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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4149

02/22/2024 Authored by Frederick, Baker and Fischer
The bill was read for the first time and referred to the Committee on Human Services Policy

1.1 A bill for an act
1.2 relating to behavioral health; modifying education requirements for licensure;
1.3 modifying definition of accrediting body; modifying behavioral health licensing
1.4 and eligibility; modifying paperwork reduction report date; amending Minnesota
1.5 Statutes 2022, sections 148F.025, subdivision 2; 245G.031, subdivision 2;
1.6 Minnesota Statutes 2023 Supplement, sections 245G.11, subdivision 10; 254B.04,
1.7 subdivision 6; 254B.05, subdivision 5; Laws 2021, First Special Session chapter
1.8 7, article 11, section 38, as amended.

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

1.10 Section 1. Minnesota Statutes 2022, section 148F.025, subdivision 2, is amended to read:

1.11 Subd. 2. Education requirements for licensure. An applicant for licensure must submit
1.12 evidence satisfactory to the board that the applicant has:

1.13 (1) received a bachelor's or master's degree from an accredited school or educational
1.14 program; and

1.15 (2) received 18 semester credits or 270 clock hours of academic course work and 880
1.16 clock hours of supervised alcohol and drug counseling practicum from an accredited school
1.17 or education program. The course work and practicum do not have to be part of the bachelor's
1.18 degree earned under clause (1). The academic course work must be in the following areas:

1.19 (i) an overview of the transdisciplinary foundations of alcohol and drug counseling,
1.20 including theories of chemical dependency, the continuum of care, and the process of change;

1.21 (ii) pharmacology of substance abuse disorders and the dynamics of addiction, including
1.22 substance use disorder treatment with medications for opioid use disorder;

1.23 (iii) professional and ethical responsibilities;

- 2.1 (iv) multicultural aspects of chemical dependency;
- 2.2 (v) co-occurring disorders; and
- 2.3 (vi) the core functions defined in section 148F.01, subdivision 10.

2.4 Sec. 2. Minnesota Statutes 2022, section 245G.031, subdivision 2, is amended to read:

2.5 Subd. 2. **Qualifying accreditation; determination of same and similar standards.** (a)

2.6 The commissioner must accept a qualifying accreditation from an accrediting body listed
2.7 in paragraph (c) after determining, in consultation with the accrediting body and license
2.8 holders, the accrediting body's standards that are the same as or similar to the licensing
2.9 requirements in this chapter. In determining whether standards of an accrediting body are
2.10 the same as or similar to licensing requirements under this chapter, the commissioner shall
2.11 give due consideration to the existence of a standard that aligns in whole or in part to a
2.12 licensing standard.

2.13 (b) Upon request by a license holder, the commissioner may allow the accrediting body
2.14 to monitor for compliance with licensing requirements under this chapter that are determined
2.15 to be neither the same as nor similar to those of the accrediting body.

2.16 (c) For purposes of this section, "accrediting body" means the joint commission, the
2.17 Commission on Accreditation of Rehabilitation Facilities, or the ASAM Level of Care
2.18 Certification Program.

2.19 (d) Qualifying accreditation only applies to the license holder's licensed programs that
2.20 are included in the accrediting body's survey during each survey period.

2.21 Sec. 3. Minnesota Statutes 2023 Supplement, section 245G.11, subdivision 10, is amended
2.22 to read:

2.23 Subd. 10. **Student interns and former students.** (a) A qualified staff member must
2.24 supervise and be responsible for a treatment service performed by a student intern and must
2.25 review and sign each assessment, individual treatment plan, and treatment plan review
2.26 prepared by a student intern.

2.27 (b) An alcohol and drug counselor must supervise and be responsible for a treatment
2.28 service performed by a former student and must review and sign each assessment, individual
2.29 treatment plan, and treatment plan review prepared by the former student.

2.30 (c) A student intern or former student must receive the orientation and training required
2.31 in section 245G.13, subdivisions 1, clause (7), and 2. No more than 50 percent of the

3.1 treatment staff may be students, or former students, ~~or licensing candidates~~ with time
3.2 documented to be directly related to the provision of treatment services for which the staff
3.3 are authorized.

3.4 Sec. 4. Minnesota Statutes 2023 Supplement, section 254B.04, subdivision 6, is amended
3.5 to read:

3.6 Subd. 6. **Local agency to determine client financial eligibility.** (a) The local agency
3.7 shall determine a client's financial eligibility for the behavioral health fund according to
3.8 section 254B.04, subdivision 1a, with the income calculated prospectively for one year from
3.9 the date of comprehensive assessment. The local agency shall pay for eligible clients
3.10 according to chapter 256G. The local agency shall enter the financial eligibility span within
3.11 ~~ten~~ five calendar days of request. Client eligibility must be determined using forms prescribed
3.12 by the department. To determine a client's eligibility, the local agency must determine the
3.13 client's income, the size of the client's household, the availability of a third-party payment
3.14 source, and a responsible relative's ability to pay for the client's substance use disorder
3.15 treatment. The eligibility span must begin from the date of the comprehensive assessment
3.16 or the date the services were initiated if the assessment was completed within the required
3.17 timelines of chapter 245G. An affidavit alone is proof or verification of behavioral health
3.18 fund eligibility and no further documentation is required unless there is probable cause to
3.19 show that the client may not meet eligibility requirements.

3.20 (b) A client who is a minor child must not be deemed to have income available to pay
3.21 for substance use disorder treatment, unless the minor child is responsible for payment under
3.22 section 144.347 for substance use disorder treatment services sought under section 144.343,
3.23 subdivision 1.

3.24 (c) The local agency must determine the client's household size as follows:

3.25 (1) if the client is a minor child, the household size includes the following persons living
3.26 in the same dwelling unit:

3.27 (i) the client;

3.28 (ii) the client's birth or adoptive parents; and

3.29 (iii) the client's siblings who are minors; and

3.30 (2) if the client is an adult, the household size includes the following persons living in
3.31 the same dwelling unit:

3.32 (i) the client;

4.1 (ii) the client's spouse;

4.2 (iii) the client's minor children; and

4.3 (iv) the client's spouse's minor children.

4.4 For purposes of this paragraph, household size includes a person listed in clauses (1) and
4.5 (2) who is in an out-of-home placement if a person listed in clause (1) or (2) is contributing
4.6 to the cost of care of the person in out-of-home placement.

4.7 (d) The local agency must determine the client's current prepaid health plan enrollment,
4.8 the availability of a third-party payment source, including the availability of total payment,
4.9 partial payment, and amount of co-payment.

4.10 (e) The local agency must provide the required eligibility information to the department
4.11 in the manner specified by the department.

4.12 (f) The local agency shall require the client and policyholder to conditionally assign to
4.13 the department the client and policyholder's rights and the rights of minor children to benefits
4.14 or services provided to the client if the department is required to collect from a third-party
4.15 pay source.

4.16 (g) The local agency must redetermine a client's eligibility for the behavioral health fund
4.17 every 12 months.

4.18 (h) A client, responsible relative, and policyholder must provide income or wage
4.19 verification, household size verification, and must make an assignment of third-party payment
4.20 rights under paragraph (f). If a client, responsible relative, or policyholder does not comply
4.21 with the provisions of this subdivision, the client is ineligible for behavioral health fund
4.22 payment for substance use disorder treatment, and the client and responsible relative must
4.23 be obligated to pay for the full cost of substance use disorder treatment services provided
4.24 to the client.

4.25 Sec. 5. Minnesota Statutes 2023 Supplement, section 254B.05, subdivision 5, is amended
4.26 to read:

4.27 Subd. 5. **Rate requirements.** (a) The commissioner shall establish rates for substance
4.28 use disorder services and service enhancements funded under this chapter.

4.29 (b) Eligible substance use disorder treatment services include:

4.30 (1) those licensed, as applicable, according to chapter 245G or applicable Tribal license
4.31 and provided according to the following ASAM levels of care:

- 5.1 (i) ASAM level 0.5 early intervention services provided according to section 254B.19,
5.2 subdivision 1, clause (1);
- 5.3 (ii) ASAM level 1.0 outpatient services provided according to section 254B.19,
5.4 subdivision 1, clause (2);
- 5.5 (iii) ASAM level 2.1 intensive outpatient services provided according to section 254B.19,
5.6 subdivision 1, clause (3);
- 5.7 (iv) ASAM level 2.5 partial hospitalization services provided according to section
5.8 254B.19, subdivision 1, clause (4);
- 5.9 (v) ASAM level 3.1 clinically managed low-intensity residential services provided
5.10 according to section 254B.19, subdivision 1, clause (5);
- 5.11 (vi) ASAM level 3.3 clinically managed population-specific high-intensity residential
5.12 services provided according to section 254B.19, subdivision 1, clause (6); and
- 5.13 (vii) ASAM level 3.5 clinically managed high-intensity residential services provided
5.14 according to section 254B.19, subdivision 1, clause (7);
- 5.15 (2) comprehensive assessments provided according to sections 245.4863, paragraph (a),
5.16 and 245G.05;
- 5.17 (3) treatment coordination services provided according to section 245G.07, subdivision
5.18 1, paragraph (a), clause (5);
- 5.19 (4) peer recovery support services provided according to section 245G.07, subdivision
5.20 2, clause (8);
- 5.21 (5) withdrawal management services provided according to chapter 245F;
- 5.22 (6) hospital-based treatment services that are licensed according to sections 245G.01 to
5.23 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to
5.24 144.56;
- 5.25 (7) adolescent treatment programs that are licensed as outpatient treatment programs
5.26 according to sections 245G.01 to 245G.18 or as residential treatment programs according
5.27 to Minnesota Rules, parts 2960.0010 to 2960.0220, and 2960.0430 to 2960.0490, or
5.28 applicable tribal license;
- 5.29 (8) ASAM 3.5 clinically managed high-intensity residential services that are licensed
5.30 according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license, which
5.31 provide ASAM level of care 3.5 according to section 254B.19, subdivision 1, clause (7),
5.32 and are provided by a state-operated vendor or to clients who have been civilly committed

6.1 to the commissioner, present the most complex and difficult care needs, and are a potential
6.2 threat to the community; and

6.3 (9) room and board facilities that meet the requirements of subdivision 1a.

6.4 (c) The commissioner shall establish higher rates for programs that meet the requirements
6.5 of paragraph (b) and one of the following additional requirements:

6.6 (1) programs that serve parents with their children if the program:

6.7 (i) provides on-site child care during the hours of treatment activity that:

6.8 (A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter
6.9 9503; or

6.10 (B) is licensed under chapter 245A and sections 245G.01 to 245G.19; or

6.11 (ii) arranges for off-site child care during hours of treatment activity at a facility that is
6.12 licensed under chapter 245A as:

6.13 (A) a child care center under Minnesota Rules, chapter 9503; or

6.14 (B) a family child care home under Minnesota Rules, chapter 9502;

6.15 (2) culturally specific or culturally responsive programs as defined in section 254B.01,
6.16 subdivision 4a;

6.17 (3) disability responsive programs as defined in section 254B.01, subdivision 4b;

6.18 (4) programs that offer medical services delivered by appropriately credentialed health
6.19 care staff in an amount equal to ~~two hours~~ one hour per client per week if the medical needs
6.20 of the client and the nature and provision of any medical services provided are documented
6.21 in the client file; or

6.22 (5) programs that offer services to individuals with co-occurring mental health and
6.23 substance use disorder problems if:

6.24 (i) the program meets the co-occurring requirements in section 245G.20;

6.25 (ii) ~~25 percent of the counseling staff are licensed mental health professionals under~~
6.26 ~~section 245I.04, subdivision 2, or are students or licensing candidates under the supervision~~
6.27 ~~of a licensed alcohol and drug counselor supervisor and mental health professional under~~
6.28 ~~section 245I.04, subdivision 2, except that no more than 50 percent of the mental health~~
6.29 ~~staff may be students or licensing candidates with time documented to be directly related~~
6.30 ~~to provisions of co-occurring services~~ the program employs a mental health professional as
6.31 defined in section 245I.04, subdivision 2;

7.1 (iii) clients scoring positive on a standardized mental health screen receive a mental
7.2 health diagnostic assessment within ten days of admission;

7.3 (iv) the program has standards for multidisciplinary case review that include a monthly
7.4 review for each client that, at a minimum, includes a licensed mental health professional
7.5 and licensed alcohol and drug counselor, and their involvement in the review is documented;

7.6 (v) family education is offered that addresses mental health and substance use disorder
7.7 and the interaction between the two; and

7.8 (vi) co-occurring counseling staff shall receive eight hours of co-occurring disorder
7.9 training annually.

7.10 (d) In order to be eligible for a higher rate under paragraph (c), clause (1), a program
7.11 that provides arrangements for off-site child care must maintain current documentation at
7.12 the substance use disorder facility of the child care provider's current licensure to provide
7.13 child care services.

7.14 (e) Adolescent residential programs that meet the requirements of Minnesota Rules,
7.15 parts 2960.0430 to 2960.0490 and 2960.0580 to 2960.0690, are exempt from the requirements
7.16 in paragraph (c), clause (4), items (i) to (iv).

7.17 (f) Subject to federal approval, substance use disorder services that are otherwise covered
7.18 as direct face-to-face services may be provided via telehealth as defined in section 256B.0625,
7.19 subdivision 3b. The use of telehealth to deliver services must be medically appropriate to
7.20 the condition and needs of the person being served. Reimbursement shall be at the same
7.21 rates and under the same conditions that would otherwise apply to direct face-to-face services.

7.22 (g) For the purpose of reimbursement under this section, substance use disorder treatment
7.23 services provided in a group setting without a group participant maximum or maximum
7.24 client to staff ratio under chapter 245G shall not exceed a client to staff ratio of 48 to one.
7.25 At least one of the attending staff must meet the qualifications as established under this
7.26 chapter for the type of treatment service provided. A recovery peer may not be included as
7.27 part of the staff ratio.

7.28 (h) Payment for outpatient substance use disorder services that are licensed according
7.29 to sections 245G.01 to 245G.17 is limited to six hours per day or 30 hours per week unless
7.30 prior authorization of a greater number of hours is obtained from the commissioner.

7.31 (i) Payment for substance use disorder services under this section must start from the
7.32 day of service initiation, when the comprehensive assessment is completed within the
7.33 required timelines.

8.1 (j) A license holder that is unable to provide all residential treatment services because
8.2 a client missed services remains eligible to bill for the client's intensity level of services
8.3 under this paragraph if the license holder can document the reason the client missed services
8.4 and the interventions done to address the client's absence.

8.5 (k) Hours in a treatment week may be reduced in observance of federally recognized
8.6 holidays.

8.7 Sec. 6. Laws 2021, First Special Session chapter 7, article 11, section 38, as amended by
8.8 Laws 2022, chapter 98, article 4, section 50, is amended to read:

8.9 **Sec. 38. DIRECTION TO THE COMMISSIONER; SUBSTANCE USE DISORDER**
8.10 **TREATMENT PAPERWORK REDUCTION.**

8.11 (a) The commissioner of human services, in consultation with counties, tribes, managed
8.12 care organizations, substance use disorder treatment professional associations, and other
8.13 relevant stakeholders, shall develop, assess, and recommend systems improvements to
8.14 minimize regulatory paperwork and improve systems for substance use disorder programs
8.15 licensed under Minnesota Statutes, chapter 245A, and regulated under Minnesota Statutes,
8.16 chapters 245F and 245G, and Minnesota Rules, chapters 2960 and 9530. The commissioner
8.17 of human services shall make available any resources needed from other divisions within
8.18 the department to implement systems improvements.

8.19 (b) The commissioner of health shall make available needed information and resources
8.20 from the Division of Health Policy.

8.21 (c) The Office of MN.IT Services shall provide advance consultation and implementation
8.22 of the changes needed in data systems.

8.23 (d) The commissioner of human services shall contract with a vendor that has experience
8.24 with developing statewide system changes for multiple states at the payer and provider
8.25 levels. If the commissioner, after exercising reasonable diligence, is unable to secure a
8.26 vendor with the requisite qualifications, the commissioner may select the best qualified
8.27 vendor available. When developing recommendations, the commissioner shall consider
8.28 input from all stakeholders. The commissioner's recommendations shall maximize benefits
8.29 for clients and utility for providers, regulatory agencies, and payers.

8.30 (e) The commissioner of human services and the contracted vendor shall follow the
8.31 recommendations from the report issued in response to Laws 2019, First Special Session
8.32 chapter 9, article 6, section 76.

9.1 (f) ~~Within two years of contracting with a qualified vendor according to paragraph (d)~~
9.2 By December 15, 2024, the commissioner of human services shall take steps to implement
9.3 paperwork reductions and systems improvements within the commissioner's authority and
9.4 submit to the chairs and ranking minority members of the legislative committees with
9.5 jurisdiction over health and human services a report that includes recommendations for
9.6 changes in statutes that would further enhance systems improvements to reduce paperwork.
9.7 The report shall include a summary of the approaches developed and assessed by the
9.8 commissioner of human services and stakeholders and the results of any assessments
9.9 conducted.