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CHAPTER 9525 DEPARTMENT OF HUMAN SERVICES PROGRAMS FOR THE MENTALLY RETARDED

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COUNTY BOARD OR HUMAN SERVICE BOARD RESPONSIBILITIES TO MENTALLY RETARDED PERSONS

9525.0010 DEFINITIONS.

Subpart 1. **Case management.** "Case management" means the provision of direct services to and with the involvement of the client, which includes diagnosis, assessment of client needs and development of an individual service plan, implementation of the individual service plan, evaluation and payment for services when the individual, or parent of a child under 18 years of age, is unable or not required to pay. When the client is a ward of the commissioner, the provisions of Minnesota Statutes, sections 252A.01 to 252A.21 are also applicable.

Subp. 2. **Client.** "Client" means a child or adult who is or may be mentally retarded and in need of services as provided in this rule.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services and includes any duly authorized representative of the commissioner.

Subp. 4. **Community mental health board.** "Community mental health board" means the local board established under Minnesota Statutes, section 245.66 and authorized by the county board to facilitate and implement mental

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retardation programs and services. If no such board is established by the county board, then the county board itself shall assume the responsibilities of a community mental health board.

Subp. 5. **Community social services.** "Community social services" means those services as authorized under Minnesota Statutes, section 256E.03, subdivision 2.

Subp. 6. **County board.** "County board" means that body of duly elected officials responsible for the governance of its county under the authority of Minnesota Statutes, sections 375.01 to 375.55. Where a human services board has been established under Minnesota Statutes, sections 402.02 to 402.10, it shall be considered to be the county board, for purposes of this rule.

Subp. 7. **Day facility.** "Day facility" means out-of-home setting licensed to provide training in self-care, remedial, developmental, or social skills, on a regular basis for periods of less than 24 hours per day.

Subp. 8. **Individual program plan.** "Individual program plan" means a detailed plan of the service provider setting forth both short-term and long-term goals with detailed methods for achieving movement toward the individual service plan of the local social service agency.

Subp. 9. **Individual service plan.** "Individual service plan" means an analysis by the local social service agency of services needed by the client, including identification of the type of residential placement, if needed, and the general type of program required by the client to meet the assessed needs within a specified period of time.

Subp. 10. **Local social service agency.** "Local social service agency" means a local agency designated and authorized by the county board or the human service board to be responsible for providing social services.

Subp. 11. **Mentally retarded person.** "A mentally retarded person" refers to any person who has been diagnosed as having significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior and manifested during the developmental period. Intellectual functioning shall be assessed by one or more of the professionally recognized standardized tests developed for that purpose. "Significantly subaverage" refers to performance which is approximately two or more standard deviations from the mean or average of the tests. Adaptive behavior shall be determined through the use of published scales, or by a combination of pertinent test data, professional observations, and the utilization of all available sources of information regarding the person's behavior which indicates the effectiveness or degree with which the individual meets the standards of personal independence and social responsibilities expected of his/her age and peer cultural group.

Subp. 12. **Need determination.** "Need determination" means the determination by the commissioner of need, location, and program of public and private residential and day care facilities and services for mentally retarded children and adults, Minnesota Statutes, section 252.28, subdivision 1.

Subp. 13. **Person who may be mentally retarded.** "Person who may be mentally retarded" means:

A. a child under 18 years of age whose behavior demonstrates significant deficits in adaptive behavior concurrently with subaverage intellectual functioning, who is in the process of diagnosis, or for various reasons, a diagnosis of whom cannot be determined or for who a diagnosis may not be advisable because of age; or

B. an adult 18 years of age or older who has not been diagnosed as mentally retarded during the developmental period of his/her life, and who, for reasons of accident or physical trauma (excluding such conditions as mental illness, chemical abuse, senility, and debilitating diseases such as muscular dystrophy and multiple sclerosis), has been diagnosed as having significantly subaverage intellectual functioning existing concurrently with demonstrated

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deficits in adaptive behavior such as to require supervision and protection for his welfare.

Subp. 14. **Program.** "Program" means a formal continuum of care that is a culturally relevant and coordinated combination of services, with clear goals and measurable objectives. A program is directed toward meeting the needs of one specified disability group and the individuals within that group, allowing for ready movement of clients among appropriate services.

Subp. 15. **Residential facility.** "Residential facility" means a setting out of the client's home licensed to provide care, food, lodging, and provide training in self-care, remedial, developmental, or social skills.

A. "Private facility" means profit and nonprofit licensed facilities for mentally retarded clients.

B. "Public facility" means licensed state hospitals (also known as institutions) for mentally retarded clients.

Subp. 16. **Service.** "Service" means a specific, identifiable, goal-related activity designed to carry out a program.

Subp. 17. **State agency.** "State agency" means the Minnesota Department of Human Services.

Statutory Authority: *MS s 245.69 subd 1; 252.28; 252A.21 subd 2; 256E.05 subd 3; 393.07 subd 4*

History: *L 1984 c 654 art 5 s 58*

9525.0020 STATUTORY AUTHORITY.

Parts 9525.0020 to 9525.0100 are promulgated pursuant to Minnesota Statutes, sections 245.61 to 245.69, 245.781 to 245.812, 252.28, 252A.01 to 252A.21, 253A.01 to 253A.21, 256E.01 to 256E.12, and 393.07.

Statutory Authority: *MS s 245.69 subd 1; 252.28; 252A.21 subd 2; 256E.05 subd 3; 393.07 subd 4*

9525.0030 SCOPE.

Parts 9525.0020 to 9525.0100 govern the planning and provision of services to all individuals who are or may be mentally retarded. In addition, provisions of Minnesota Statutes, sections 252A.01 to 252A.21, Mental Retardation Protection Act, are applicable to those mentally retarded persons under guardianship or conservatorship of the commissioner. All financial resources available to agencies affected by these parts for the mentally retarded shall be expended in accordance with these parts. These parts shall not be construed as requiring expenditures of money that is not made available to the county board from all available resources for mental retardation services.

Statutory Authority: *MS s 245.69 subd 1; 252.28; 252A.21 subd 2; 256E.05 subd 3; 393.07 subd 4*

9525.0040 PURPOSE.

The purpose of parts 9525.0020 to 9525.0100 is to establish minimum service standards for county boards and human service boards in the provision of case management and the planning, coordination, and development of services for all individuals who are or may be mentally retarded.

Statutory Authority: *MS s 245.69 subd 1; 252.28; 252A.21 subd 2; 256E.05 subd 3; 393.07 subd 4*

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9525.0050 STANDARDS FOR SERVICES TO MENTALLY RETARDED PERSONS.

The following standards shall be applicable in the planning and provision of services to individuals who are mentally retarded:

A. To provide the client with a normal existence. If this is not possible, to provide the person with the alternative which is least restrictive. This includes making available to the client patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

B. To provide the client with an individual service plan which is designed to acquire new and progressively difficult skills. Such plan must take into consideration the presentation of learning and developmental experience appropriate to client adaptive behavior levels, physical condition, and degenerative status.

C. The individual service plan must be based on a comprehensive assessment of needs, and annual evaluations to determine appropriateness and effectiveness of the individual service plan.

(1) Providing assistance and appropriate support services to enable the client to live in the person's home.

(2) Providing a community-based private residential facility with appropriate services when the person must leave home for a specified purpose and period of time.

(3) Providing placement in a public residential facility when the person cannot be served at home or in the community for a specified purpose and period of time.

(4) When placement is made in a public residential facility because a vacancy in a community residential facility does not exist, the county planning body (part 9525.0070, subpart 3) shall be informed of such need.

Statutory Authority: *MS s 245.69 subd 1; 252.28; 252A.21 subd 2; 256E.05 subd 3; 393.07 subd 4*

9525.0060 CASE MANAGEMENT SERVICES.

Subpart 1. **In general.** Case management services: these responsibilities may be delegated to the local social service agency pursuant to Minnesota Statutes, section 256E.08, subdivisions 2 and 4. Since it is a universal practice for the county board to delegate these responsibilities to the local social service agency, this part will refer to "local social service agency" in place of "county board."

Subp. 2. **Diagnosis of mental retardation.** The local social service agency has the primary responsibility for ensuring prompt diagnosis of mental retardation, utilizing professionally qualified staff, and professional information and assistance from other sources, to secure diagnostic information.

The local social service agency shall determine whether the individual is or may be mentally retarded. Such determination may be appealed to the commissioner, pursuant to Minnesota Statutes, section 256.045 as a social service appeal.

The following is required for diagnosis of mental retardation:

A. determination of intellectual functioning through tests administered by a psychologist who is qualified in the diagnosis and treatment of mental retardation;

B. determination of adaptive behavior on the basis of available information regarding the person's everyday behavior;

C. medical examination prepared under the direction of a licensed physician including, but not limited to sight, hearing, seizure problems, and physical disabilities; and

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D. report by a social worker experienced in working with mentally retarded persons on the client's social history and adjustment.

Diagnostic review shall be completed when significant changes in behavior of functional levels occur, and at intervals not exceeding two years' duration. Exception to this requirement may be made when adults who have been in a service plan for a period of ten or more years, and the original diagnosis has been twice confirmed. In such cases if there has been no significant change in behavior or functional level, diagnostic review shall be completed at intervals not exceeding four years' duration.

Subp. 3. Assessment of client needs and development of individual service plan. The local social service agency shall assist any person needing help who is or may be mentally retarded by assessing that person's needs and subsequently planning to meet those needs with the cooperation and involvement of the client, parents, relatives, or guardian. The following information, in addition to the diagnostic information, shall be considered in determining the individual service plan. If any of this information does not exist, that fact shall be documented in the individual service plan: family history; medical, prenatal, and birth history; early development history; school reports indicating behavior and functional levels; psychiatric evaluation, if indicated by the other reports; vocational evaluation reports; or observations and interviews about family and the environment.

The local social service agency shall, in cooperation with the client and parents and/or guardian, develop an individual service plan which shall include:

A. The Minnesota developmental programming system, or other instrument of comparable validity and reliability, shall be used to provide a standardized behavioral assessment prior to development of an individual service plan.

B. Services to be provided shall be specifically individualized to meet the client's needs. Developmental achievement center services shall be provided when determined appropriate in the individual service plan.

C. Provision for implementation of the individual service plan and arrangement for appropriate services.

D. Provision for ensuring the delivery of service as provided in the individual service plan.

E. Evaluation, with the assistance of qualified individuals, of the client's progress as described in the client's individual service plan.

F. Payment for services when the eligible client or parent of a child-client under 18 years of age, is unable or not required to pay.

Subp. 4. Purpose of plan and placement. The individual service plan shall be designed to provide services to the client in the client's home, and to strengthen family relationships, capabilities, and responsibilities when placement in a day or residential facility is necessary. Such placement shall be made by the local social service agency in order to carry out the individual service plan.

Subp. 5. Responsibilities of local agency in placement. When placement in a day or residential facility is necessary, the local social service agency shall be responsible for planning with the client, the family or representative of the family, the residential or day facility resources, and the public school, if the client is of school age.

Arrangements for placement in a public or private day or residential facility shall be made by the local social service agency. When in the facility, the client continues to be the client of the local social service agency.

Subp. 6. Acceptance by facility. Acceptance by the public or private facility shall be based on the goals and objectives of the individual service plan of the local social service agency, as agreed upon with the client, parent, and/or guardian and as indicated by subsequent assessment and review. Acceptance

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shall constitute agreement that the public or private facility can carry out the goals and objectives of the individual service plan within a specified period of time.

Subp. 7. **Facility's development of service plan.** When a client is accepted in a day or residential facility, the facility staff shall be responsible, within 30 days of admission, for the development of an individual program plan based on the individual service plan of the local social service agency. The local social service agency shall participate in the development of the facility's individual program plan and take the lead in coordinating such planning when the client is receiving services from more than one provider.

Subp. 8. **Placement in licensed facilities.** Out-of-home placement of clients or persons in the process of diagnosis is restricted to facilities licensed under applicable state agency rules or their successor. Exception can be made in the case of certification of need for hospitalization or need for a skilled nursing facility for skilled nursing care on a 24-hour per day basis, or when the individual service plan calls for placement in a licensed or certified foster home for four or fewer residents.

Subp. 9. **Placement outside county.** When the local social service agency places a client in a private residential facility located outside of that county, formal arrangements noted in the individual service plan must be made with the host county social service agency to carry out certain services. Primary responsibility, however, remains with the agency of social service responsibility, as specified in Minnesota Statutes, section 256E.08, subdivision 7.

Subp. 10. **Counseling.** Counseling shall be provided or arranged by the local social service agency to the individual, his parents, or guardian as needed. The local social service agency may request assistance of the community mental health board.

Subp. 11. **Social service appeal.** Clients shall be informed that appeal may be made to the commissioner pursuant to Minnesota Statutes, section 256.045 as a social service appeal.

Statutory Authority: *MS s 245.69 subd 1; 252.28; 252A.21 subd 2; 256E.05 subd 3; 393.07 subd 4*

9525.0070 SERVICES FOR MENTALLY RETARDED PERSONS.

Subpart 1. **Delegation.** Responsibilities of the county board for services to mentally retarded. These responsibilities may be delegated to a community mental health board pursuant to Minnesota Statutes, sections 256E.08, subdivision 4, and 245.61 to 245.69, and chapter 402.

Subp. 2. **Participation in planning and delivery of services.** The county board shall ensure opportunity for citizen participation, including representatives of users of services, in accordance with Minnesota Statutes, section 256E.09, subdivision 2, in the planning of service delivery. The county board shall also ensure opportunity for the involvement of local social service agencies, local developmental disabilities councils, public and private residential and day care facilities, and other service providers and advocacy organization in the coordination of service delivery.

Subp. 3. **Service coordinator.** The county board shall employ a professionally qualified person who has at least a bachelor's degree and experience in a field related to the treatment and care of persons who are mentally retarded. This person shall coordinate service delivery to mentally retarded individuals in the county and develop a service plan.

The county board shall take the lead in planning and development of services not available through service providers, public and private agencies, educational, and judicial agencies.

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The county board shall identify the social services available in and outside of the county for its mental retardation population, including those provided by private individuals or agencies, local public agencies, and public facilities.

The county board shall identify in priority of need order the social services that are not available to its mental retardation population.

The county board shall provide or arrange for social services needed, as specified in the county social services plan, within the means available from all sources, as provided by the county board.

Subp. 4. Psychological services. The county board shall provide psychological and psychiatric diagnostic evaluation, client and parental counseling, and assistance in care planning for persons who are or may be mentally retarded as requested by the client or the local social service agencies in the county served by the board.

Statutory Authority: *MS s 245.69 subd 1; 252.28; 252A.21 subd 2; 256E.05 subd 3; 393.07 subd 4*

9525.0080 NEED DETERMINATION RESPONSIBILITIES OF THE COUNTY BOARD.

Subpart 1. Gathering data. The county board shall obtain need assessment data and other available information concerning needs of the mental retardation population in the county.

The county board shall provide such data and information to parties interested in developing a facility or service for mentally retarded clients.

Subp. 2. Applications for need determination. Applications for need determination for a proposed facility or service to be located in the county shall be prepared by the applicant and reviewed by the county board. Applications shall include, but are not limited to, the following:

A. applicant's name, address, telephone number; proposed location of the facility or service; number, sex, and age range of clients to be served; description of proposed facility or service;

B. functional level of clients to be served; description of physical, sensory, behavioral conditions;

C. program plan; developmental, education, vocational services that will be available outside of the facility, if residential;

D. sources of clients; numbers of clients to be served from named facilities such as state hospital, general intermediate care facility, skilled nursing facility, intermediate care facility for mentally retarded, foster home, natural home; and

E. name(s) of other counties to be served by applicant; if so, the applicant shall submit evidence to the board that those counties will make referrals.

Subp. 3. Letter of recommendation. The county board, after consideration of the standards for provision of services (part 9525.0050), shall submit a letter of recommendation to the commissioner concerning local need, location, and program for proposed facilities and services subject to license under Minnesota Statutes, section 252.28. The letter shall include need data and other information relevant to need for the proposed facility or service, and the applicant's information concerning the proposal.

Subp. 4. Final determination. The commissioner shall make final determination of need, location, and program. After receiving the required information, the commissioner shall consider the facts, and recommendation of the county board, and other considerations, which shall be:

A. To protect mentally retarded persons from violations of their human and civil rights.

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B. To assure that such persons receive the full range of needed social, financial, residential, and habilitative service to which they are lawfully entitled.

C. To assure that the location of the facility will not substantially contribute to excessive concentration of community residential facilities within any town, municipality, or county of the state.

D. To assure that clients of public residential facilities who are in need of a small, homelike facility near their family will be admitted to the facility.

E. To assure that standards for provision of services are carried out, the size of the facility must relate to the needs of the clients for services. The following criteria shall apply:

(1) No facility for more than eight persons shall be approved unless it can be clearly shown that the needs of the residents will be better served in a larger facility and only if the size of the living units (including bedrooms, living rooms, dining room, and kitchen) are for no more than six persons. Meals would not necessarily have to be prepared in each living unit, but kitchen facilities should be available for each living unit.

(2) The ability of the residents to use community medical, psychological, therapeutic, and support services.

(3) The number of residents whose physical, sensory, or other disability justifies the employment of special staff by the facility.

F. To assure that the facility and program plan cost projections are within fiscal limitations, and meet standards of effective program management.

Subp. 5. **Notice of decision and right to appeal.** Within 30 days of receipt of the applicant information and recommendation of the county board, the applicant and county board shall be notified of the commissioner's decision. The notice of the commissioner's decision shall contain notice of the right to appeal that decision, pursuant to subpart 7. If approved the licensing division of the state agency shall then act upon a license application, and the applicant may seek certification under title XIX and other funding resources from the state agency.

Subp. 6. **Changes in licensed facility.** If a licensed facility requests an increase or decrease in licensed capacity, or change in program of any facility or service, that may require change in staffing or remodeling, the facility shall apply to the commissioner directly. No change shall be granted until the county board has an opportunity to comment. The commissioner shall notify the county board of such a request by sending a copy of the request to the county board. The county shall have 30 days to comment. The commissioner shall use the same criteria as is specified for original applications.

Subp. 7. **Appeal.** Determination of need may be appealed in accordance with provisions of Minnesota Statutes, chapter 15. Notice of appeal must be served upon the commissioner within 30 days of receipt of notification of the commissioner's decision.

Statutory Authority: *MS s 245.69 subd 1; 252.28; 252A.21 subd 2; 256E.05 subd 3; 393.07 subd 4*

9525.0090 SERVICE CATEGORIES.

Subpart 1. **Range of direct and indirect services.** The following service categories, in alphabetical order, shall constitute the range of direct and indirect services needed for a service delivery system in an identified geographical area of the state of Minnesota for its mentally retarded population. These service categories shall be identified to assure delivery as needed, on the basis of individualized program plans.

Subp. 2. **Activity program for adults.** Activity program for adults: activities which emphasize occupational and social goals which assist adults to become as self-dependent as possible and to make constructive use of leisure time. They are comprehensive and coordinated sets of activities providing

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personal care and other services to adult mentally retarded persons in or out of their own homes during a portion of the 24-hour day. Services may include a variety of creative, social, physical, and learning activities based upon an appropriate assessment of need.

Subp. 3. Assessment services. Assessment services: the systematic determination of pertinent physical, psychological, vocational, educational, cultural, social, economic, legal, environmental, and other factors of the mentally retarded person and his/her family; to determine the extent to which the disability limits can be expected to limit the person's daily living and work activity; to determine how and to what extent the disabling conditions may be expected to be minimized by services; to determine the nature and scope of services to be provided; to select service objectives which are commensurate with an individual service plan of action. It is to be followed at whatever intervals are needed by periodic reassessment; services are to be provided whenever necessary in the life of the individual. Assessment services are directed toward the effects of the disability and toward maximizing life functions in the face of remaining conditions.

Subp. 4. Basic developmental services. Basic developmental services: activities emphasizing maturation and supplementing the services provided by parents or parent surrogates. They are comprehensive and coordinated sets of developmental learning activities conducted in or outside the home during a portion of the day. These services include a variety of creative, social, physical, and learning activities selected in accordance with an appropriate assessment. The focus is upon the developmental schedule itself (individual program plan) and upon the acquisition of skills in self-care. This service should continue on a sustaining basis for these who would otherwise suffer loss of functional level.

Subp. 5. Case management or service management. Case management (service management): an expert person who provides coordination of all the case activities on behalf of the clients of the local social service agency. The case manager is held responsible for mobilizing the resources needed, including especially those not provided directly by his/her own agency. It is a persuasive, rather than an administrative role. Case management is provided by a professionally qualified individual, typically not a volunteer, who has a limited but assigned number of clients.

Subp. 6. Client information and referral service. Client information and referral service: public information about services and procedures in obtaining them. This service may provide referral activity directly or may inform an inquirer. This client information and referral service may be on a face-to-face basis or may be available by telephone.

Subp. 7. Community services. Community services: mentally retarded people are ordinarily expected to make use of the same community services that are used by people who are not retarded. These services are not detailed because they are not specialized on behalf of the mentally retarded population.

Subp. 8. Counseling. Counseling: a face-to-face relationship with the mentally retarded individual and/or parent, siblings, or other relatives in order to help the individual understand and accept his/her capabilities and limitations, and to carry through on a program of adjustment and self-improvement. This requires knowledge of human behavior and the use of special interviewing skills to achieve specified goals mutually accepted by counselor and client or parent/guardian. Counseling is an episodic activity carried out when the need arises. Its focus is upon the solution of specific problems.

Subp. 9. Diagnostic services. Diagnostic services: coordinated services including, but not limited to, psychological services, social services, medical, and other services necessary to identify the presence of a disability, its causes and its complications. Diagnosis is a current assessment of the client's condition and shall be a guiding factor in the development of the individual service plan.

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Diagnostic review is to be made whenever necessary in the life of the mentally retarded person, according to part 9525.0060, subpart 2, last paragraph.

Subp. 10. **Domiciliary (residential) care.** Domiciliary (residential) care: out-of-home living quarters, supervision, and personal care to persons needing such care and services. Domiciliary care services differ from special living arrangements by its higher degree of supervision and the greater amount of personal care needed, as compared to special living arrangements.

Subp. 11. **Family support services.** Family support services: those services which enable the family as a unit to meet the family-related needs of the mentally retarded persons. Family support services may include any of the other defined services. It is distinguished in that it is given to the family in their homes.

Subp. 12. **Follow along.** Follow along: a monitoring relationship by the local social service agency on a life-long basis with retarded persons and their families, if needed. It is to assure that changes in need, progression to new levels of adaptive competence, and the problems arising from crises are recognized and appropriately met.

Subp. 13. **Job placement services.** Job placement services: the process of securing employment. Competitive employment is employment offered under ordinary conditions and in competition with ordinary employees. Job placement services needed by mentally retarded persons are generally those of securing and adjusting to a job, with no implication that this is limited to a single time or period in the life of the persons.

Subp. 14. **Professional information and referral services.** Professional information and referral services: an up-to-date and complete listing of all appropriate resources which can be made available and accessible to professional persons serving mentally retarded persons and their families so that they can be referred to the most appropriate and readily available resources. This kind of information and referral services is ordinarily not used by the client.

Subp. 15. **Protective services.** Protective services: social, legal, and other appropriate services which assist individuals who are unable to manage their own affairs or to protect themselves from neglect, exploitation, or hazardous situations without assistance from others and to help them exercise their rights as citizens. Protective services may be an adjunct to parent responsibility, or they may be exercised in the absence of the responsible parent. Protective services should be selective in scope and should be limited to those aspects of life function in which a need is demonstrated. See Minnesota Statutes, sections 252A.01 to 252A.21, Mental Retardation Protection Act.

Subp. 16. **Recreation services.** Recreation services: planned and supervised leisure-time activities designed to help meet specific individual needs in self-expression, social interaction, athletic endeavors, and entertainment; to develop skills and interests leading to enjoyable and constructive use of leisure time; and to improve his/her well-being. The service may include assistance to the individual in his/her use and access of normal community recreation activities.

Subp. 17. **Service delivery system coordination.** Service delivery system coordination: responsibility within a given community for the provision of the full range of services. This is a planning and resource-mobilizing function rather than a direct service to clients. It is concerned with the structure and the availability of services rather than with the solution of personal problems. It must be provided in connection with a multi-service area of authority. Information and referral services shall be provided in conjunction with service coordination, and the two are typically interrelated.

Subp. 18. **Sheltered employment.** Sheltered employment: a structured service providing partial self-support through the employment of the retarded worker under conditions which allow for low production rate, need for special

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work supervision, inability to handle a full range of job duties, or need for special job engineering and adaptive equipment.

Subp. 19. **Special education.** Special education: a structured learning experience, based upon appropriate assessment and through the use of a broad curriculum of practical academic subjects primarily designed to develop the ability to learn and to acquire useful knowledge and basic skills in its earliest stages. In its later stages, it grades all the way through the equivalent of a secondary education and appropriately interacts with the occupational service system, such as work adjustment. Special education is legally required of the public school district acting either as direct provider or as purchaser of the service.

Subp. 20. **Special living arrangements.** Special living arrangements: living arrangements for persons who need some degree of supervision. Special living arrangements should provide at least counseling and leisure-time activities in addition to living arrangements. The service is for disabled persons who can leave their place of residence for work, recreation, or other reasons.

Subp. 21. **Treatment services.** Treatment services: interventions which halt, control, or reverse those processes which cause, aggravate, or complicate disability. Interventions may include treatment, such as surgical procedures, dietary controls, cosmetic therapy, chemotherapy, speech therapy, or physical therapy, directed toward basic personal goals, dentistry, and medical treatments as indicated by the needs of the individual being served. Specialized medical and dental care are included.

Subp. 22. **Training services.** Training services: planned and systematic sequence of instruction in formal and informal activities based upon appropriate assessment and designed to develop skills in performing activities of daily living, including self-help, motor skills, and communications; to enhance emotional, personal, and social development; to provide experience conducive to the acquisition of positive self-concepts and desire to learn; and to provide experiences basic for future productive activity. Emphasis is upon those skills needed to function as a member of the community. This service is not restricted to any particular age and can be offered at any appropriate time in the life of the individual who is mentally retarded.

Subp. 23. **Transportation services.** Transportation services: necessary travel and related costs in connection with transporting retarded persons to and from places in which they receive services. Transportation also includes taking services to the homebound, delivery of raw materials, and finished products from homebound industries when needed. The use of public transportation is included.

Subp. 24. **Vocational evaluation.** Vocational evaluation: assessment of worker characteristics, through the use of unreal or simulated work tasks. The purpose is to assess occupational strengths and weaknesses, and potential for vocational development. It also includes prevocational evaluation and work evaluation. This requires the use of a rehabilitation facility or similar controlled experimental setting.

Subp. 25. **Volunteer services.** Volunteer services: volunteer activities by individuals, service organizations, and advocacy groups, provide a variety of services on a group or one-to-one basis that supplements and augments services provided to mentally retarded persons. This may also include participation in advisory committees, advocacy activities, and other forms of personal support to individuals. Such services are not to supplant staff services, and are ordinarily provided by unpaid persons and groups.

Subp. 26. **Work activity.** Work activity: it is for those whose productivity is such that they cannot meet the demands of sheltered employment. For people who need a work setting as part of their program in order to foster a sense of self-worth through work while earning a below-minimum wage, it legally

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enables a wage to be paid. Work activity, in addition, includes a variety of creative, social, physical, and learning activities. Work activity may be provided only in facilities having a federal wage and hour certificate for this purpose. It differs from activity programs for adults in that there is a significant productive element. It differs from sheltered employment in that it allows a wage of up to one-fourth the standard minimum.

Subp. 27. **Work adjustment.** Work adjustment: learning activities typically involving real or simulated work tasks and situations. It is intended to assist a person to develop basic skills, attitudes, motivation, and work habits of the kind needed in competitive employment, sheltered employment, or work activity. It develops social skills needed to function in a work environment. Its focus is upon basic employability rather than upon the skills of a specific occupation.

Statutory Authority: *MS s 245.69 subd 1; 252.28; 252A.21 subd 2; 256E.05 subd 3; 393.07 subd 4*

9525.0100 SEVERABILITY.

The provisions of parts 9525.0020 to 9525.0100 shall be severable. If any clause, sentence, or provision is declared illegal or of no effect, the validity of the remainder of this rule and its applicability shall not be affected.

Statutory Authority: *MS s 245.69 subd 1; 252.28; 252A.21 subd 2; 256E.05 subd 3; 393.07 subd 4*

RESIDENTIAL PROGRAMS AND SERVICES FOR MENTALLY RETARDED PERSONS

9525.0210 DEFINITIONS.

Subpart 1. **Ambulatory.** "Ambulatory" means the ability to walk independently and at least negotiate any barriers, such as ramps, stairs, corridors, doors, etc., without assistance as may be necessary to get in and out of the facility.

Subp. 2. **Executive officer.** "Executive officer" means the individual appointed by the governing body (see subpart 3) of a residential program to act in its behalf in the overall management of the facility. Job titles may include, but are not limited to, superintendent, director, and administrator.

Subp. 3. **Governing body.** "Governing body" means the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a residential program and establishes policies about its operation and the welfare of the individuals it serves. The governing body is responsible for the operation of the residential program and for compliance with parts 9525.0210 to 9525.0430.

Subp. 4. **Interdisciplinary team.** "Interdisciplinary team" means a team consisting, at a minimum, of the resident, the resident's legal guardian (if any), local social service agency representative, and the program director or program staff member. Other persons relevant to a particular resident's needs may be included. The interdisciplinary team is responsible for the development and evaluation of the resident's individual program plan and determination of need for the residential program.

Subp. 5. **Legal incompetence.** "Legal incompetence" means the legal determination that a resident is unable to exercise his full civil and legal rights and that a guardian (see parent, subpart 15) is required.

Subp. 6. **Living unit.** "Living unit" means a resident-living unit that houses the primary living group (see subpart 16) and provides access to bedroom, living room, recreation/activity room, dining room, kitchen, and bathroom.

Subp. 7. **Living unit staff.** "Living unit staff" means individuals who conduct the resident-living program; resident-living staff.

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Subp. 8. **May.** "May" indicates that the provisions or practices stated in these rules are permitted.

Subp. 9. **Mental retardation.** "Mental retardation" refers to persons who have been diagnosed as having significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior, and manifested during the developmental period.

Subp. 10. **Mobile.** "Mobile" means the ability to move independently from place to place with the use of devices such as walkers, crutches, wheelchairs, wheeled platforms, etc.

Subp. 11. **Multiple-handicapped.** "Multiple-handicapped" means in addition to mental retardation, an orthopedic, incoordinative, or sensory disability that culminates in significant reduction of mobility, flexibility, coordination, or perception and that interferes with an individual's ability to function independently.

Subp. 12. **Nonambulatory.** "Nonambulatory" means the inability to walk independently.

Subp. 13. **Nonmobile.** "Nonmobile" means the inability to move independently from place to place.

Subp. 14. **Normalization principle.** "Normalization principle" means the principle of letting persons who are mentally retarded obtain an existence as close to the normal as possible, making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Subp. 15. **Parent.** "Parent" means the general term used in these rules to refer to the natural parent, or other person who fills the legal or social role of the natural parent, i.e., represents the rights and interests of the mentally retarded persons as if they were his own. May include an advocate as one who acts on behalf of a resident to obtain needed services and the exercise of his full human and legal rights; legal guardian as one appointed by a court; guardian of the person as one appointed to see that the resident has proper care and protective supervision in keeping with his needs; guardian of the property as one appointed to see that the financial affairs of the resident are handled in his best interests; guardian ad litem as one appointed to represent a resident in a particular legal proceeding; public guardian as a public official empowered to accept court appointment as a legal guardian (i.e., the commissioner of human services or his agent); or testamentary guardian as one designated by the last will and testament of a natural guardian.

Subp. 16. **Primary-living group.** "Primary-living group" means that group characterized by face-to-face relations that are personal, spontaneous, and typically, although not necessarily, long-lasting. Members of a primary group are drawn together by the intrinsic value of the relations themselves rather than by a commitment to an explicit goal. The family is an example of a primary group.

Subp. 17. **Program.** "Program" means the general term used in these rules to refer to all people, events, and environments that lead to a purposeful outcome (goal or objective) for the individual resident. These programs include, but are not limited to, training and maintenance of the individual; the design, furnishing, and use of space; staff and staffing patterns; and professional and volunteer services.

Subp. 18. **Resident.** "Resident" means the general term used in these rules to refer to an individual who receives service in a residential program (see subpart 21), whether or not such individual is actually in residence in the facility. The term thus includes individuals who are being considered for residence in a facility and individuals who were formerly in residence in a facility. A residential program, on the other hand, may use the term "resident" to refer only to those individuals actually in residence.

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Subp. 19. **Referring agency.** "Referring agency" means the general term used in these parts to refer to the local social service agency responsible for establishment and implementation of case management plans for individuals and particular families with mental retardation problems and for the provision of specific financial or case-work services to these individuals and families. In Minnesota, the county board is charged with administrative responsibility for these duties. Responsibility for these duties may be delegated to the local social service agency.

Subp. 20. **Resident-living.** "Resident-living" means pertaining to residential or domiciliary services.

Subp. 21. **Residential program.** "Residential program" means a general term used in this rule to refer to the program of services to residents of a supervised living facility or of a licensed or certified foster home approved by the commissioner as an extension of the residential program which has an administrative organization and/or structure for the purpose of providing care, food, lodging, training, supervision, habilitation, and treatment as needed for more than four mentally retarded individuals on a 24-hour per day basis. Residential programs may also be known as, but are not limited to group homes, child-caring institutions, boarding-care homes, nursing homes, state hospitals, public institutions, and regional centers.

Subp. 22. **Restraint.** "Restraint" means any physical device that limits the free and normal movement of body or limbs. Chemical substances administered for the purpose of controlling maladaptive behavior are deemed restraints. Mechanical supports used in normative situations to achieve proper body position and balance shall not be considered restraints.

Subp. 23. **Rhythm of life.** "Rhythm of life" means relating to the normalization principle (see subpart 14), under which making available to mentally retarded persons patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society means providing a normal rhythm of the day (in relation to arising, getting dressed, participating in play and work activities, eating meals, retiring, etc.) normal rhythm of the week (differentiation of daily activities and schedules), and normal rhythm of the year (observing holidays, days with personal significance, vacations, etc.).

Subp. 24. **Seclusion.** "Seclusion" means involuntary removal from social contact with others, in a separate room.

Subp. 25. **Shall.** "Shall" indicates that the requirement, provision, or practice stated in this rule is mandatory.

Subp. 26. **Supervised living facility.** "Supervised living facility" means a general term used in these parts to refer to the facility licensed by Minnesota Department of Health, in accordance with Minnesota Statutes 1971, section 144.56.

Subp. 27. **Time-out.** "Time-out" means time out from positive reinforcement. A behavior modification procedure in which, contingent upon the emission of undesired behavior, the resident is removed from the situation in which positive reinforcement is available.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

History: *L 1984 c 654 art 5 s 58*

9525.0220 STATUTORY AUTHORITY.

Minnesota Statutes, section 256.01 charges the commissioner of human services with general responsibility for service to mentally retarded persons.

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Minnesota Statutes, section 245.072 creates a mental retardation division in the Department of Human Services to "coordinate those laws administered and enforced by the commissioner of public welfare relating to mental retardation and mental deficiency which the commissioner may assign to the division."

Minnesota Statutes, section 252.28 charges the commissioner of human services with the responsibility for licensing of residential facilities and services for mentally retarded persons.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

History: *L 1984 c 654 art 5 s 58*

9525.0230 SCOPE.

Parts 9525.0210 to 9525.0430 govern the operation of any residential program engaged in, or seeking to engage in, the provision of residential or domiciliary service for mentally retarded individuals, and set forth the requirements necessary for such a residence to be licensed.

Cost of boarding care outside of home or state institution is reimbursable by the state for care of children under 18 years of age in facilities licensed by the Department of Human Services. All participating facilities serving more than four mentally retarded children must be licensed under these rules prior to participation.

Federal programs under the Social Security Act, as amended, require certification of participating facilities. All participating facilities serving more than four mentally retarded persons must be licensed under these rules prior to certification.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

History: *L 1984 c 654 art 5 s 58*

9525.0240 PURPOSE.

The purpose of parts 9525.0210 to 9525.0430 is to establish the minimum standards for the operation of residential programs and services for mentally retarded persons residing in licensed supervised living facilities.

The purpose of Minnesota Statutes, section 252.28 and these parts is to establish and protect the human right of mentally retarded persons to a normal living situation, through the development and enforcement of minimum requirements for the operation of residential programs. Moreover, these parts serve an educational purpose in providing guidelines for quality service.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0250 PROCEDURE FOR LICENSING.

Subpart 1. **Submission of application.** Application shall be made to the commissioner of human services, who may determine the need, location, and program of facilities and services seeking to be licensed or relicensed under these rules. In making this determination, the commissioner shall be guided by these parts and other state agency rules promulgated under Minnesota Statutes, section 252.28, subdivision 1, including parts 9525.0010 to 9525.0090.

Applicants shall submit such materials and information as may be required to make a proper determination of the nature and adequacy of the residential program to be provided.

Subp. 2. **Prerequisites.** Applicants must have, or have applied for, a supervised living facility license from the state Department of Health; and, in the case of a commissioner-approved extension of the residential program for family homes of four or fewer residents, a foster home license or certification from the Department of Human Services.

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Subp. 3. **License renewal.** A residential program desiring to renew its license shall submit an application at least 45 days prior to expiration of the license. A renewal license may be issued for a period of up to two years at the discretion of the commissioner.

Subp. 4. **Provisional license.** Provisional license shall be granted by the commissioner under terms of Minnesota Statutes, section 245.783, subdivision 3.

Subp. 5. **Variance.** A residential program may request in writing a variance of a specific provision of the rules. The request for a variance must cite the provision of the rules in question, reasons for requesting the variance, the period of time not to exceed one year the licensee wishes to have the provision varied and the equivalent measures planned for assuring that programmatic needs of residents are met. Variances granted by the commissioner shall specify in writing the time limitation and required equivalent measures to be taken to assure that programmatic needs are met. Variances denied by the commissioner shall specify in writing the reasons for the denial. No variance shall be granted that would threaten the health, safety, or rights of residents.

Subp. 6. **Refusal or revocation of license.** Failure to comply with these rules or applicable state laws shall be cause for refusal or revocation of license.

Failure to be licensed as a supervised living facility by the Minnesota Department of Health (or its successor) shall be cause for refusal or revocation of license.

Revocation, suspension, or denial of a license may be appealed pursuant to Minnesota Statutes, chapter 14.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

History: *L 1984 c 654 art 5 s 58*

9525.0260 GROUPING AND ORGANIZATION OF LIVING UNITS.

Subpart 1. **Goal.** The resident-living unit, subsequently called living unit, shall be small enough to ensure the development of meaningful interpersonal relationships among residents and between residents and staff.

Subp. 2. **Living unit.** The living unit is that unit which houses the primary living group. It may be a group home, foster home, ward, wing, floor, etc.

The living unit shall contain bedroom, living room, bathroom, recreation room, and connecting areas. It may contain dining room and kitchen. Facilities with more than four mentally retarded persons in residence on November 17, 1972, shall be deemed to be in substantial compliance with this provision, except that the living unit shall contain bedroom and living room areas.

The living unit shall be physically, socially, and functionally differentiated from areas for developmental and remedial services (see parts 9525.0320 to 9525.0350) and shall simulate the arrangements of a home in order to encourage a personalized atmosphere for residents.

The size of the living unit shall be based upon the needs of the residents, but the living unit shall provide for not more than 16 residents.

The living unit or complex of such units shall house both male and female residents to the extent that this conforms to the prevailing cultural norms and unless contraindicated by program plan. Such living arrangements shall include provision for privacy and for appropriate separation of male and female residents.

The living unit shall not be a self-contained program unit unless contraindicated by program plans of the particular residents being served, and living unit activities shall be coordinated with developmental and remedial services in which residents engage outside the living unit.

Residents shall be allowed free use of all space within the living unit, with due regard for privacy and personal possessions.

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Each resident shall have access to a quiet, private area where he can withdraw from the group.

Outdoor active play or recreation areas shall be readily accessible to all living units.

Interior and exterior doors shall not be locked except to protect the resident from clear and present danger, or in conjunction with a behavior modification program (see part 9525.0280, subpart 9). In no case shall locked doors be a substitute for program or staff interaction with residents.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0270 PHYSICAL PLANT.

Subpart 1. **Design of living unit.** The living unit shall be physically self-contained. Walls defining the living unit shall extend from floor to ceiling.

The interior design of the living unit shall simulate the functional arrangements of a home to encourage a personalized atmosphere for a small group of residents unless it has been demonstrated that another arrangement is more effective in maximizing the development of specific residents being served.

Space shall be arranged to permit residents to participate in different kinds of activities, both in groups and singly.

Space shall be arranged to minimize noise and permit communication at normal conversation levels.

Walls defining each room in the living unit shall extend from floor to ceiling.

Subp. 2. **Design of bedroom.** Bedrooms shall accommodate from one to four residents.

Doors to bedrooms shall not have vision panels and shall not be capable of being locked, except where residents may lock their own bedroom doors, as consistent with their program.

There shall be provision for residents to mount pictures on bedroom walls.

Space outside the bedroom shall be provided for equipment for daily out-of-bed activity for all residents not yet mobile, except those who have a short-term illness or those for whom out-of-bed activity is a threat to life.

Subp. 3. **Design of toilet areas.** Toilet areas shall be located in such places as to facilitate training toward maximum self-help by residents.

Water closets, showers, bathtubs, and lavatories shall approximate normal patterns found in homes, unless specifically contraindicated by program needs.

Toilets, bathtubs, and showers shall provide for individual privacy unless specifically contraindicated by program needs.

Subp. 4. **Furnishings and equipment in general.** Furnishings shall be appropriate to the physiological, emotional, and developmental needs of each resident.

Subp. 5. **Furniture in dining areas.** Dining areas shall:

A. be furnished to stimulate maximum self-development, social interaction, comfort, and pleasure;

B. promote a pleasant and home-like environment and be attractively furnished and decorated and of good acoustical quality; and

C. be equipped with tables, chairs, eating utensils, and dishes designed to meet the developmental needs of each resident.

Subp. 6. **Drinking water.** Each resident shall have access to drinking water in the living units.

Subp. 7. **Toilet training equipment.** Equipment shall be provided for toilet training, as appropriate, including equipment for use by the multiple-handicapped.

Subp. 8. **Safety.** Residents shall receive appropriate instruction in safety precautions and procedures.

First-aid equipment, approved by a physician, shall be maintained on the premises in a readily available location, and staff shall be instructed in its use.

Applicable requirements of the state fire marshal or his agent shall be met.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0280 STAFF-RESIDENT RELATIONSHIPS AND ACTIVITIES.

Subpart 1. **Goal.** The objective in staffing each living unit shall be to maintain reasonable stability in the assignment of staff, thereby permitting the development of a consistent interpersonal relationship between each resident and one or two staff members. Provisions shall be made to ensure that the efforts of the staff are not diverted from these responsibilities by excessive housekeeping and clerical duties, or other nonresident-involved activities.

Subp. 2. **Staff responsibilities.** The primary responsibility of the living-unit staff shall be to devote their attention to the care and development of the residents.

Living-unit staff shall be responsible for the development and maintenance of a warm, family, or homelike environment that is conducive to the achievement of optimal development by the resident.

Living-unit staff shall train residents in activities of daily living and in the development of self-help and social skills.

Subp. 3. **Program plans.** Living-unit staff shall participate in assessment, program planning, and evaluation activities relative to the development of the resident (see parts 9525.0320 to 9525.0350). A program plan for each resident shall be available to staff in each living unit.

Subp. 4. **Rhythm of life.** The rhythm of life in the living unit shall resemble the cultural norm for the residents' nonretarded age peers unless a departure from this rhythm is justified on the basis of maximizing the residents' human qualities. The rhythm of life includes the following:

A. Residents shall be assigned responsibilities in the living units commensurate with their interests, abilities, and program plans, in order to enhance feelings of self-respect and to develop skills of independent living.

B. Multiple-handicapped and nonambulatory residents shall:

(1) spend a major portion of their waking day out of bed;

(2) spend a major portion of their waking day out of their bedroom

areas;

(3) have planned daily activity and exercise periods; and

(4) be rendered mobile by various methods and devices.

C. All residents shall have planned periods out-of-doors on a year-round basis.

D. Except as limited by program plan, residents shall be instructed in how to use, and shall be given opportunity for, freedom of movement.

E. Birthdays and special events should be individually observed.

Subp. 5. **Residents' opinions.** Residents' views and opinions on matters concerning them shall be elicited and given consideration in defining the processes and structures that affect them.

Subp. 6. **Communication processes.** Residents shall be instructed in the free and unsupervised use of communication processes. Except as denied individual residents by program plan, this may include:

A. having access to telephones for incoming and local outgoing calls;

B. having access to pay telephone, or the equivalent, for outgoing long distance calls;

C. opening their own mail and packages and generally doing so without direct surveillance; and

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D. not having their mail read by staff, unless requested by the resident.

Subp. 7. **Personal possessions.** Residents shall be permitted personal possessions, such as toys, books, pictures, games, radios, arts and crafts materials, religious articles, toiletries, jewelry, and letters.

Subp. 8. **Money.** Regulations shall permit normal possession and use of money by residents.

Residents shall be trained in the use of money.

Allowance or opportunities to earn money shall be available to residents.

Subp. 9. **Behavior problems.** There shall be provisions for prompt recognition of behavior problems, as well as appropriate management of behavior in the living unit. These provisions shall be subject to review by a research, review, and/or human rights committee (see part 9525.0370, subpart 5).

There shall be a written statement of policies and procedures for the control and discipline of residents that:

A. is directed to the goal of maximizing the growth and development of the residents;

B. is available in each living unit;

C. is available to parents; and

D. provides for resident participation, as appropriate, in the formulation of such policies and procedures.

Corporal punishment shall not be permitted.

Residents shall not discipline other residents, except as part of an organized self-government program that is conducted in accordance with written policy.

Subp. 10. **Physical restraints.** Restraint shall be employed only when absolutely necessary to protect the resident from injury to himself or to others; and restraint and seclusion shall not be employed as punishment, for the convenience of staff, or as a substitute for program.

The facility shall have a written policy that defines the uses of restraint, the staff members who may authorize its use, and a mechanism for monitoring and controlling its use. This policy shall be available in each living unit.

Totally enclosed cribs and barred enclosures shall be considered restraints.

Subp. 11. **Record of restraint usage.** Each use of restraint and seclusion shall be recorded in the resident's record. This record shall include a description of the precipitating behavior; expected behavioral outcome; and actual behavioral outcome.

Subp. 12. **Seclusion rooms.** Rooms used for seclusion shall be furnished with a bed and bedding, a chair, a commode, and a lavatory; and shall afford proper access to drinking water.

Subp. 13. **Chemical restraint.** Chemical restraint shall not be used excessively, as punishment, for the convenience of staff, as a substitute for program, or in quantities that interfere with a resident's program. Each use of a behavior-controlling drug shall be recorded in the resident's record. This record shall include:

A. a description of the behavior to be modified;

B. expected behavioral outcome;

C. possible side or secondary effects;

D. date for review or termination; and

E. actual behavioral outcome.

Subp. 14. **Behavior modification.** Behavior modification programs involving the use of time-out devices or the use of noxious or aversive stimuli shall be conducted only with the consent of the affected resident's parent and shall be described in written plans that are kept on file in the facility.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0290 HEALTH, HYGIENE, AND GROOMING.

Subpart 1. **In general.** Procedures shall be established for:

A. monthly weighing of residents, with greater frequency for those with special needs;

B. quarterly measurement of height, until the age of maximum growth; and

C. maintenance of weight and height records. Every effort shall be made to ensure that residents maintain normal weights.

Provisions shall be made to furnish and maintain in good repair, and to train residents in the use of, dentures, eyeglasses, hearing aids, braces, etc., prescribed by appropriate specialists.

Subp. 2. **Independent grooming.** Residents shall be trained to exercise maximum independence in health, hygiene, and grooming practices, including bathing, brushing teeth, shampooing, combing and brushing hair, shaving, and caring for toenails and fingernails.

Each resident shall be assisted in learning normal grooming practices with individual toilet articles that are appropriately available to that resident.

Living unit staff shall be instructed in each resident's daily oral care program and shall be responsible to see that it is carried out. Whenever possible, the resident shall be instructed in, and learn to carry out, his own program of daily oral care. Dental care practices should include the use of newer equipment, such as electric toothbrushes and oral water irrigators or lavages as prescribed. Individual brushes shall be properly marked, used, and stored. Teeth shall be brushed daily with dentifrice.

Hair cutting and styling, in an individualized manner consistent with current style, shall be accessible to all residents.

For residents who require such assistance, cutting of toenails and fingernails by trained personnel shall be scheduled at regular intervals.

Each resident shall have a shower or tub bath as needed. Residents' bathing shall be conducted at the most independent level possible. Residents' bathing shall be conducted with due regard for privacy. Individual washcloths and towels shall be used.

Female residents shall be helped to attain maximum independence in caring for menstrual needs. Menstrual supplies shall be of the same quality and diversity available to all women.

Subp. 3. **Drinking units.** Residents shall be instructed in the use of drinking units. Those residents who cannot use the unit shall be given the proper daily amount of fluid at appropriate intervals adequate to prevent dehydration. A drinking unit shall be available to, and usable by, mobile nonambulatory residents, as needed. Special cups and noncollapsible straws shall be available when needed by the multiple-handicapped. If the drinking unit employs cups, only single-use, disposable types shall be used.

Subp. 4. **Toilet training.** Every resident who does not eliminate appropriately and independently shall be engaged in a toilet training program. Residents who are incontinent shall be immediately bathed or cleansed, upon voiding or soiling unless specifically contraindicated by a plan for toilet training; and all soiled clothing shall be changed.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0300 CLOTHING.

Subpart 1. **Supply.** Each resident shall have an adequate allowance of neat, clean, fashionable, and seasonable clothing. Each resident shall have his own clothing that is, when necessary, inconspicuously marked with his name, and he shall use this clothing. Such clothing shall make it possible for residents to go out of doors in inclement weather and to make a normal appearance in the

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community. Nonambulatory residents shall be dressed daily in their own clothing, including shoes, unless contraindicated by program plan. Washable clothing shall be designed for multiple-handicapped residents being trained in self-help skills. Clothing for incontinent residents shall be designed to foster comfortable sitting, crawling and/or walking, and toilet training.

Subp. 2. **Selection and care.** Residents shall be trained and encouraged to:

- A. select and purchase their own clothing as independently as possible, preferably utilizing community stores;
- B. select their daily clothing;
- C. dress themselves;
- D. change their clothes to suit the activities in which they engage; and
- E. maintain (launder, clean, and mend) their clothing as independently as possible.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0310 FOOD SERVICE.

Subpart 1. **In general.** Food services shall recognize and provide for the physiological, emotional, cultural, and developmental needs of each resident. There shall be a written statement of goals, policies, and procedures that governs food service. The diet provided shall include foods that stimulate chewing, unless contraindicated by program plan.

Subp. 2. **Participation in food preparation.** Residents shall have opportunity to be trained and participate in food preparation and service.

Subp. 3. **Place of meals.** All residents, including the mobile nonambulatory, shall eat or be fed in dining rooms, except when contraindicated by program plan.

All residents, including the mobile nonambulatory, shall eat at a table.

Dining arrangements shall be based upon a plan to meet the needs of the residents and the requirements of their programs. Dining and serving arrangements shall provide for a variety of eating experiences (e.g., cafeteria and family style), and, when appropriate, for the opportunity to make food selections with guidance. Unless justified on the basis of meeting the program needs of the particular residents being served, dining tables shall seat small groups of residents (typically four to six at a table) and include both sexes.

Dining rooms shall be supervised and staffed for the direction of self-help eating procedures and to ensure that each resident receives an adequate amount and variety of food.

Staff members shall be encouraged to eat with those residents who have semi-independent or independent eating skills.

For residents not able to get to dining areas, food service practices shall permit and encourage maximum self-help and shall promote social interaction and a pleasant mealtime experience.

Subp. 4. **Training for residents.** Residents shall be provided with systematic training to develop eating skills, utilizing adaptive equipment when it serves the developmental process.

A plan for the remediation of eating problems shall be implemented for all residents with special disabilities. This plan shall be consistent with the individual's developmental needs.

Living-unit staff shall be trained in and shall utilize proper feeding techniques when a resident must be fed. Residents shall be fed in an upright position. Residents shall be fed in a manner consistent with their developmental needs (for example, infants shall be fed in arms). Residents shall be fed at normal consumption rates, and the time allowed for eating shall be such as to

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promote the development of self-feeding abilities, to encourage socialization, and to provide a pleasant mealtime experience.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0320 DEVELOPMENTAL AND REMEDIAL SERVICES.

In addition to resident-living services detailed in parts 9525.0260 to 9525.0310, residents shall be provided with developmental and remedial services called for by individual assessment and program plan. These services may be provided in two ways:

A. within the facility and by staff employed by the residential program, except that developmental services, as here defined, shall not be provided in the living unit unless contraindicated by the assessed needs of the particular residents being served; and

B. outside of the facility and by agreement between the facility and other agencies or persons.

All developmental and remedial services, as defined in parts 9525.0330 to 9525.0350, shall be rendered outside of the facility, whenever possible, and when rendered in the facility, such services must be at least comparable to those provided in the community.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0330 ASSESSMENT OF RESIDENT.

Subpart 1. Annual assessment requirement. Residential program staff shall participate in regular, at least annual, assessment of each resident. The assessment shall cover behavioral and physical status of the resident and shall be conducted by an interdisciplinary team.

Subp. 2. Behavioral assessments. Behavioral assessment:

A. shall utilize objective description to the greatest degree possible;

B. shall include the resident, when he is capable of participation, and data supplied by his parents, when appropriate, and by living unit staff; and

C. shall include, but not be limited to, the following areas:

(1) Educational assessment. All school-age children shall be assessed annually in accordance with guidelines of a properly designated school authority, in order to determine eligibility for public school class. School-age is defined as four years to 21 years for mentally retarded children and shall not extend beyond secondary school.

(2) Self-care skills.

(3) Economic skills.

(4) Language development.

(5) Number and time concepts.

(6) Domestic occupation.

(7) Vocational skills.

(8) Maladaptive behavior and emotional disturbances. A residential program shall be in substantial compliance with these provisions when the American Association of Mental Deficiency Adaptive Behavior Scale, or the Minnesota Developmental Programming System (MDPS), is used for behavioral assessment.

Subp. 3. Physical assessment. Physical assessment for children shall be performed as recommended by the council on pediatrics.

Physical assessment for adults shall be performed at least annually and shall include, but not necessarily be limited to physical examination, blood count, and urinalysis.

Subp. 4. Drug assessment. A resident who receives daily medications for a chronic condition shall have a planned and recorded schedule for examination and review of his medication regimen. Use of prescribed medications shall not

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be continued past the scheduled time for examination. Persistent deviancy in use of a drug by a resident, or adverse reaction to a drug, shall be considered in adjustment of the resident's program plan.

Subp. 5. **Motor assessment.** Physical and motor assessment shall be performed at least annually for persons under 16 years of age, and as needed thereafter.

Subp. 6. **Speech and language assessment.** Speech and language assessment shall be performed annually for persons under 16 years of age, and as needed thereafter.

Subp. 7. **Vision assessment.** Vision assessment shall be performed annually.

Subp. 8. **Hearing assessment.** Hearing assessment shall be performed annually for persons under ten years of age, and thereafter when a hearing change is suspected.

Subp. 9. **Dietary assessment.** Dietary assessment shall be performed at least every 90 days for residents receiving a therapeutic diet.

Subp. 10. **Psychological assessment.** Psychological assessment shall be performed at least every three years for persons under 16 years of age, and as needed thereafter. Current psychological assessment data (less than one year old) available from the referring agency may be utilized to comply with this requirement.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0340 PROGRAM AND TREATMENT PLAN.

Subpart 1. **Formulation of individual plans.** Residential program staff shall participate with an interdisciplinary team including daytime developmental staff, in the formulation of an individualized program and treatment plan for each resident. Facility staff shall be responsible for implementation of the plan.

General provisions: The formulation of individualized program and treatment plans shall:

A. define specific and time-limited objectives for behavioral and physical development;

B. consider the proper exercise of the residents' and parents' civil and legal rights, including the right to adequate service;

C. define needed services without consideration of the actual availability of desirable options;

D. investigate and weigh all available and applicable services;

E. determine the resident's need for remaining in the facility; and

F. consider the need for (continued) guardianship or conservatorship or restoration to capacity of the resident.

Subp. 2. **Developmental services.** All developmental services utilized by residents shall be provided by persons, facilities, or services licensed or certified to provide these services.

Developmental services shall be utilized to promote the intellectual, physical, affective, and social development of each individual, and may include:

A. developmental achievement services;

B. recreational services;

C. religious services;

D. sheltered-workshop services;

E. social-work services;

F. vocational-training and placement services; and

G. educational services.

All school-age children shall attend public school class unless specifically excluded by the responsible school district. A school program operated by the

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facility shall meet the standards of the State Department of Education and the local school district.

Subp. 3. **Health services.** Health services shall be utilized to maintain an optimal general level of health for each resident, and to maximize function, prevent disability, and promote optimal development of each resident.

Residents who are members of an organized religious group opposed to any health practices may be excused from regulations applying to personal health upon written request by the resident or his parents; but they shall be subject to requirements for control of outbreaks of infectious disease.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0350 EVALUATION OF SERVICES.

Residential program staff shall participate with an interdisciplinary team in the evaluation of all services utilized by residents as reflected by each resident's level of functioning. This evaluation shall include evaluation of resident movement toward objectives stated in the program plan. The evaluation shall include the views of the resident and his parents. The evaluation shall include the views of the program advisory committee (see part 9525.0370, subparts 2 to 5) and appropriate agencies.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0360 ADMISSION AND RELEASE PROCEDURES.

Subpart 1. **In general.** Admission and release procedures include the following:

A. No resident shall be admitted to a residential program prior to its being licensed.

B. The number of residents admitted to the program shall not exceed its licensed program capacity.

C. The residential program shall make descriptive information available to the public that includes, but is not limited to:

(1) preadmission and admission services and procedures;

(2) limitations of age, length or place of residence, and type or degree of handicap;

(3) developmental and remedial services provided by program staff;

(4) developmental and remedial services provided by agreement with other agencies or persons;

(5) means for individual programming for residents in accordance with need;

(6) the plan for grouping residents into living units; and

(7) release and follow-up services and procedures.

D. The residential program shall have an admission and release committee (see part 9525.0370, subpart 5) that shall:

(1) include consumers and their representatives, interested citizens, and relevantly qualified professions; and

(2) review all applications and advise the administration of the residential program on selection, admission, and release of residents.

E. The laws, regulations, and procedures on admission, readmission, and release shall be summarized and available for distribution.

F. Admission and release procedures shall:

(1) encourage voluntary admission upon application of the resident or his parent;

(2) give equal priority to persons of comparable need, whether application is voluntary or by a court;

(3) facilitate emergency, partial, and short-term care when feasible;

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- (4) ensure the rights and integrity of the resident and his parent;
- (5) ensure the resident the maximum opportunity to participate in admission and release decisions;
- (6) ensure the resident is informed of the right to appeal the suspension, reduction, termination, or denial of services to the commissioner of human services pursuant to Minnesota Statutes, section 256.045 as a social service appeal; and
- (7) if respite care services are provided, there shall be a written policy defining respite care which includes:
 - (a) minimum and maximum time limit;
 - (b) conditions and procedures for admission (emergency; vacations; etc.);
 - (c) charges for respite care;
 - (d) description of services provided;
 - (e) type of services to be provided; and
 - (f) age and developmental level.

Respite care admissions must approximate the standard admission criteria.

G. Upon determination of the possible inadmissibility of a resident, the residential program shall consult with the referring agency and with his parents.

Subp. 2. **Selection and eligibility.** The residential program shall provide information on eligibility requirements and application materials upon all requests.

Residents and their parents shall be free to apply directly to the program for service. However, placement for service shall be made by the responsible local social service agency.

Residential programs shall admit residents without regard to race, creed, or national origin, and accord equal treatment to all persons.

When admission is not an optimal measure, but must, nevertheless, be implemented, its inappropriateness shall be clearly acknowledged; and plans shall be initiated for the continued and active exploration of alternatives.

The determination of legal incompetence shall be separate from the determination of the need for services, and admission to the program shall not automatically imply legal incompetence.

Subp. 3. **Admission.** For each resident admitted, there shall be a written program plan stating the services he needs or a written statement of the procedure and timetable for development of the program line.

Prior to admission, the resident and his parent shall be counseled on the relative advantages and disadvantages of admission to the program.

Prior to admission, the resident and his parent shall be encouraged to visit the program and the living unit in which the resident is likely to be placed.

Prior to admission of a school-age child, residential program staff shall notify the local school district.

Upon admission, each resident shall be placed in his living unit, and he shall be isolated only upon medical orders issued for specific medical reasons.

Subp. 4. **Release.** Planning for release, the residential program staff shall involve the referring agency, the resident, and his parent.

At the time of release, a summary of findings, progress, and plans shall be recorded and transmitted with the resident.

Procedures shall be established so that:

A. a parent who requests the release of a resident is counseled about the advantages and disadvantages of such release;

B. the court or other appropriate authorities are notified when a resident's release might endanger either the individual or society.

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At the time of release, physical examination for signs of injury or disease shall be made in accordance with procedures established by the residential program.

Except in an emergency, release shall be made only with the prior knowledge, and ordinarily the consent, of the referring agency, the resident, and his parents.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

History: *L 1984 c 654 art 5 s 58*

9525.0370 ADMINISTRATIVE POLICIES AND PRACTICES.

Subpart 1. **Written statement of philosophy.** The residential program shall have a written statement clearly defining its philosophy, purpose, and function. This statement shall be consistent with the current status of knowledge and information available on residential services. This statement shall be consistent with the principle of normalization.

Subp. 2. **Written statement of organization.** The residential program shall have a written statement defining its administrative and organizational structure.

Subp. 3. **Governing body and executive program officer.** The governing body shall exercise general direction and establish policies on the operation of the program and the welfare of the residents.

The governing body shall appoint an executive officer of the program. The qualification of the executive officer shall be determined by the governing body and be consistent with the training and education needed to meet the stated goals of the program. The governing body shall delegate to the executive officer the authority and responsibility for management of the affairs of the program.

Subp. 4. **Sound management principles.** The residential program shall be administered and operated in accordance with sound management principles. The type of administrative organization of the program shall be appropriate to the program needs of the resident. The program shall have a table of organization that shows the governing and administrative responsibilities of the program.

Subp. 5. **Consumer representation and advisory body.** The residential program shall provide for meaningful and extensive consumer representation and public participation in its operation. If consumer representatives, interested citizens, and relevantly qualified professionals are not represented on the governing body, an advisory body composed of such representation shall be appointed by the governing body.

The advisory body shall sit ad hoc to the governing body and to the chief executive officer and provide consultation and assistance as appropriate. The advisory body may function as the program research review and human rights committee. The advisory body may function as the admission and release committee. See part 9525.0360, subpart 1, item D.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0380 PERSONNEL POLICIES.

There shall be written personnel policies, which shall be made available to each staff member.

The hiring, assignment, and promotion of employees shall be based on their qualifications and abilities, without regard to sex, race, creed, age, disability, marital status, and ethnic or national origin.

Personnel policies shall include but not be limited to:

A. qualifications, job description, salary schedule, and benefits for all positions;

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B. a policy prohibiting mistreatment, neglect, or abuse of residents, and mandating the report of any mistreatment, neglect, or abuse to the executive officer; and

C. procedure for suspension and/or dismissal of an employee for cause.

There shall be a staff person responsible for implementation of these policies.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0390 STAFF ASSIGNMENTS.

Subpart 1. **Goal.** There shall be sufficient, appropriately qualified, and adequately trained personnel to provide program service in accordance with program's statement of services provided (see parts 9525.0320 to 9525.0350) and with the standards specified in this document. There shall be staff on duty or call at night to ensure adequate care and supervision. There shall be staff on duty or call to assist all residents in an emergency.

There shall be staff on duty or call so that provision of residential service is not dependent upon the use of unpaid residents or volunteers. Residents shall not replace staff or be used in lieu of staff in any area of work unless they are reimbursed commensurate with ability and production. Residents shall not be involved in the care (feeding, clothing, and bathing), training, or supervision of other residents unless they are adequately supervised, have the requisite humane judgment, and have been specifically trained in necessary skills.

All staff shall be administratively responsible to a person whose training and experience is appropriate to the program.

The title applied to all staff shall be appropriate to the kind of residents with whom they work and the kind of interaction in which they engage.

Subp. 2. **Volunteers.** The use of volunteers shall be encouraged to strengthen services in a manner consistent with the purposes of the program.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0400 STAFF TRAINING.

There shall be a staff-training program that is appropriate to the size and nature of the program and that includes, but is not limited to:

A. orientation for all new employees, to acquaint them with the philosophy, organization, program, practices, and goals of the residential program;

B. induction training for each new employee, in order that his skills in working with the residents are increased; and

C. continuing in-service training to update and improve the skills and competencies.

There shall be a record of all staff training on file.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0410 STAFFING NEEDS.

The determination of staff needs shall include consideration of staff members' experience and training, as well as the overall ratio of staff to residents.

The number of available direct care resident living staff shall be related to each resident's degree of handicap and his training needs.

Staff to resident ratios during peak programming hours (evening and weekends) shall be optimized by appropriate scheduling around residents' day programs.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0420 FINANCES AND BUDGET.

The residential program shall have a written statement outlining a plan of financing that gives assurance of sufficient funds to enable it to carry out its defined purposes.

Budget management shall be in accordance with sound accounting principles.

A residential program charging for services shall have a written schedule of rates and charge policies, which shall be available to the resident, his parent, referring agencies, and the public.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0430 RESIDENT RECORDS.

An individual record shall be maintained in the facility for each resident.

All information contained in the resident's records shall be handled in a manner consistent with the Government Data Practices Act. The resident shall have access to his record upon request. All entries in the resident's record shall be legible, dated, and authenticated by the signature and identification of the individual making the entry.

All records shall contain basic demographic information, to be entered at the time of admission, including reason for referral and individual program plan. Recorded information shall be in sufficient detail and adequate to:

- A. plan and evaluate the resident's program;
- B. provide a means of communication among all persons contributing to the resident's program;
- C. furnish documentary evidence of the resident's progress or regression and of his general response to his program;
- D. serve as a basis for study, evaluation, and development of services provided by the residential program;
- E. protect the legal rights of the resident, his parent, the residential program, and staff; and
- F. serve as a basis for evaluation of all services utilized by residents.

When it is necessary for residential program staff to supervise the use of personal funds, a record of these funds shall be maintained as a part of the resident's record.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

SEMI-INDEPENDENT LIVING SERVICE (SILS)

9525.0500 DEFINITIONS.

Subpart 1. **Applicant.** "Applicant" means any adult referred to the SILS provider for services. The term may also refer to an applicant for licensure under parts 9525.0500 to 9525.0660.

Subp. 2. **Client.** "Client" means an adult who needs more than food and lodging, but less than 24-hour per day program of service and supervision, receiving services as provided in this rule.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of human services or designee.

Subp. 4. **County board.** "County board" means that body of duly elected officials responsible for the governance of its county under the authority of Minnesota Statutes, sections 375.02 to 375.55. When a human service board has been established under Minnesota Statutes, sections 402.02 to 402.10, it shall be considered to be the county board, for purposes of this rule.

Subp. 5. **Individual program plan (IPP).** "Individual program plan (IPP)" means a detailed plan for each client which sets forth both short-term and long-term goals with detailed methods of achieving movement toward the individual service plan of the local social service agency.

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Subp. 6. **Individual service plan.** "Individual service plan" means an analysis by the local social service agency of services needed by the client, including identification of the type of residential placement, if needed, and the general type of program required by the client to meet the assessed needs within a specified period of time.

Subp. 7. **Interdisciplinary team.** "Interdisciplinary team" means a team consisting, at a minimum, of the client, the client's legal guardian (if any), local social service agency representative, and the program director, or SILS staff member. Other persons relevant to a particular client's needs may be included. The interdisciplinary team is responsible for the development and evaluation of the client's individual program plan and determination of need for semi-independent living services.

Subp. 8. **Legal guardian.** "Legal guardian" means a person(s) appointed under Minnesota Statutes, chapter 252A or 525 as guardian or conservator of the person or estate, or both, of anyone who has been legally judged to be incompetent to manage his or her person or estate. The commissioner of human services may be appointed as guardian or conservator.

Subp. 9. **Local social service agency (LSSA).** "Local social service agency (LSSA)" means a local agency designated and authorized by the county board or human service board, to be responsible for providing social services. Social services include the case management and referral of applicants for semi-independent living services.

Subp. 10. **May.** "May" indicates that the provisions or practices stated in these rules are permitted.

Subp. 11. **Mentally retarded person.** "Mentally retarded person" refers to any person who has been diagnosed as having significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior and manifested during the developmental period.

Subp. 12. **Normalization.** "Normalization" means to provide the client with a normal existence. If this is not possible, to provide the person with the alternative which is least restrictive. This includes making available to the client patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Subp. 13. **Provider.** "Provider" means an individual, organization, or association which exercises general direction over the policies and provision of SILS, and is responsible for the welfare of individuals being served.

Subp. 14. **Semi-independent living services (SILS).** "Semi-independent living services (SILS)" means a system of services that includes training, counseling, instruction, supervision, and assistance provided in accordance with the client's individual program plan. Services may include assistance in budgeting, meal preparation, shopping, personal appearance, counseling, and related social support services needed to maintain and improve the client's functioning. Such services shall not extend to clients needing 24-hour per day supervision and services. Persons needing a 24-hour per day program of supervision and services shall not be accepted or retained in a semi-independent living service.

Subp. 15. **Shall.** "Shall" indicates that the requirement, provision, or practice stated in parts 9525.0500 to 9525.0660 is mandatory.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

History: *L 1984 c 654 art 5 s 58*

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9525.0510 STATUTORY AUTHORITY.

Minnesota Statutes 1978, section 252.28, as amended, Laws of Minnesota 1980, chapter 612, provides for the determination of need, location, and program of public and private residential and day care facilities and services for mentally retarded children and adults. This statute further provides that the commissioner shall establish uniform rules and program standards for each type of residential and day facility or service for more than four retarded persons.

Minnesota Statutes, sections 245.781 to 245.812, Public Welfare Licensing Act, provide for the development and promulgation of rules for the operation and maintenance of day care and residential facilities and agencies, for granting, suspending, and revoking licenses and provisional licenses. It also provides that no individual, corporation, partnership, voluntary association, or other organization may operate a day care or residential facility or agency unless licensed to do so by the commissioner.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0520 PURPOSE.

The purpose of these parts is:

A. to establish standards for the provision of services to mentally retarded persons whose dependency requires services above the level of food and lodging, but who do not need 24-hour-per-day care or supervision, as provided in residences licensed under parts 9525.0210 to 9525.0430;

B. to assist clients in achieving their highest potential in self-sufficiency and independence in the least restrictive environment;

C. to ensure that an individual program plan is developed with each client, and each client receives those services he needs to achieve or maintain independence; and

D. to prescribe minimum program standards for semi-independent living services.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0530 SCOPE.

Parts 9525.0500 to 9525.0660 apply to any person, organization, or association engaged in the operation and provision of semi-independent living services (SILS) to adults who are or may be mentally retarded, as provided and defined in part 9525.0010, subparts 11 and 13. These parts set forth the requirements for any individual, organization, or association providing SILS to more than four mentally retarded adults to be licensed pursuant to Minnesota Statutes, sections 252.28, and 245.781 to 245.812, the Public Welfare Licensing Act.

Licensure under these parts does not require concurrent compliance with other Department of Human Services licensing rules or with Minnesota Department of Health supervised living facility standards promulgated under Minnesota Statutes, section 144.56.

These parts do not govern the living arrangement of clients. Semi-independent living services licensed under these parts may be provided to persons living in a variety of ordinary community settings other than state hospitals and community residential facilities licensed under parts 9525.0210 to 9525.0430 and supervised living facility standards. Community living arrangements in which SILS are provided may include the following, but not be limited to: client's own home, foster home, apartment, or rooming house.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

History: *L 1984 c 654 art 5 s 58*

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9525.0540 PROCEDURES FOR LICENSING.

Subpart 1. **Application to determine need.** Application for determination of need for SILS shall be made to the county board or its designee. Procedures for determination of need shall be as provided for in parts 9525.0070 and 9525.0080.

Subp. 2. **Application for license.** Upon notification that a need for the service has been found by the commissioner, application for license may be made to the commissioner.

Subp. 3. **Required information.** Applicants shall submit such materials and information as may be required by the commissioner to make proper determination of the nature and adequacy of the services to be provided. Application for license shall not be considered complete until all required documents have been received by the commissioner in accordance with this rule.

Subp. 4. **License renewal.** Any SILS provider desiring to renew a license shall submit an application at least 30 days prior to expiration of the license. A renewal license may be issued for a period up to two years at the discretion of the commissioner.

Subp. 5. **Issuance of license or letter of denial.** The license or a formal letter of denial, including reasons for denial, shall be issued within 90 days after receipt of the completed application. The initial license issued to any new SILS provider shall be provisional for a designated period of time not to exceed one year (Minnesota Statutes, section 245.783, subdivision 3).

Subp. 6. **Provisional license.** Provisional license shall be granted by the commissioner under the terms of Minnesota Statutes, section 245.783, subdivision 3.

Subp. 7. **Variance.** When a specific requirement cannot be met or an innovative alternative is desirable, a variance must be requested in writing. The variance request shall state the reason the current requirement cannot be met; the proposed alternative; and the date the alternative or requirement shall be met, not to exceed one year. No variance shall be granted that would threaten the health, safety, or rights of clients.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0550 TECHNICAL PROVISIONS.

Subpart 1. **Grounds for denial, revocation, or suspension of license.** Failure to comply with these standards or applicable state law shall be cause for denial, revocation, or suspension of license.

Subp. 2. **Appeals.** Denial, revocation, or suspension of license may be appealed pursuant to Minnesota Statutes, chapter 14, the Minnesota Administrative Procedure Act.

Subp. 3. **Severability.** The provisions of parts 9525.0500 to 9525.0660 shall be severable. If any clause, sentence, or provision is declared illegal or of no effect, the validity of the remainder of parts 9525.0510 to 9525.0660 and its applicability shall not be affected.

Subp. 4. **Legal inconsistency.** Any provision of these parts which is inconsistent with any state or federal law is superseded by that law.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0560 PROGRAM AND SERVICE STANDARDS.

Subpart 1. **Admission.** The provider shall maintain written policies and procedures, which shall be available to the local social service agency and to the general public, covering the following:

- A. preadmission and admission procedures;
- B. prerequisite client skills for admission;

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- C. admission criteria including age, type, and degree of handicap;
- D. nondiscriminatory practices with regard to race, creed, sex, or national origin;
- E. description of services;
- F. discharge procedures;
- G. cost rates for services and arrangements available for payment;
- H. the requirement that each client must have a current medical and dental examination; and
- I. waiting lists and selection priorities.

Subp. 2. **Comprehensive assessments.** Comprehensive assessments:

A. Behavioral assessments. A behavioral assessment, conducted by SILS staff at least annually, shall objectively describe the behavioral status of the client. The assessment instrument must be acceptable to the LSSA.

Upon admission, the behavioral assessment shall be completed prior to the development of the individual program plan. This assessment may use data from any appropriate assessment conducted within the previous 12 months.

B. Physical assessment. Upon admission, there shall be a medical examination of the client conducted by a licensed physician within one year preceding admission, or one month following admission which includes reevaluation date or schedule recommended by the physician.

There shall be a record of dental examination in the client's record, and reexamination schedule recommended by the dentist.

C. Additional assessments determined to be needed by the interdisciplinary team shall be conducted or arranged by the provider.

Subp. 3. **Individual program plan (IPP).** The provider shall have a letter of referral from the responsible local social service agency, including a copy of the individual service plan, for each client. The interdisciplinary team shall evaluate each client's needs, and identify those needs having priority, within 30 days of admission. An annual individual program plan (IPP) for each client shall thereafter be established and evaluated to meet client needs.

The IPP shall be based on needs identified in the behavioral assessment, and on the individual service plan of the local social service agency, which shall include at least the following areas:

- A. training in meal planning, meal preparation, and shopping;
- B. training in first-aid skills, responding to emergencies, and symptoms of illness;
- C. training in money management;
- D. training in self-administration of prescription and nonprescription medication;
- E. training in the use of the telephone and other public utilities;
- F. development of the client's social, recreational, and transportation abilities.
- G. specific training plan concerning the development of more appropriate behaviors for clients displaying inappropriate behaviors;
- H. training in matters of personal appearance and hygiene;
- I. training in apartment or living environment maintenance, when indicated;
- J. training in use of community resources including but not limited to police, fire, hospital emergency resources; and
- K. training in rights and responsibilities of community living.

The IPP shall establish program goals and behavioral objectives stated in measurable terms which specify the time limit for achieving each behavioral objective. The IPP shall also identify the person(s) responsible for implementation of the IPP.

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The IPP shall describe the services to be provided, and how they will be obtained.

The annual IPP shall be reviewed at least quarterly by staff. The reviews shall include written report of: the client's progress toward goals and behavioral objectives; the need for continued services and any recommendation concerning alternative services and/or living arrangements; and recommended change in guardianship status, if any.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0570 ADMINISTRATIVE STANDARDS; PROVIDER RESPONSIBILITIES.

Subpart 1. **Written statement of philosophy.** The provider shall have a written statement of the SILS program philosophy, purpose, and goals which:

- A. is consistent with the principles of normalization;
- B. includes expected client outcomes;
- C. is available to the public; and
- D. is reviewed by the provider at least annually and revised as needed.

Subp. 2. **Client programs.** The SILS provider shall be responsible for program direction for all clients, which shall include the provision, continuation, and coordination of services in accordance with the client's IPP.

Subp. 3. **Program director.** The provider shall employ a program director, and may employ more than one to assist in program direction.

The provider may employ other staff to carry out the programs for clients, providing that such staff are under the supervision of a qualified program director.

The program director shall have at least a bachelor's degree in a field related to mental retardation services, and at least one year's experience in working with mentally retarded persons. Five years' experience in working full time with clients under professional supervision in a developmental program for mentally retarded persons may be substituted for a bachelor's degree if in the judgment of the commissioner such experiences result in ability to perform the duties of the program director.

The program director shall ensure that all clients have demonstrated the ability to contact a staff person for assistance in an emergency.

The program director shall ensure that the SILS program is in conformance with applicable civil rights and affirmative action laws.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0580 ADMINISTRATIVE STANDARDS FOR DISCHARGE.

Subpart 1. **Planning.** Except in an emergency, planning for discharge shall be made only with prior involvement of the client, LSSA representative, and guardian, if any.

Planning for termination of services by the provider shall include referral to any follow-up services the LSSA considers necessary.

Subp. 2. **Counseling.** The provider shall provide counseling about the advantages and disadvantages of termination of services to the client and/or legal guardian, if requested by the client or the LSSA.

Subp. 3. **Discharge summary.** The provider shall prepare a discharge summary which includes:

- A. A summary of findings, events, and progress during the period of services to the client.
- B. Written evidence of the reason for discharge.

C. If discharged to another service, specific recommendations for future programming shall be included in the discharge summary and transmitted to the LSSA of responsibility. A copy may be sent to the receiving service provider.

Subp. 4. **Death of client.** In the event of death of a client:

A. the provider shall notify the LSSA and guardian or responsible relative;

B. the date, time, and circumstances of the client's death shall be recorded in the client's record;

C. if the client dies unattended by a physician, the coroner or medical examiner shall be notified; and

D. a copy of the records of the deceased client shall be transmitted to the local social service agency.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0590 ADMINISTRATIVE STANDARD FOR CLIENT RECORDS.

Subpart 1. **Contents.** The SILS provider shall maintain a record for each client, which contains the following information:

A. client's name, address and telephone number, birth date, and date of admission to and discharge from SILS;

B. name, address, and phone number of legal guardian, if any, and person to contact in an emergency;

C. record of current medication prescription and adverse reactions to drugs, if any;

D. special diet needs and food allergies, if any;

E. name and address of the client's LSSA case manager;

F. name and address of the client's physician or clinic and dentist;

G. the results of behavioral and physical assessments conducted within the past 12 months and the LSSA's individual service plan;

H. the client's IPP and quarterly reviews;

I. any physician's and dentist's orders within the past two years, including special instructions for self-medication, care, and treatment;

J. summary of professional service delivery during the past year, including specialized therapy, and the client's progress in therapy;

K. summary of client's progress or lack of progress in previous programs, job skills, and employment history;

L. client's current place of employment or day program; and

M. a complete record of the client's funds if such funds are managed by the SILS provider.

Subp. 2. **Access to client records.** All information contained in the client's record shall be handled in a manner consistent with the Government Data Practices Act, Minnesota Statutes, sections 13.01 to 13.86. The client shall have access to his record upon request, with accommodations for interpretation that meets his needs.

The provider shall be responsible for the safekeeping of client records, and for securing them against loss or use by unauthorized persons.

The client's record shall be removed from the provider's jurisdiction and custody only in accordance with a court order, subpoena, or statute.

The provider shall have written policies governing access, duplication, and dissemination of information.

Written consent of the client or guardian, if any, shall be required for the release of information concerning the client to persons not otherwise authorized

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to receive it. The client's record shall specify the information requested to be released, purpose for which the information is released, and expiration date for release of information.

All client records shall be maintained by the provider following discharge of the client for at least two years.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0600 CLIENT RIGHTS.

Subpart 1. **Written policies and procedures for civil rights.** The provider shall have written policies and procedures concerning the exercise and protection of client human and civil rights, which shall be available to LSSA, clients, guardians.

Subp. 2. **Complaint procedures.** The provider shall have complaint procedures which shall include:

- A. the name and telephone number of persons who may be contacted in order to register a complaint;
- B. the time schedule established for registration of complaints; and
- C. the time limits for decisions to be made by the provider.

Subp. 3. **Right to appeal.** The provider shall inform clients of their right to appeal the suspension, reduction, or termination of services to the commissioner pursuant to Minnesota Statutes, section 256.045 as a social service appeal.

Subp. 4. **Legal assistance.** Upon request of the client, the provider shall instruct and assist clients in how to obtain legal assistance.

Subp. 5. **Policies on financial interests of clients.** The provider shall have a written statement of policies and procedures that protect the financial interests of the clients.

Subp. 6. **Money records.** If the provider manages the client's money, the following shall be recorded:

- A. written permission from the client or his legal guardian;
- B. reasons the provider is to manage the client's money; and
- C. a complete record of the use of the client's money and reconciliation of the account.

Subp. 7. **Employee rights.** Clients who work for the SILS provider shall be considered employees of the provider with all the rights and privileges of an employee.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0610 WRITTEN DESCRIPTION OF ORGANIZATION.

The provider shall have a current written description of its organization, which includes the major operating services and person(s) having administrative responsibility, available to the local social service agency.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0620 PERSONNEL POLICIES.

The provider shall have written personnel policies available to staff. The policies shall include:

- A. application and hiring procedures;
- B. provisions for nondiscrimination;
- C. description of probationary period, if any, and procedures for annual performance evaluation;
- D. procedures for suspension and dismissal;
- E. employee benefits;
- F. grievances and appeal procedures;
- G. prohibition of mistreatment, neglect, or abuse of clients, and mandatory reporting of any mistreatment, neglect, or abuse;

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- H. plans for staff orientation, training; and
- I. prohibition of the use of any aversive or deprivation procedures.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0630 EMERGENCY PROCEDURES.

The provider shall have a written plan and procedure in case of fire, severe illness, accident, severe weather, and missing persons. Orientation in emergency procedures shall be recorded for each client and employee within one month of admission or employment. This plan shall be reviewed quarterly with clients.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0640 FINANCIAL RECORDS.

The provider shall maintain records of financial transactions and agreements with the referring LSSA.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0650 ESTABLISHMENT OF SERVICE RATES.

The provider shall have a written plan for establishing service rates, which shall include at least 30-day advanced notice of change in rates.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

9525.0660 LIVING ARRANGEMENTS.

Subpart 1. **Part of SILS program.** When living arrangements are provided by the SILS provider as a part of the SILS program, the living arrangements are not subject to parts 9525.0500 to 9525.0660, and therefore need not be licensed. Living arrangements are subject to applicable health, safety, sanitation, and zoning codes. When living arrangements are provided as a part of the SILS program plan, the provider shall assure the local social service agency that the living arrangements are in conformance with the client's individual program plan, and applicable health, safety, sanitation, and zoning codes. Living arrangements so provided shall include provisions for the preparation of meals, sleeping, bathing, mail, and access to telephone and transportation.

Subp. 2. **Not part of SILS program.** When living arrangements are not provided as a part of the SILS program, the provider may assist the local social service agency and client as agreed upon in:

- A. choosing and arranging for an appropriate living environment;
- B. developing client skills in choosing and making living arrangements;

and

C. developing client skills in shopping, seeking employment, paying rent and other bills, and in the use of public transportation and other community services.

Statutory Authority: *MS s 245.802; 252.28 subd 2*

DAYTIME ACTIVITY CENTERS FOR THE MENTALLY RETARDED

9525.0750 STATUTORY AUTHORITY.

Minnesota Statutes, sections 252.21 to 252.26 establish the authority of the commissioner of human services to make grants to licensed daytime activity centers for the mentally retarded, supervise the operation thereof, and establish such rules as are necessary to carry out the purpose of these statutes. Parts 9525.0750 to 9525.0830, therefore, carry the force and effect of law.

Statutory Authority: *MS s 252.24 subd 2*

History: *L 1984 c 654 art 5 s 58*

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9525.0760 DEFINITIONS.

The terms used in parts 9525.0750 to 9525.0830 shall mean:

A. applicant for grant-in-aid: any city, village, town, county, or nonprofit corporation, or any combination thereof, may apply to the commissioner of human services for assistance in establishing and operating a licensed daytime activity center program for mentally retarded;

B. board: the governing body of the daytime activity center;

C. center: daytime activity center for the mentally retarded;

D. commissioner: the commissioner of human services;

E. director: the staff member appointed by the board to direct the activity center; and

F. licensed daytime activity center: those programs duly licensed and meeting requirements of parts 9545.0510 to 9545.0670.

Statutory Authority: *MS s 252.24 subd 2*

History: *L 1984 c 654 art 5 s 58*

9525.0770 BOARD.

Subpart 1. **Designation.** There shall be a designated board for the center.

Subp. 2. **Balanced representation.** Where a private nonprofit corporation is the applicant for a grant, there shall be a minimum of nine members on the board. Representation shall be balanced among:

A. parents of the retarded;

B. groups representing the community at large; and

C. professional persons interested in and having responsibility for services to the mentally retarded. These professional persons may be representative of local health, education, and welfare departments; medical societies; area mental health-mental retardation program offices; state hospitals serving the mentally retarded; and associations concerned with handicapping conditions.

Subp. 3. **Separate advisory board.** When the primary function of the applicant agency is to provide services other than a daytime activity center, the operation of the center shall be designated as a separate function, with a separate advisory board or committee, established for this purpose. This board shall conform with subpart 2. The operating rules of this board must be approved by the commissioner. Separate bookkeeping records shall be established for the sole purpose of administering daytime activity center funds.

Subp. 4. **Minutes.** Each board shall submit copies of the minutes of all board meetings to the commissioner. In addition, all centers shall submit such other reports as the commissioner may require.

Subp. 5. **Agency cooperation.** The daytime activity center board is responsible for cooperative planning with other agencies in the community, such as special education, sheltered workshops and vocational training, county welfare departments, and the area mental health-mental retardation program board.

Subp. 6. **Annual budget.** On or before April 1 of each year, the board and the director shall submit to the commissioner for approval an annual application and budget for the next fiscal year, using prescribed forms.

Subp. 7. **Statement of purpose and goals.** Each center board shall submit a statement of purposes and goals of the program to the commissioner.

Statutory Authority: *MS s 252.24 subd 2*

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9525.0780 FINANCES.

New applications for state assistance and applications for renewal of support must contain the rationale for estimates of local income.

Any transfers by the boards that increase or decrease a major line item of the approved center budget by more than ten percent, or \$1,000, whichever is greater, must have the advance approval of the commissioner.

Statutory Authority: *MS s 252.24 subd 2*

9525.0790 STAFF.

Subpart 1. Appointments. Every board shall appoint a director. Other personnel necessary to conduct the program shall be hired by the director with approval by the board. The director, or a staff member named by him, shall attend all regular meetings of the board of the center.

Subp. 2. Director's qualifications. Minimum qualifications for the director shall be a bachelor's degree, with an appropriate major; however, a combination of training and experience approved by the commissioner may be substituted for this requirement. Other rules pertaining to subsequent required training are stated in parts 9545.0510 to 9545.0670.

Subp. 3. Written personnel policies. Written personnel practices, to include statements of duties, responsibilities, job specifications, and salary schedules for the director and other professional positions, shall be submitted to the commissioner for approval prior to application for funding of these positions.

Subp. 4. Staff training. Newly appointed center directors and staff shall take part in preservice or in-service training, as designated by the commissioner.

Statutory Authority: *MS s 252.24 subd 2*

9525.0800 ADMISSIONS.

Subpart 1. Eligibility requirements. The board and the director shall develop, and make available to the public, a statement of eligibility requirements for participants in the activities of the center. These requirements must be consistent with Minnesota Statutes, section 252.23. A copy shall be filed with the Department of Human Services.

Subp. 2. Exclusions. There shall be no categorical exclusions on the basis of orthopedic and neurological handicaps, sight or hearing deficits, lack of speech, and severity of retardation, toilet habits, behavior disorders, or failure of participant to make progress, except where appropriate services are available to persons with such problems from other community agencies. Individual exclusions can be made when participation in the activities of the center would be clearly detrimental to the participant, staff, or others. When such exclusions are made, the reasons shall be entered into the record.

Subp. 3. Notice of refusal or exclusion and right to appeal. When an individual is refused admission to or excluded from a center, the parents or guardians shall be notified in writing of their right to appeal to the board, with final recourse to the commissioner.

Subp. 4. School-age mentally retarded children. School-age mentally retarded children, as defined by Minnesota Statutes, section 120.03, and rules of the State Board of Education, may be served by the center when:

A. a child is excluded, excused, or expelled from attendance in public schools under provisions of Minnesota Statutes, section 120.10, subdivision 3, clause (1), and subdivision 4, and section 127.071, provided that the center board has verification of the fact that the proceedings called for in those sections have taken place and that approval of the commissioner of human services is obtained; or

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B. when it is not in the best interests of the child to initiate proceedings referred to in item A, the child may be enrolled in the center; providing approval is obtained from the commissioners of education and public welfare.

Subp. 5. **Applications and reports.** Admissions procedures shall include a written application for services and reports of medical examinations, appropriate psychological examinations, and social evaluation.

All requests and applications for services shall be brought before the board or its admission committee. No applicant for service may be refused, nor may any participant currently receiving services from the center be excluded, without board approval and referral to the county welfare department.

A report shall be attached to the board minutes that shall include: names of applicants accepted; names of applicants refused services, or participants terminated, and reasons for such action; and efforts made to assist those applicants not accepted, or excluded, to find other services.

Statutory Authority: *MS s 252.24 subd 2*

History: *L 1984 c 654 art 5 s 58*

9525.0810 CASE RECORDS.

There shall be a record for each participant in the center, including:

A. admissions information and statement of goals to be accomplished at the center;

B. current medical and psychological information;

C. a plan for training, education, and treatment;

D. periodic individual progress evaluations;

E. a plan for family involvement and conference records; and

F. referral and termination information.

Statutory Authority: *MS s 252.24 subd 2*

9525.0820 FEES.

Subpart 1. **Policy.** No fees shall be charged until the board has established a fee policy for the center. This policy shall be submitted to the commissioner for approval at least one month prior to the effective date. In no case may a retarded person be excluded from enrollment or continued attendance because of inability to pay the approved fees.

Subp. 2. **Income resources.** The board shall take advantage of all income resources available to the center, including those to the retarded person, families, guardians, or referring agency. Such resources may include:

A. local tax funds authorized;

B. public welfare programs;

C. federal Social Security insurance benefits;

D. private insurance benefits;

E. gifts and contributions; and

F. other appropriate resources.

Subp. 3. **Maximum charge.** When none of the aforementioned are determined adequate or available, direct charges to parents shall not exceed the fee provisions of the center's approved policy.

Statutory Authority: *MS s 252.24 subd 2*

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9525.0830 EXCEPTIONS.

If compliance with these rules is found to cause excessive hardship, to the extent that services will be curtailed or terminated, the board may apply to the commissioner for an exception. Such an exception may not exceed one year, and its granting will not be considered a precedent for other center boards.

Statutory Authority: *MS s 252.24 subd 2*