOCACY PROGRAM.

Within the limit of money available, the commissioner shall fund voluntary outreach programs targeted at women who deliver children affected by prenatal alcohol or drug use. The programs shall help women obtain treatment, stay in recovery, and plan any future pregnancies. An advocate shall be assigned to each woman in the program to provide guidance and advice with respect to treatment programs, child safety and

parenting, housing, family planning, and any other personal issues that are barriers to remaining free of chemical dependency.

History: 2007 c 147 art 4 s 2

254A.175 [Repealed, 2007 c 147 art 11 s 27]

254A.18 [Repealed, 2007 c 147 art 11 s 27]

254A.19 CHEMICAL USE ASSESSMENTS.

Subdivision 1. **Persons arrested outside of home county.** When a chemical use assessment is required under Minnesota Rules, parts 9530.6600 to 9530.6655, for a person who is arrested and taken into custody by a peace officer outside of the person's county of residence, the assessment must be completed by the person's county of residence no later than three weeks after the assessment is initially requested. If the assessment is not performed within this time limit, the county where the person is to be sentenced shall perform the assessment. The county of financial responsibility is determined under chapter 256G.

Subd. 1a. **Emergency room patients.** A county may enter into a contract with a hospital to provide chemical use assessments under Minnesota Rules, parts 9530.6600 to 9530.6655, for patients admitted to an emergency room or inpatient hospital when:

- (1) an assessor is not available; and
- (2) detoxification services in the county are at full capacity.

Subd. 2. **Probation officer as contact.** When a chemical use assessment is required under Minnesota Rules, parts 9530.6600 to 9530.6655, for a person who is on probation or under other correctional supervision, the assessor, either orally or in writing, shall contact the person's probation officer to verify or supplement the information provided by the person.

Subd. 3. **Financial conflicts of interest.** (a) Except as provided in paragraph (b), (c), or (d), an assessor conducting a chemical use assessment under Minnesota Rules, parts 9530.6600 to 9530.6655, may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider.

(b) A county may contract with an assessor having a conflict described in paragraph (a) if the county documents that:

(1) the assessor is employed by a culturally specific service provider or a service provider with a program designed to treat individuals of a specific age, sex, or sexual preference;

(2) the county does not employ a sufficient number of qualified assessors and the only qualified assessors available in the county have a direct or shared financial interest or a referral relationship resulting in shared financial gain with a treatment provider; or

(3) the county social service agency has an existing relationship with an assessor or service provider and elects to enter into a contract with that assessor to provide both assessment and treatment under circumstances specified in the county's contract, provided the county retains responsibility for making placement decisions.

(c) The county may contract with a hospital to conduct chemical assessments if the requirements in subdivision 1a are met.

An assessor under this paragraph may not place clients in treatment. The assessor shall gather required information and provide it to the county along with any required documentation. The county shall make all placement decisions for clients assessed by assessors under this paragraph.

(d) An eligible vendor under section 254B.05 conducting a comprehensive assessment for an individual seeking treatment shall approve the nature, intensity level, and duration of treatment service if a need for services is indicated, but the individual assessed can access any enrolled provider that is licensed to provide the level of service authorized, including the provider or program that completed the assessment. If an individual is enrolled in a prepaid health plan, the individual must comply with any provider network requirements or limitations.

Subd. 4. **Civil commitments.** A Rule 25 assessment, under Minnesota Rules, part 9530.6615, does not need to be completed for an individual being committed as a chemically dependent person, as defined in section 253B.02, and for the duration of a civil commitment under section 253B.065, 253B.09, or 253B.095 in order for a county to access consolidated chemical dependency treatment funds under section 254B.04. The county must determine if the individual meets the financial eligibility requirements for the consolidated chemical dependency treatment funds under section 254B.04. Nothing in this subdivision prohibits placement in a treatment facility or treatment program governed under this chapter or Minnesota Rules, parts 9530.6600 to 9530.6655.

History: 2007 c 147 art 12 s 10; 2008 c 234 s 2,3; 2012 c 247 art 5 s 3; 1Sp2017 c 6 art 8 s 52

254A.20 DUTIES OF COMMISSIONER RELATED TO CHEMICAL HEALTH.

The commissioner shall develop a directory that identifies key characteristics of each licensed chemical dependency treatment program.

History: 2007 c 147 art 8 s 15