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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 3455

03/08/2018 Authored by Zerwas and Franke
The bill was read for the first time and referred to the Committee on Health and Human Services Reform
03/15/2018 Adoption of Report: Re-referred to the Committee on Health and Human Services Finance

1.1 A bill for an act
1.2 relating to human services; modifying provisions related to providers of behavioral
1.3 health services; amending Minnesota Statutes 2016, sections 245A.04, subdivision
1.4 7; 256B.0622, subdivisions 3a, 4; 256B.0623, subdivision 4; 256B.0624,
1.5 subdivision 4; Minnesota Statutes 2017 Supplement, section 245G.03, subdivision
1.6 1.

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

1.8 Section 1. Minnesota Statutes 2016, section 245A.04, subdivision 7, is amended to read:

1.9 Subd. 7. Grant of license; license extension. (a) If the commissioner determines that
1.10 the program complies with all applicable rules and laws, the commissioner shall issue a
1.11 license. At minimum, the license shall state:

- 1.12 (1) the name of the license holder;
1.13 (2) the address of the program;
1.14 (3) the effective date and expiration date of the license;
1.15 (4) the type of license;
1.16 (5) the maximum number and ages of persons that may receive services from the program;
1.17 and
1.18 (6) any special conditions of licensure.

1.19 (b) The commissioner may issue an initial license for a period not to exceed two years
1.20 if:

- 1.21 (1) the commissioner is unable to conduct the evaluation or observation required by
1.22 subdivision 4, paragraph (a), clauses (3) and (4), because the program is not yet operational;

2.1 (2) certain records and documents are not available because persons are not yet receiving
2.2 services from the program; and

2.3 (3) the applicant complies with applicable laws and rules in all other respects.

2.4 (c) A decision by the commissioner to issue a license does not guarantee that any person
2.5 or persons will be placed or cared for in the licensed program. A license shall not be
2.6 transferable to another individual, corporation, partnership, voluntary association, other
2.7 organization, or controlling individual or to another location, unless:

2.8 (1) the license or certification is one for mental health centers or clinics under section
2.9 245.69, residential programs under section 256B.0622 or 256B.0624, or substance use
2.10 disorder treatment programs under chapter 245G; or

2.11 (2) the transfer is being made to a provider entity which already holds at least one other
2.12 license or certification of the same type as the one being transferred.

2.13 (d) A license holder must notify the commissioner and obtain the commissioner's approval
2.14 before making any changes that would alter the license information listed under paragraph
2.15 (a).

2.16 (e) Except as provided in paragraphs (g) and (h), the commissioner shall not issue or
2.17 reissue a license if the applicant, license holder, or controlling individual has:

2.18 (1) been disqualified and the disqualification was not set aside and no variance has been
2.19 granted;

2.20 (2) been denied a license within the past two years;

2.21 (3) had a license revoked within the past five years;

2.22 (4) an outstanding debt related to a license fee, licensing fine, or settlement agreement
2.23 for which payment is delinquent; or

2.24 (5) failed to submit the information required of an applicant under subdivision 1,
2.25 paragraph (f) or (g), after being requested by the commissioner.

2.26 When a license is revoked under clause (1) or (3), the license holder and controlling
2.27 individual may not hold any license under chapter 245A or 245D for five years following
2.28 the revocation, and other licenses held by the applicant, license holder, or controlling
2.29 individual shall also be revoked.

2.30 (f) The commissioner shall not issue or reissue a license if an individual living in the
2.31 household where the licensed services will be provided as specified under section 245C.03,

3.1 subdivision 1, has been disqualified and the disqualification has not been set aside and no
3.2 variance has been granted.

3.3 (g) Pursuant to section 245A.07, subdivision 1, paragraph (b), when a license has been
3.4 suspended or revoked and the suspension or revocation is under appeal, the program may
3.5 continue to operate pending a final order from the commissioner. If the license under
3.6 suspension or revocation will expire before a final order is issued, a temporary provisional
3.7 license may be issued provided any applicable license fee is paid before the temporary
3.8 provisional license is issued.

3.9 (h) Notwithstanding paragraph (g), when a revocation is based on the disqualification
3.10 of a controlling individual or license holder, and the controlling individual or license holder
3.11 is ordered under section 245C.17 to be immediately removed from direct contact with
3.12 persons receiving services or is ordered to be under continuous, direct supervision when
3.13 providing direct contact services, the program may continue to operate only if the program
3.14 complies with the order and submits documentation demonstrating compliance with the
3.15 order. If the disqualified individual fails to submit a timely request for reconsideration, or
3.16 if the disqualification is not set aside and no variance is granted, the order to immediately
3.17 remove the individual from direct contact or to be under continuous, direct supervision
3.18 remains in effect pending the outcome of a hearing and final order from the commissioner.

3.19 (i) For purposes of reimbursement for meals only, under the Child and Adult Care Food
3.20 Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A, part 226,
3.21 relocation within the same county by a licensed family day care provider, shall be considered
3.22 an extension of the license for a period of no more than 30 calendar days or until the new
3.23 license is issued, whichever occurs first, provided the county agency has determined the
3.24 family day care provider meets licensure requirements at the new location.

3.25 (j) Unless otherwise specified by statute, all licenses expire at 12:01 a.m. on the day
3.26 after the expiration date stated on the license. A license holder must apply for and be granted
3.27 a new license to operate the program or the program must not be operated after the expiration
3.28 date.

3.29 (k) The commissioner shall not issue or reissue a license if it has been determined that
3.30 a tribal licensing authority has established jurisdiction to license the program or service.

4.1 Sec. 2. Minnesota Statutes 2017 Supplement, section 245G.03, subdivision 1, is amended
4.2 to read:

4.3 Subdivision 1. **License requirements.** (a) An applicant for a license to provide substance
4.4 use disorder treatment must comply with the general requirements in chapters 245A and
4.5 245C, sections 626.556 and 626.557, and Minnesota Rules, chapter 9544.

4.6 (b) The assessment of need process under Minnesota Rules, parts 9530.6800 and
4.7 9530.6810, is not applicable to programs licensed under this chapter. However, the
4.8 commissioner may deny issuance of a license to an applicant if the commissioner determines
4.9 that the services currently available in the local area are sufficient to meet local need and
4.10 the addition of new services would be detrimental to individuals seeking these services.

4.11 (c) The commissioner may grant variances to the requirements in this chapter that do
4.12 not affect the client's health or safety if the conditions in section 245A.04, subdivision 9,
4.13 are met.

4.14 Sec. 3. Minnesota Statutes 2016, section 256B.0622, subdivision 3a, is amended to read:

4.15 Subd. 3a. **Provider certification and contract requirements for assertive community**
4.16 **treatment.** (a) The assertive community treatment provider must:

4.17 ~~(1) have a contract with the host county to provide assertive community treatment~~
4.18 ~~services; and~~

4.19 ~~(2)~~ have each ACT team be certified by the state following the certification process and
4.20 procedures developed by the commissioner. The certification process determines whether
4.21 the ACT team meets the standards for assertive community treatment under this section as
4.22 well as minimum program fidelity standards as measured by a nationally recognized fidelity
4.23 tool approved by the commissioner. Recertification must occur at least every three years.

4.24 (b) An ACT team certified under this subdivision must meet the following standards:

4.25 (1) have capacity to recruit, hire, manage, and train required ACT team members;

4.26 (2) have adequate administrative ability to ensure availability of services;

4.27 (3) ensure adequate preservice and ongoing training for staff;

4.28 (4) ensure that staff is capable of implementing culturally specific services that are
4.29 culturally responsive and appropriate as determined by the client's culture, beliefs, values,
4.30 and language as identified in the individual treatment plan;

- 5.1 (5) ensure flexibility in service delivery to respond to the changing and intermittent care
 5.2 needs of a client as identified by the client and the individual treatment plan;
- 5.3 (6) develop and maintain client files, individual treatment plans, and contact charting;
- 5.4 (7) develop and maintain staff training and personnel files;
- 5.5 (8) submit information as required by the state;
- 5.6 (9) keep all necessary records required by law;
- 5.7 (10) comply with all applicable laws;
- 5.8 (11) be an enrolled Medicaid provider;
- 5.9 (12) establish and maintain a quality assurance plan to determine specific service
 5.10 outcomes and the client's satisfaction with services; and
- 5.11 (13) develop and maintain written policies and procedures regarding service provision
 5.12 and administration of the provider entity.

5.13 (c) The commissioner may intervene at any time and decertify an ACT team with cause.
 5.14 The commissioner shall establish a process for decertification of an ACT team and shall
 5.15 require corrective action, medical assistance repayment, or decertification of an ACT team
 5.16 that no longer meets the requirements in this section or that fails to meet the clinical quality
 5.17 standards or administrative standards provided by the commissioner in the application and
 5.18 certification process. The decertification is subject to appeal to the state.

5.19 Sec. 4. Minnesota Statutes 2016, section 256B.0622, subdivision 4, is amended to read:

5.20 Subd. 4. **Provider licensure and contract requirements for intensive residential**
 5.21 **treatment services.** (a) The intensive residential treatment services provider must:

- 5.22 (1) be licensed under Minnesota Rules, parts 9520.0500 to 9520.0670;
- 5.23 (2) not exceed 16 beds per site; and
- 5.24 (3) comply with the additional standards in this section; ~~and~~.
- 5.25 ~~(4) have a contract with the host county to provide these services.~~

5.26 (b) The commissioner shall develop procedures for counties and providers to submit
 5.27 contracts and other documentation as needed to allow the commissioner to determine whether
 5.28 the standards in this section are met.

6.1 Sec. 5. Minnesota Statutes 2016, section 256B.0623, subdivision 4, is amended to read:

6.2 Subd. 4. **Provider entity standards.** (a) The provider entity must be certified by the
6.3 state following the certification process and procedures developed by the commissioner.

6.4 (b) The certification process is a determination as to whether the entity meets the standards
6.5 in this subdivision. The certification must specify which adult rehabilitative mental health
6.6 services the entity is qualified to provide.

6.7 ~~(e) A nonecounty provider entity must obtain additional certification from each county~~
6.8 ~~in which it will provide services. The additional certification must be based on the adequacy~~
6.9 ~~of the entity's knowledge of that county's local health and human service system, and the~~
6.10 ~~ability of the entity to coordinate its services with the other services available in that county.~~
6.11 ~~A county-operated entity must obtain this additional certification from any other county in~~
6.12 ~~which it will provide services.~~

6.13 ~~(d)~~ (c) Recertification must occur at least every three years.

6.14 ~~(e)~~ (d) The commissioner may intervene at any time and decertify providers with cause.
6.15 The decertification is subject to appeal to the state. A county board may recommend that
6.16 the state decertify a provider for cause.

6.17 ~~(f)~~ (e) The adult rehabilitative mental health services provider entity must meet the
6.18 following standards:

6.19 (1) have capacity to recruit, hire, manage, and train mental health professionals, mental
6.20 health practitioners, and mental health rehabilitation workers;

6.21 (2) have adequate administrative ability to ensure availability of services;

6.22 (3) ensure adequate preservice and inservice and ongoing training for staff;

6.23 (4) ensure that mental health professionals, mental health practitioners, and mental health
6.24 rehabilitation workers are skilled in the delivery of the specific adult rehabilitative mental
6.25 health services provided to the individual eligible recipient;

6.26 (5) ensure that staff is capable of implementing culturally specific services that are
6.27 culturally competent and appropriate as determined by the recipient's culture, beliefs, values,
6.28 and language as identified in the individual treatment plan;

6.29 (6) ensure enough flexibility in service delivery to respond to the changing and
6.30 intermittent care needs of a recipient as identified by the recipient and the individual treatment
6.31 plan;

7.1 (7) ensure that the mental health professional or mental health practitioner, who is under
7.2 the clinical supervision of a mental health professional, involved in a recipient's services
7.3 participates in the development of the individual treatment plan;

7.4 (8) assist the recipient in arranging needed crisis assessment, intervention, and
7.5 stabilization services;

7.6 (9) ensure that services are coordinated with other recipient mental health services
7.7 providers and the county mental health authority and the federally recognized American
7.8 Indian authority and necessary others after obtaining the consent of the recipient. Services
7.9 must also be coordinated with the recipient's case manager or care coordinator if the recipient
7.10 is receiving case management or care coordination services;

7.11 (10) develop and maintain recipient files, individual treatment plans, and contact charting;

7.12 (11) develop and maintain staff training and personnel files;

7.13 (12) submit information as required by the state;

7.14 (13) establish and maintain a quality assurance plan to evaluate the outcome of services
7.15 provided;

7.16 (14) keep all necessary records required by law;

7.17 (15) deliver services as required by section 245.461;

7.18 (16) comply with all applicable laws;

7.19 (17) be an enrolled Medicaid provider;

7.20 (18) maintain a quality assurance plan to determine specific service outcomes and the
7.21 recipient's satisfaction with services; and

7.22 (19) develop and maintain written policies and procedures regarding service provision
7.23 and administration of the provider entity.

7.24 Sec. 6. Minnesota Statutes 2016, section 256B.0624, subdivision 4, is amended to read:

7.25 Subd. 4. **Provider entity standards.** (a) A provider entity is an entity that meets the
7.26 standards listed in paragraph (b) and:

7.27 (1) is a county board operated entity; or

7.28 (2) is a provider entity that is under contract with the county board in the county where
7.29 the potential crisis or emergency is occurring. To provide services under this section, the

8.1 provider entity must directly provide the services; or if services are subcontracted, the
8.2 provider entity must maintain responsibility for services and billing.

8.3 (b) A provider entity that is providing crisis stabilization services in a residential setting
8.4 as described in subdivision 7, is exempt from the requirements of paragraph (a), but must
8.5 meet the standards of paragraph (c).

8.6 (c) The adult mental health crisis response services provider entity must have the capacity
8.7 to meet and carry out the following standards:

8.8 (1) has the capacity to recruit, hire, and manage and train mental health professionals,
8.9 practitioners, and rehabilitation workers;

8.10 (2) has adequate administrative ability to ensure availability of services;

8.11 (3) is able to ensure adequate preservice and in-service training;

8.12 (4) is able to ensure that staff providing these services are skilled in the delivery of
8.13 mental health crisis response services to recipients;

8.14 (5) is able to ensure that staff are capable of implementing culturally specific treatment
8.15 identified in the individual treatment plan that is meaningful and appropriate as determined
8.16 by the recipient's culture, beliefs, values, and language;

8.17 (6) is able to ensure enough flexibility to respond to the changing intervention and care
8.18 needs of a recipient as identified by the recipient during the service partnership between
8.19 the recipient and providers;

8.20 (7) is able to ensure that mental health professionals and mental health practitioners have
8.21 the communication tools and procedures to communicate and consult promptly about crisis
8.22 assessment and interventions as services occur;

8.23 (8) is able to coordinate these services with county emergency services, community
8.24 hospitals, ambulance, transportation services, social services, law enforcement, and mental
8.25 health crisis services through regularly scheduled interagency meetings;

8.26 (9) is able to ensure that mental health crisis assessment and mobile crisis intervention
8.27 services are available 24 hours a day, seven days a week;

8.28 (10) is able to ensure that services are coordinated with other mental health service
8.29 providers, county mental health authorities, or federally recognized American Indian
8.30 authorities and others as necessary, with the consent of the adult. Services must also be
8.31 coordinated with the recipient's case manager if the adult is receiving case management
8.32 services;

- 9.1 (11) is able to ensure that crisis intervention services are provided in a manner consistent
9.2 with sections 245.461 to 245.486;
- 9.3 (12) is able to submit information as required by the state;
- 9.4 (13) maintains staff training and personnel files;
- 9.5 (14) is able to establish and maintain a quality assurance and evaluation plan to evaluate
9.6 the outcomes of services and recipient satisfaction;
- 9.7 (15) is able to keep records as required by applicable laws;
- 9.8 (16) is able to comply with all applicable laws and statutes;
- 9.9 (17) is an enrolled medical assistance provider; and
- 9.10 (18) develops and maintains written policies and procedures regarding service provision
9.11 and administration of the provider entity, including safety of staff and recipients in high-risk
9.12 situations.