

245D.261 COMMUNITY RESIDENTIAL SETTINGS; REMOTE OVERNIGHT SUPERVISION.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given, unless otherwise specified.

(b) "Resident" means an adult residing in a community residential setting.

(c) "Technology" means:

(1) enabling technology, which is a device capable of live two-way communication or engagement between a resident and direct support staff at a remote location; or

(2) monitoring technology, which is the use of equipment to oversee, monitor, and supervise an individual who receives medical assistance waiver or alternative care services under section 256B.0913, 256B.092, or 256B.49 or chapter 256S.

Subd. 2. **Documentation of permissible remote overnight supervision.** A license holder providing remote overnight supervision in a community residential setting in lieu of on-site direct support staff must comply with the requirements of this chapter, including the requirement under section 245D.02, subdivision 33b, paragraph (a), clause (3), that the absence of direct support staff from the community residential setting while services are being delivered must be documented in the resident's support plan or support plan addendum.

Subd. 3. **Provider requirements for remote overnight supervision; commissioner notification.** (a) A license holder providing remote overnight supervision in a community residential setting must:

(1) use technology;

(2) notify the commissioner of the community residential setting's intent to use technology in lieu of on-site staff. The notification must:

(i) indicate a start date for the use of technology; and

(ii) attest that all requirements under this section are met and policies required under subdivision 4 are available upon request;

(3) clearly state in each person's support plan addendum that the community residential setting is a program without the in-person presence of overnight direct support;

(4) include with each person's support plan addendum the license holder's protocols for responding to situations that present a serious risk to the health, safety, or rights of residents served by the program; and

(5) include in each person's support plan addendum the person's maximum permissible response time as determined by the person's support team.

(b) Upon being notified via technology that an incident has occurred that jeopardizes the health, safety, or rights of a resident, the license holder must document an evaluation of the need for the physical presence of a staff member and determine whether a physical presence is needed in a time that is less than the maximum permissible response time under paragraph (a), clause (5). If it is determined that a physical presence is needed that requires a response time less than the maximum response time under paragraph (a), clause (5), the plan under subdivision 4, paragraph (a), clause (6), must be deployed.

(c) A license holder must notify the commissioner if remote overnight supervision technology will no longer be used by the license holder.

(d) Upon receipt of notification of use of remote overnight supervision or discontinuation of use of remote overnight supervision by a license holder, the commissioner shall notify the county licensing agency and update the license.

Subd. 4. Required policies and procedures for remote overnight supervision. (a) A license holder providing remote overnight supervision must have policies and procedures that:

(1) protect the residents' health, safety, and rights;

(2) explain the discharge process if a person served by the program requires in-person supervision or other services that cannot be provided by the license holder due to the limited hours that direct support staff are on site, including information explaining that if a resident provides informed consent to the use of monitoring technology but later revokes their consent, the resident may be subject to a service termination in accordance with section 245D.10, subdivision 3a;

(3) ensure that services may not be terminated for any person or resident currently served by the program and receiving in-person services solely because the person declines to provide informed consent to the initial change to the use of monitoring technology as required under subdivision 5;

(4) explain the backup system for technology in times of electrical outages or other equipment malfunctions;

(5) explain how the license holder trains the direct support staff on the use of the technology; and

(6) establish a plan for dispatching emergency response personnel to the site in the event of an identified emergency.

(b) Nothing in this section requires the license holder to develop or maintain separate or duplicative policies, procedures, documentation, consent forms, or individual plans that may be required for other licensing standards if the requirements of this section are incorporated into those documents.

(c) When no physical presence response is completed for a three-month period, the license holder must conduct a physical presence response drill. The effectiveness of the response protocol must be reviewed and documented.

Subd. 5. Consent to use of monitoring technology. If a license holder uses monitoring technology in a community residential setting, the license holder must obtain a signed informed consent form from each resident served by the program or the resident's legal representative documenting the resident's or legal representative's agreement to use of the specific monitoring technology used in the setting. The informed consent form documenting this agreement must also explain:

(1) how the license holder uses monitoring technology to provide remote supervision;

(2) the risks and benefits of using monitoring technology;

(3) how the license holder protects each resident's privacy while monitoring technology is being used in the setting; and

(4) how the license holder protects each resident's privacy when the monitoring technology system electronically records personally identifying data.

History: 2023 c 61 art 1 s 6; 2023 c 70 art 15 s 7