

Dazed and Confused

Twenty three most cited violations
in Rule 31 programs
MARRCH Fall Conference 2009

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It's getting better.....

Rule 31 Top 20 Citations - CY2007				Rule 31 Top 20 Citations - CY2008			
Statute/Rule/Part	Subd/Part	Times Cited		Statute/Rule/Part	Subd/Part	Times Cited	
245A.04	Subd 1.(c)	90		245A.19	(d)	49	
9530.6470	Subp.1	86		9530.6460	Subp.2.C	48	
245A.19	(d)	79		9530.6425	Subp.1	47	
9530.6465	Subp.1	79		245A.04	Subd 1.(c)	42	
9530.6425	Subp.1	78		9530.6470	Subp.1	41	
9530.6460	Subp.1.G	74		9530.6422	Subp.1.C	40	
9530.6440	Subp.1	69		9530.6420	ALL	38	
9530.6420	ALL	67		9530.6425	Subp.3.B.(3)	38	
9530.6435	Subp.2	59		245A.65	Subd.3	37	
9530.6460	Subp.1.A	58		9530.6425	Subp.2.B	36	
628.5563	Subd.2	53		9530.6425	Subp.3.B.(2)	35	
9530.6460	Subp.2.C	53		9530.6425	Subp.3.A.(2)	35	
245A.65	Subd.3	53		9530.6425	Subp.2.A	34	
9530.6422	Subp.1.A	52		9530.6422	Subp.1.A	33	
9530.6460	Subp.1.D	52		9530.6460	Subp.1.C	31	
9530.6425	Subp.3.B.(3)	51		628.556	ALL	30	
9530.6425	Subp.2.B	50		9530.6422	Subp.1.E	29	
9530.6440	Subp.3.A	50		9530.6460	Subp.1.C	29	
9530.6445	Subp.2	50		628.5561	ALL	29	
9530.6425	Subp.4.A.(1)	50		9530.6465	Subp.1	29	
				245A.19	(d)	29	
				9530.6465	Subp.3.C	29	
				9530.6422	Subp.1.L	29	

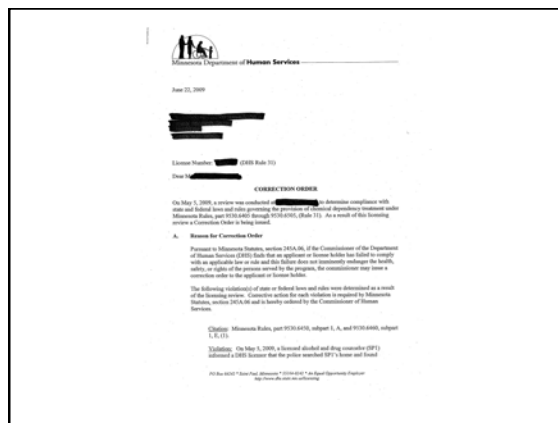
We are here to:

- Identify the most common citations in Rule 31 programs in MN in 2008
- Take proactive action to avoid them at your facility
- Understand the process of licensing, TA and Correction Orders

Bi-annual licensing surveys



- 9530.6405 DEFINITIONS.
- 9530.6410 APPLICABILITY.
- 9530.6415 LICENSING REQUIREMENTS.
- 9530.6420 INITIAL SERVICES PLAN.
- 9530.6422 COMPREHENSIVE ASSESSMENT.
- 9530.6425 INDIVIDUAL TREATMENT PLANS.
- 9530.6430 TREATMENT SERVICES.
- 9530.6435 MEDICAL SERVICES.
- 9530.6440 CLIENT RECORDS.
- 9530.6445 STAFFING REQUIREMENTS.
- 9530.6450 STAFF QUALIFICATIONS.
- 9530.6455 PROVIDER POLICIES AND PROCEDURES.
- 9530.6460 PERSONNEL POLICIES AND PROCEDURES.
- 9530.6465 SERVICE INITIATION AND TERMINATION POLICIES.
- 9530.6470 POLICIES AND PROCEDURES THAT PROTECT CLIENT RIGHTS.
- 9530.6475 BEHAVIORAL EMERGENCY PROCEDURES.
- 9530.6480 EVALUATION.
- 9530.6485 LICENSE HOLDERS SERVING ADOLESCENTS.
- 9530.6490 LICENSE HOLDERS SERVING CLIENTS WITH CHILDREN.
- 9530.6495 LICENSE HOLDERS SERVING PERSONS WITH SUBSTANCE ABUSE AND MENTAL HEALTH DISORDERS.
- 9530.6500 METHADONE PROGRAMS SERVING INTRAVENOUS DRUG ABUSERS.
- 9530.6505 REQUIREMENTS FOR LICENSED RESIDENTIAL TREATMENT



#23: 9530.6422, Subp. 1,L (29)

- L. risk-taking behavior, including behavior that puts the client at risk of exposure to blood borne or sexually transmitted diseases;

#22: 9530.6465 Subp. 3,C (29)

- C. procedures consistent with Minnesota Statutes, section 253B.16, subdivision 2, that staff must follow when a client admitted under Minnesota Statutes, chapter 253B, is to have services terminated;

#21: 245A.19 (d) (29)

- (d) Written policies and proceedings, consistent with HIV minimum standards, shall be developed and followed by the license holder. All policies and proceedings HIV minimum standards shall be approved by the commissioner. The commissioner shall provide training on HIV minimum standards to applicants.

#20: 9530.6465, Subp. 1 (29)

- Subpart 1. **Service initiation policy.** A license holder must have a written service initiation policy containing service initiation preferences which comply with this rule and Code of Federal Regulations, title 45, part 96.131, and specific service initiation criteria. The license holder must not initiate services for individuals who do not meet the service initiation criteria. The service initiation criteria must be either posted in the area of the facility where services for clients are initiated, or given to all interested persons upon request. Titles of all staff members authorized to initiate services for clients must be listed in the services initiation and termination policies. A license holder that serves intravenous drug abusers must have a written policy that provides service initiation preference as required by Code of Federal Regulations, title 45, part 96.131.

#19: 626.5561 ALL (29)

- **Subdivision 1. Reports required.**
- *A person mandated to report under section 626.556, subdivision 3, shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive. Any person may make a voluntary report if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive. An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the local welfare agency. Any report shall be of sufficient content to identify the pregnant woman, the nature and extent of the use, if known, and the name and address of the reporter.*

#19: 626.5561 ALL (29)

- **Subd. 2. Local welfare agency.**
- *Upon receipt of a report required under subdivision 1, the local welfare agency shall immediately conduct an appropriate assessment and offer services indicated under the circumstances. Services offered may include, but are not limited to, a referral for chemical dependency assessment, a referral for chemical dependency treatment if recommended, and a referral for prenatal care. The local welfare agency may also take any appropriate action under chapter 253B, including seeking an emergency admission under section 253B.05. The local welfare agency shall seek an emergency admission under section 253B.05 if the pregnant woman refuses recommended voluntary services or fails recommended treatment.*

#19: 626.5561 ALL (29)

- **Subd. 3. Related provisions.**
- *Reports under this section are governed by section 626.556, subdivisions 4, 4a, 5, 6, 8, and 11.*
- **Subd. 4. Controlled substances.**
- *For purposes of this section and section 626.5562, "controlled substance" means a controlled substance listed in section 253B.02, subdivision 2.*
- **Subd. 5. Immunity.**
- *(a) A person making a voluntary or mandated report under subdivision 1 or assisting in an assessment under subdivision 2 is immune from any civil or criminal liability that otherwise might result from the person's actions, if the person is acting in good faith.*
- *(b) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.*

#18: 9530.6460, Subp 1, C (29)

- C. provide for job performance evaluations based on standards of job performance to be conducted on a regular and continuing basis, including a written annual review;

#17: 9530.6422, Subp 1, E (29)

- E. specific problem behaviors exhibited by the client when under the influence of chemicals;

#16: 626.556 ALL (30)

- Highlights of this Statute: WHO MUST REPORT;
- **Subd. 3. Persons mandated to report.**
- *(a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person is:*

#16: 626.556 ALL (30)

- Highlights of this Statute: WHEN TO REPORT;

#16: 626.556 ALL (30)

- Highlights of this Statute: REQUIRED INFORMATION OF REPORT;
- **Subd. 7.Report.**
- *An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate police department, the county sheriff, the agency responsible for assessing or investigating the report, or the local welfare agency, unless the appropriate agency has informed the reporter that the oral information does not constitute a report under subdivision 10. The local welfare agency shall determine if the report is accepted for an assessment or investigation as soon as possible but in no event longer than 24 hours after the report is received. Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter. If requested, the local welfare agency or the agency responsible for assessing or investigating the report shall inform the reporter within ten days after the report is made, either orally or in writing, whether the report was accepted for assessment or investigation. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency or the agency responsible for assessing or investigating the report. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department or the agency responsible for assessing or investigating the report shall be forwarded immediately to the local police department or the county sheriff.*
- *A written copy of a report maintained by personnel of agencies, other than welfare or law enforcement agencies, which are subject to chapter 13 shall be confidential. An individual subject of the report may obtain access to the original report as provided by subdivision 11.*

#16: 626.556 ALL (30)

- Highlights of this Statute: WHO HAS INVESTIGATIVE AUTHORITY;
- Subd 10; (c) Authority of the local welfare agency responsible for assessing or investigating the child abuse or neglect report, the agency responsible for assessing or investigating the report, and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender.

#16: 626.556 ALL (30)

- **Subd. 3c.Local welfare agency, Department of Human Services or Department of Health responsible for assessing or investigating reports of maltreatment.**
- (a) *The county local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, and legally unlicensed child care and in juvenile correctional facilities licensed under section 241.021 located in the local welfare agency's county.*
- (b) *The Department of Human Services is the agency responsible for assessing or investigating allegations of maltreatment in facilities licensed under chapters 245A and 245B, except for child foster care and family child care.*
- (c) *The Department of Health is the agency responsible for assessing or investigating allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58, and in unlicensed home health care.*
- (d) *The commissioners of human services, public safety, and education must jointly submit a written report by January 15, 2007, to the education policy and finance committees of the legislature recommending the most efficient and effective allocation of agency responsibility for assessing or investigating reports of maltreatment and must specifically address allegations of maltreatment that currently are not the responsibility of a designated agency.*

#15: 9530.6460 Subp. 1,G (31)

- G. include orientation within 24 working hours of starting for all new staff based on a written plan that, at a minimum, must provide for training related to the specific job functions for which the staff member was hired, policies and procedures, client confidentiality, the human immunodeficiency virus minimum standards, and client needs; and

#14: 9530.6422, Subp. 1,A (33)

- A. age, sex, cultural background, sexual orientation, living situation, economic status, and level of education;

#13: 9530.6425 Subp 2,A (34)

- A. specific methods to be used to address identified problems, including amount, frequency, and anticipated duration of treatment service. The methods must be appropriate to the client's language, reading skills, cultural background, and strengths;

#12: 9530.6425 Subp. 3, A, (2) (35)

- (2) indicate the type and amount of each treatment service the client has received;

#11: 9530.6425, Subp. 3,B, (2) (35)

- (2) address each goal in the treatment plan that has been worked on since the last review;

#10: 9530.6425 Subp. 2,B (36)

- B. resources to which the client is being referred for problems when problems are to be addressed concurrently by another provider; and

#9: 245A.65 Subp 3 (37)

- **Subd. 3.Orientation of mandated reporters.**
- *The license holder shall ensure that each new mandated reporter, as defined in section 626.5572, subdivision 16, who is under the control of the license holder, receives an orientation within 72 hours of first providing direct contact services as defined in section 245C.02, subdivision 11, to a vulnerable adult and annually thereafter. The orientation and annual review shall inform the mandated reporters of the reporting requirements and definitions in sections 626.557 and 626.5572, the requirements of this section, the license holder's program abuse prevention plan, and all internal policies and procedures related to the prevention and reporting of maltreatment of individuals receiving services.*

#8: 9530.6425 Subp 3,B,(3) (38)

- (3) address whether the strategies to address the goals are effective, and if not, must include changes to the treatment plan; and

#7: 9530.6420 ALL (38)

- **9530.6420 INITIAL SERVICES PLAN.**
- The license holder must complete an initial services plan during or immediately following the intake interview. The plan must address the client's immediate health and safety concerns, identify the issues to be addressed in the first treatment sessions, and make treatment suggestions for the client during the time between intake and completion of the treatment plan. The initial services plan must include a determination whether a client is a vulnerable adult as defined in Minnesota Statutes, section 626.5572, subdivision 21. All adult clients of a residential program are vulnerable adults. An individual abuse prevention plan, according to Minnesota Statutes, sections 245A.65, subdivision 2, paragraph (b), and 626.557, subdivision 14, paragraph (b), is required for all clients who meet the definition of "vulnerable adult."

#6: 9530.6422 Subp. 1,C (40)

- C. previous attempts at treatment for chemical use or dependency, compulsive gambling, or mental illness;

#5: 9530.6470 Subp 1 (41)

- Subpart 1. **Client rights; explanation.** Clients have the rights identified in part 4747.1500 and Minnesota Statutes, sections 144.651 and 253B.03, as applicable. The license holder must give each client upon service initiation a written statement of client's rights and responsibilities. Staff must review the statement with clients at that time.

#4: 245A.04 Subd 1, (c) (42)

- *(c) An applicant or license holder must have a policy that prohibits license holders, employees, subcontractors, and volunteers, when directly responsible for persons served by the program, from abusing prescription medication or being in any manner under the influence of a chemical that impairs the individual's ability to provide services or care. The license holder must train employees, subcontractors, and volunteers about the program's drug and alcohol policy.*

#3: 9530.6425 Subp. 1 (47)

- Subpart 1. **General.** Individual treatment plans for clients in treatment must be completed within seven calendar days of completion of the assessment summary. Treatment plans must continually be updated, based on new information gathered about the client's condition and on whether planned treatment interventions have had the intended effect. Treatment planning must include ongoing assessment in each of the six dimensions according to part 9530.6422, subpart 2. The plan must provide for the involvement of the client's family and those people selected by the client as being important to the success of the treatment experience at the earliest opportunity, consistent with the client's treatment needs and written consent. The plan must be developed after completion of the comprehensive assessment and is subject to amendment until services to the client are terminated. The client must have an opportunity to have active, direct involvement in selecting the anticipated outcomes of the treatment process and in developing the individual treatment plan. The individual treatment plan must be signed by the client and the alcohol and drug counselor. The individual treatment plan may be a continuation of the initial services plan required in part 9530.6420.

#2 : 9530.6460 Subp 2,C (48)

- C. All staff with direct client contact must be trained every year on mandatory reporting as specified under Minnesota Statutes, sections 245A.65, 626.556, 626.5561, 626.5563, 626.557, and 626.5572, including specific training covering the facility's policies concerning obtaining client releases of information.

#1 : 245A.19 (a) (49)

- a) Applicants and license holders for chemical dependency residential and nonresidential programs must demonstrate compliance with HIV minimum standard prior to their application being complete. The HIV minimum standards contained in the HIV-1 Guidelines for chemical dependency treatment and care programs in Minnesota are not subject to rulemaking.

Right to Request Reconsideration

B. Right to Request Reconsideration

If you believe any of the citations are in error, you have the right to request that the Commissioner of Human Services to reconsider the parts of the correction order that you believe to be in error. The request for reconsideration must be in writing and received by the Commissioner within 20 calendar days after receipt of this report. Your request for reconsideration must be sent to:

Commissioner, Department of Human Services
ATTN: Legal Unit
Licensing Division

PO Box 64242
St. Paul, MN 55164-0242

Please note that a request for reconsideration does not stay any provisions or requirements of the correction order. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under Minnesota Statutes, chapter 14.

If you have any questions regarding this correction order, please contact me as soon as possible.

Nancy Charlebois, Human Services Licensor
Minnesota Department of Human Services
Division of Licensing
651-215-6371

