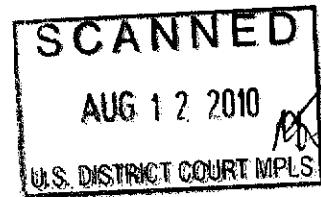


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**Modifications to the Minnesota Sex Offender Program's ("MSOP")  
Administrative Restriction Status Policy**

The Minnesota Department of Human Services ("Department") and the Minnesota Sex Offender Program ("MSOP") shall incorporate the following terms and conditions into its Administrative Restriction (AR) policy:

- A. "Administrative Restriction" has the meaning set forth in Minn. Stat. § 253B.02, subd. 24. Clients shall continue have the rights related to Administrative Restriction under Minn. Stat. § 253B.03, which MSOP will continue to follow. Minnesota Statute 253B.03, subd. 1a(a) states: "A patient has the right to be free from unnecessary or excessive administrative restriction. Administrative restriction shall not be used for the convenience of staff, for retaliation for filing complaints, or as a substitute for program treatment. Administrative restriction may not involve any further deprivation of privileges than is necessary."
- B. Clinically appropriate treatment shall continue to be available during Administrative Restriction Status to the extent that the client's behavior and cooperation make treatment possible. To the extent that appropriate treatment is not possible, the reasons treatment is not possible will be documented in the client's treatment record. Those reasons will be reviewed during the weekly review as provided in Paragraph M.
- C. A client placed on Administrative Restriction Status shall be notified in writing of the reason(s) for the client's Administrative Restriction Status and the measures imposed as soon as possible but no later than twenty-four (24) hours of the client's placement. This notice shall identify the staff member who requested Administrative Restriction Status and approved the decision to implement Administrative Restriction Status, including placement in the High Security Area (or the equivalent level of restriction in another area of the facility).
- D. A client placed on Administrative Restriction Status in the High Security Area (or the equivalent level of restriction in another area of the facility) shall be notified in writing of the criteria, including objective behavioral expectations, they must meet in order to be released from the High Security Area (or the equivalent level of restriction in another area of the facility). Those criteria will be reviewed and updated in the Client's Administrative Restriction Plan and shall be permanently maintained in the client's treatment records.
- E. MSOP will appoint an Officer who will be responsible for ensuring compliance with the Administrative Restriction Status Policy and the terms set forth herein. The Officer will report outside of the facility chain of command. The Officer shall be trained in MSOP's Administrative Restriction Status policy, the terms set forth herein, and applicable rules, statutes, and legal requirements.
- F. MSOP will assure that placement of a client in the High Security Area (or the equivalent level of restriction in another area of the facility) as a condition of an Administrative

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Restriction Plan shall occur only when: (1) such placement, in light of the particular facts and circumstances, is reasonably necessary to maintain safety and security, as defined in Minn. Stat. 253B.02, subs. 25 and 26; (2) lesser restrictions are considered and found to be insufficient to maintain safety and security; and (3) such placement is for nonpunitive purposes. MSOP will further assure that such placement shall terminate immediately when such placement is not reasonably necessary to maintain safety and security, as defined in Minn. Stat. 253B.02, subs. 25 and 26. A client on Administrative Restriction Status in the High Security Area (or the equivalent level of restriction in another area of the facility) will be notified in writing of his or her right to request review by the Administrative Restriction Review Panel.

- G. MSOP shall establish an Administrative Restriction Review Panel (“Review Panel”) to review Administrative Restriction placements in the High Security Area (or the equivalent level of restriction in another area of the facility).
- H. The Review Panel shall consist of three persons, who were not participants in the decision to impose Administrative Restriction Status, who are not members of the client’s treatment team, and whose professional experience and training qualify them to assess the situation.
- I. As soon as possible, but no later than two (2) business days after a client is placed on Administrative Restriction Status in the High Security Area (or the equivalent level of restriction in another area of the facility) the Review Panel shall automatically meet and review the client’s status and determine whether to continue or to terminate the client’s placement in the High Security Area (or the equivalent level of restriction in another area of the facility). The panel’s determination shall be based upon whether: (1) such placement is reasonably necessary to maintain safety and security, as defined in Minn. Stat. 253B.02, subs. 25 and 26; (2) lesser restrictions are considered and found to be insufficient to maintain safety and security; and, (3) such placement is for nonpunitive purposes.
- J. The client shall have the opportunity to present to the Review Panel evidence and argument in person to explain why the Administrative Restriction Status in the High Security Area (or the equivalent level of restriction in another area of the facility) is unwarranted. The Review Panel shall consider all available and relevant information, including whether client has complied with the terms of the client’s Administrative Restriction Plan. The Review Panel may reasonably limit the form and manner by which the evidence and argument are presented as necessary to ensure the physical safety of the review participants, other MSOP staff, clients, or the public.
- K. The Review Panel’s decision shall be documented in writing and it shall be binding on MSOP. If the Review Panel decides that High Security Area (or the equivalent level of restriction in another area of the facility) is warranted and should continue, the Review Panel’s decision shall make the determinations provided in Paragraph I. If the Review Panel decides that High Security Area (or the equivalent level of restriction in another area of the facility) is unwarranted and should terminate, such placement shall terminate

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immediately. The Review Panel's decision shall be provided to the client and permanently maintained in the client's treatment record.

- L. The client may appeal the Review Panel's decision to the MSOP Deputy Director. The Deputy Director's written decision shall be provided to the client and permanently maintained in the client's treatment record. The Deputy Director's decision is final and cannot be appealed.
- M. The Facility Director shall conduct a paper review of all clients remaining on Administrative Restriction Status in the High Security Area (or the equivalent level of restriction in another area of the facility) at least weekly and shall follow the terms provided in Paragraph K. The Facility Director shall consider all available and relevant information, including whether client has complied with the terms of the client's Administrative Restriction Plan.
- N. A client who remains on Administrative Restriction Status in the High Security Area (or the equivalent level of restriction in another area of the facility) may request a hearing from the Review Panel once every 14 days. For each such hearing, the terms in Paragraphs I-L will be followed.
- O. Nothing herein precludes a client's right to appear before the Hospital Review Board (HRB) as provided under *Hince v. O'Keefe*, 632 N.W.2d 577 (Minn. 2001).
  - 1. Upon placement on Administrative Restriction Status in the High Security Area (or the equivalent level of restriction in another area of the facility), a client will be notified in writing of their right to request a hearing with the HRB.
  - 2. MSOP will continue to make staff aware that a client request to appear before the HRB may be made either in writing or orally. Staff will be reminded of the steps to take upon receipt of a written or oral client request to appear before the HRB.
  - 3. The Commissioner of Human Services will make the following recommendations to the chair of the MSOP HRB:
    - a. to prioritize the hearing of clients when there is indication that the client's request to appear before the HRB is related to the client's placement in the High Security Area (or the equivalent level of restriction in another area of the facility);
    - b. to allow clients whose appearance is related to such placement sufficient time during their appearance before the HRB to fully present their request; and,

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- c. to issue a written recommendation, if any, regarding such placements as soon as is feasible, preferably within 30 days of the hearing.
  4. The Commissioner of Human Services shall send to Plaintiff's counsel copies of his written recommendations to the chair of the MSOP HRB pursuant to paragraph number O(3) and any responses thereto.
  5. MSOP will respond in writing to the HRB's recommendations that relate to such placements as soon as is feasible, but no later than 30 days after receipt of the written recommendation.
  6. MSOP will develop an HRB Policy for clients to reference.
  7. MSOP will also revise its HRB handout as necessary to address all changes implemented by the HRB based on the recommendations of the Commissioner of Human Services made pursuant to paragraph number O(3), including but not limited to changes concerning the timeframe in which the HRB shall issue recommendations to MSOP, the timeframe in which MSOP shall respond to HRB recommendations, and the time limitations placed on clients who appear before the HRB.
  8. MSOP will further revise its HRB handout to remove any language suggesting that it is inappropriate for clients to present concerns related to constitutional rights or other legal matters to the HRB, except for issues related to the commitment process or the provisional discharge of clients.
- P. MSOP will develop a policy that describes the privileges and possessions, which may be modified by MSOP as necessary, that are available to clients who are placed in the High Security Area (or the equivalent level of restriction in another area of the facility). MSOP will provide a written copy of that list to all clients on such placement. That policy will substantially incorporate the following terms:
1. A client placed on Administrative Restriction Status in the High Security Area (or the equivalent level of restriction in another area of the facility) shall be notified in writing of the criteria they must meet in order to be released from the High Security Area (or the equivalent level of restriction in another area of the facility). Those criteria will be reviewed and updated in the Client's Administrative Restriction Plan.
  2. All clients placed in the High Security Area (or the equivalent level of restriction in another area of the facility) shall be informed in writing of their right to request a hearing with either the Protective Isolation Review Panel or the Administrative Restriction Hearing Panel, as appropriate based on the client's status, at the time they are placed in the High Security Area (or the equivalent level of restriction in another area of the facility).

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3. Upon placement in the High Security Area (or the equivalent level of restriction in another area of the facility) each client shall be informed in writing of their right to appear before the Hospital Review Board (“HRB”)
4. The client’s primary therapist or another member of the client’s treatment team will meet with each client in the High Security Area (or the equivalent level of restriction in another area of the facility) at least once per week to address the client’s overall treatment needs. The clinical staff shall document, in writing, each meeting and any concerns raised by the client in the client’s treatment record. They will also document any refusal of the client to meet with clinical staff. The clinician shall make referrals, as appropriate, for the client to be seen by a psychologist or psychiatrist.
5. Clients in the High Security Area (or the equivalent level of restriction in another area of the facility) shall be allowed one (1) hour outside of their room every 24 hours for showers, fresh air, exercise and hygiene unless their behavior is threatening or out of control. When a client is not in control for their one-hour break, staff must document the client’s out-of-control behavior in his or her treatment record. If a client refuses his or her one-hour break, staff must document the client’s decision in his or her treatment record.
6. All clients placed in the High Security Area (or the equivalent level of restriction in another area of the facility) shall be offered three (3) meals per day regardless of their behavior. If a client refuses a meal, staff must document the client’s decision in his or her treatment records.
7. All clients placed in the High Security Area (or the equivalent level of restriction in another area of the facility) shall receive, upon written request, one clean set of clothing for each day they remain in the High Security Area (or the equivalent level of restriction in another area of the facility) regardless of their behavior. If the client refuses to accept a clean set of clothing, staff must document the client’s decision in his or her treatment records.
8. All clients placed in the High Security Area (or the equivalent level of restriction in another area of the facility) shall receive a clean set of bedding materials (*i.e.*, bed sheets, a blanket, and a pillow cover) for every week the client remains in the High Security Area (or the equivalent level of restriction in another area of the facility) regardless of their behavior. If the client refuses to accept a clean set of bedding materials, staff must document the client’s decision in his or her treatment record.
9. All clients placed in the High Security Area (or the equivalent level of restriction in another area of the facility) shall be provided with toilet paper, as needed, regardless of their behavior. MSOP staff may only deny requests for toilet paper that are unreasonable or excessive. If a client’s request for toilet paper is denied, MSOP staff shall document the reason(s) why the request was denied in the client’s treatment record.

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10. For every 30 continuous days that a client spends in the High Security Area (or the equivalent level of restriction in another area of the facility), the client shall have the opportunity to spend one hour outdoors for exercise and fresh air. The client may only exercise the opportunity to spend one hour outdoors after maintaining calm, controlled behavior for 24 hours.
11. For every 30 continuous days that a client spends in the High Security Area (or the equivalent level of restriction in another area of the facility), the client shall be entitled to spend one hour in the gymnasium. The client may only exercise the opportunity to spend one hour in the gymnasium after maintaining calm, controlled behavior for 24 hours.
12. Clients in the High Security Area will be provided with a list of available books from the library and/or provided a selection of books or magazines from which they can choose reading material.
13. A client shall be entitled to request to use a hand broom, dustpan and any other reasonably necessary cleaning supplies to clean the client's room. The client may only exercise the opportunity to clean his or her room in the High Security Area (or the equivalent level of restriction in another area of the facility) after maintaining calm, controlled behavior for 24 hours. If a client remains in the high security area for 30 continuous days, MSOP will ensure the client's room is mopped.
14. This policy establishes the minimally acceptable conditions of confinement for clients placed in the High Security Area (or the equivalent level of restriction in another area of the facility) at MSOP. MSOP staff may, in their discretion, provide greater opportunities and privileges to clients in the High Security Area (or the equivalent level of restriction in another area of the facility) on an individualized basis.