

1 Department of Public Welfare

2

3 Adopted Rule Governing Residential Programs for Adult Mentally
4 Ill Persons (12 MCAR S 2.036)

5

6 Rule as Adopted

7 12 MCAR S 2.036 Licensing of residential facilities for adult
8 mentally ill persons.

9 A. Applicability.

10 1. Rule 12 MCAR S 2.036 applies to all providers offering
11 residential care and treatment program services to five or more
12 adult mentally ill persons at one time for more than 30 days in
13 any 12-month period and is based, in part, on Minn. Stat. S
14 245.782, subds. 6 and 9. This rule applies to mental health
15 residential treatment facilities programs which are Category I
16 programs as defined in B.3. and semi-independent or supportive
17 group living facilities programs which are Category II programs
18 as defined in B.4. This rule applies to mental health
19 residential programs for the adult mentally ill within state
20 hospitals, and adult foster care homes or safe houses with five
21 or more adult residents who are mentally ill. These entities
22 must be licensed as either Category I or Category II facilities.

23 2. Rule 12 MCAR S 2.036 does not apply to programs
24 located within a licensed private hospital which has a
25 psychiatric or chemical dependency program located within the
26 hospital or to a mental health residential program, except state
27 institutions under the control of the commissioner; nor does it
28 apply to programs located within a licensed nursing home.

29 B. Definitions. As used in 12 MCAR S 2.036, the following
30 terms have the meanings given them.

31 1. Applicant. "Applicant" means an individual,
32 organization, association, partnership, corporation or unit of a
33 state institution which submits an application for licensure
34 under 12 MCAR S 2.036 to provide care and treatment for five or
35 more adult mentally ill persons in a mental health residential
36 program.

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1 2. Case management services. "Case management services"
2 means the arranging and coordinating of direct services for a
3 resident with the involvement of the resident. These direct
4 services include, but are not limited to: assuring a diagnosis
5 when needed, assessing the resident's strengths and weaknesses
6 in order to determine the resident's needs, developing an
7 individual treatment plan, and evaluating the plan's
8 effectiveness.

9 3. Category I program. "Category I program" means a
10 mental health residential program which provides intensive
11 ~~treatment for persons who are mentally ill~~ and program services
12 in which there is an emphasis on services being offered on a
13 regular basis within the facility with the use of community
14 resources being encouraged and practiced.

15 4. Category II program. "Category II program" means a
16 mental health residential program which provides either a
17 transitional semi-independent living arrangement or a supervised
18 group supportive living arrangement for mentally ill persons.
19 This type of program offers a combination of in-house and
20 community resource services with emphasis on securing community
21 resources for most daily programming and employment.

22 5. Commissioner. "Commissioner" means the Commissioner
23 of the Department of Public Welfare or a duly authorized
24 representative.

25 6. Community representative. "Community representative"
26 means an individual who represents a broad base of citizen
27 ~~interest~~ citizens' interests and who is neither an employee or
28 board member, nor has any other official affiliation with the
29 mental health residential program.

30 7. Crisis services. "Crisis services" means a set of
31 activities designed to respond to ~~medical~~, situational, and
32 psychiatric emergencies.

33 8. Department. "Department" means the Department of
34 Public Welfare.

35 9. Full-time. "Full-time" means work time equalling at
36 least 37 1/2 hours per week.

1 10. Independent living ~~services~~ skills training.
 2 "Independent living ~~services~~ skills training" means services
 3 which both emphasize development of an individual's skills
 4 required to perform increasingly independent daily living
 5 functions and which are appropriate to the needs of the
 6 individual.

7 11. Individual program plan. "Individual program plan"
 8 or "individual treatment plan" means a written plan of
 9 intervention and treatment developed on the basis of assessment
 10 results and ~~modified at frequent~~ revised, if necessary, at
 11 certain intervals. The plan specifies goals and objectives and
 12 a means for their accomplishment, and also identifies
 13 responsible staff persons.

14 12. License. "License" has the meaning given it in Minn.
 15 Stat. S 245.782, subd. 11.

16 13. Living unit. "Living unit" means a set of rooms
 17 which are physically self-contained, which have the defining
 18 walls extending from floor to ceiling, and which include
 19 bedrooms, living rooms or lounge areas, bathrooms and connecting
 20 areas.

21 ~~13-~~ 14. Mental health counselor. "Mental health
 22 counselor" means an individual who, under the supervision of a
 23 mental health therapist or program director, provides treatment
 24 for mentally ill residents in a mental health residential
 25 program and who meets the requirements of P.7. The specific
 26 title of the individual employed in this position is at the
 27 discretion of the program as long as the title selection fairly
 28 reflects the responsibilities defined in 12 MCAR S 2.036 for a
 29 mental health counselor.

30 ~~14-~~ 15. Mental health residential program. "Mental
 31 health residential program" or "program" means a planned
 32 combination of living conditions, services, and resources for
 33 the treatment and rehabilitation of five or more mentally ill
 34 adults on a 24-hour per day basis.

35 ~~15-~~ 16. Mental health therapist. "Mental health
 36 therapist" means an individual skilled in providing mental

1 health therapy in a mental health residential program and who
 2 meets the requirements of P.6. The specific title of the
 3 individual employed in this position is at the discretion of the
 4 program as long as the title selection fairly reflects the
 5 responsibilities defined in 12 MCAR S 2.036 for a mental health
 6 therapist.

7 ~~16~~ 17. Mental health therapy. "Mental health therapy"
 8 means various treatment modalities which may reasonably be
 9 expected to improve the resident's condition.

10 ~~17~~ 18. Mental health worker. "Mental health worker"
 11 means an individual who, under the supervision of a mental
 12 health counselor, mental health therapist, or program director,
 13 provides care, support, or assistance to mentally ill residents
 14 in a mental health residential program and who meets the
 15 requirements of P.8. Possible job titles for this staff
 16 position are resident manager, human services technician,
 17 independent living skills worker, and licensed practical nurse.
 18 The specific title of the individual employed in this position
 19 is at the discretion of the program as long as the title
 20 selection fairly reflects the responsibilities defined in 12
 21 MCAR S 2.036 for a mental health worker.

22 ~~18~~ 19. Mentally ill person. "Mentally ill person" means
 23 a person with a functional, nonorganic, emotional disorder which
 24 has been diagnosed by a physician or a licensed consulting
 25 psychologist, and who has demonstrated by his or her behavior an
 26 inability to interpret realistically the environment, cope with
 27 independent daily living or form meaningful relationships who
 28 has been diagnosed by a physician, a licensed psychologist, or a
 29 licensed consulting psychologist as having a condition which
 30 results in an inability to interpret the environment
 31 realistically and in impaired functioning in primary aspects of
 32 daily living such as personal relations, living arrangements,
 33 work and recreation; or which is listed in the International
 34 Classification of Diseases (ICD-9-CM), code range 290, 293-302.9
 35 or 306-314.9, or the corresponding code in the American
 36 Psychiatric Association's Diagnostic and Statistical Manual of

1 Mental Disorders (DSM-III), Axes I, II or III.

2 ~~19-~~ 20. Motivation and remotivation services.

3 "Motivation and remotivation services" means a set of activities
4 which encourages the development of positive attitudes and
5 self-concept, and which encourages the resident to develop goals
6 and to use available community resources.

7 ~~20-~~ 21. Program director. "Program director" means a
8 person who is responsible for the development and implementation
9 of the mental health residential program and who meets the
10 requirements of P-4 P.5.

11 ~~21-~~ 22. Provisional license. "Provisional license" has
12 the meaning given it in Minn. Stat. S 245.782, subd. 12.

13 ~~22-~~ 23. Recreation and leisure time services.
14 "Recreation and leisure time services" means a set of activities
15 designed both to meet a resident's personal and therapeutic
16 needs of self-expression, social interaction, and entertainment,
17 and to develop skills and interests that lead to enjoyable and
18 satisfying use of leisure time. A major An objective of these
19 these services is the integration of residents into the
20 recreational mainstream of the community.

21 ~~23-~~ 24. Restraint. "Restraint" means any physical device
22 that limits the free and normal movement of body and limbs.

23 ~~24-~~ 25. Seclusion. "Seclusion" means involuntary removal
24 into a separate room which prevents social contact with other
25 persons.

26 ~~25-~~ 26. Socialization services. "Socialization services"
27 means a set of activities in which residents learn interpersonal
28 relationship and communication skills.

29 ~~26-~~ 27. Social services. "Social services" includes may
30 include psychosocial evaluation; counseling based on social work
31 problem-solving methods; activities designed to assist residents
32 in dealing with tasks of daily living; utilization of community
33 resources; psychotherapy for individuals, families and groups;
34 and education, planning, and advocacy for the social needs of
35 residents.

36 ~~27-~~ 28. Support group services. "Support group services"

1 means a ~~forum~~ group process designed ~~for~~ to allow residents to
2 participate with other individuals in a ~~group process~~ of sharing
3 feelings, experiences, and constructive feedback.

4 ~~28.~~ 29. Vocational services. "Vocational services" means
5 a set of activities emphasizing development of skills required
6 to perform work functions in a competitive ~~or quasi-competitive~~
7 , semi-competitive or volunteer work setting.

8 C. Licensing process.

9 1. License required. No mental health residential
10 program shall operate in Minnesota unless it has a current and
11 valid license or provisional license as required by Minn. Stat.
12 SS 245.781-245.812.

13 2. Information furnished. Upon written request, each
14 individual, organization, or agency shall be furnished with a
15 copy of 12 MCAR S 2.036 and other pertinent materials such as an
16 application form and instructions for obtaining a license.

17 3. Application. Persons interested in obtaining
18 licensure under 12 MCAR S 2.036 shall submit to the commissioner
19 a ~~completed~~ application on forms supplied by the department.
20 The applicant shall either document compliance with all
21 applicable building codes, fire and safety codes, health rules,
22 zoning ordinances, and other applicable rules and regulations or
23 submit documentation that appropriate variances have been
24 granted.

25 4. Decision. The commissioner shall make a decision on
26 licensure after completion of the following steps:

- 27 a. a review of the application;
- 28 b. a visit to the program site; and
- 29 c. interviews with ~~staff~~ and a ~~random~~ sample of
30 residents and ~~staff~~, in the case of existing facilities.

31 5. Fee. Each applicant shall pay to the commissioner a
32 nonrefundable fee not to exceed \$150 for the costs of processing
33 the license application. Information regarding the specific
34 amount and the timing of the payment shall be made available to
35 the applicant.

36 6. Renewals. Application for renewal of a license shall

1 be made on forms furnished by the department at least 30 days
2 prior to the date of expiration of the license.

3 D. License changes; report. Any changes in the following
4 areas shall be reported in writing to the department at least 20
5 days prior to the change:

- 6 1. a change in licensed capacity;
- 7 2. the location of the program;
- 8 3. a change in program director;
- 9 4. a change in ownership; or
- 10 5. major changes in programming. Major changes in
11 programming include such areas as a change in the target
12 population or shifting from the internal provision of services
13 to the external provision of services through a purchase of
14 service contract. Changes in programming which do not have to
15 be reported include such changes as the addition of staff,
16 reassignment of staff, and establishing new groups.

17 E. Program policy and procedures manual. Each mental health
18 residential program shall develop a written policy and
19 procedures manual. The manual shall contain all materials
20 required by F.-M. The manual shall be available for inspection
21 by the department.

22 F. Statement of purpose and policies. The manual shall
23 contain a complete statement describing the mental health
24 residential program's philosophy and goals. This statement
25 shall include, but not be limited to, a description of:

- 26 a- 1. the geographical area to be served;
- 27 b- 2. the treatment design and methodology of program
28 services; and
- 29 e- 3. the scope of services offered.

30 G. Program organization and administration.

31 1. Advisory committee. Each program shall have an
32 advisory committee which provides for reasonably broad community
33 representation and public participation in its operation. The
34 advisory committee shall have a core group which comprises a
35 quorum. The core group shall include at least one program
36 resident, the facility's administrator, and a community

1 representative. The advisory committee shall document the
 2 procedure whereby residents are assured access to the advisory
 3 committee. The committee shall meet at least quarterly.
 4 Minutes of the meetings shall be recorded and kept on file at
 5 the facility. Each program shall provide to the department a
 6 list of names and titles of the members of the advisory
 7 committee who are members at the time of submitting an
 8 application or renewal of a license under 12 MCAR S 2.036.

9 2. Governing body. All programs shall have a governing
 10 body which is accountable for, and has authority over, the
 11 policies and activities of the program. In the case of a
 12 program owned by a proprietor or partnership, the proprietor or
 13 partners shall be regarded as the governing body for the purpose
 14 of this part. Each program shall provide to the department a
 15 list of names and titles of the members of its governing body.

16 3. Designated authority. A program operating within
 17 Minnesota with headquarters outside of the state shall have a
 18 duly authorized representative with decision-making
 19 responsibility designated within this state.

20 H. Required documentation and reports.

21 1. Insurance coverage. Each program shall have written
 22 documentation of insurance coverage in an amount sufficient to
 23 protect the interests of residents and staff. Each program must
 24 document the specific types and amounts of coverage and the
 25 carrier or carriers.

26 2. Bonding. Each program shall have written
 27 documentation that all employees are bonded or otherwise
 28 appropriately insured if they have access to or responsibility
 29 -----
 for handling money.

30 3. Financial information. Each program shall make
 31 available to the commissioner an annual fee schedule. A new
 32 program shall document in writing assurance a plan of funding
 33 -----
 sufficient to meet total projected program costs for a period of
 34 at least one year in addition to start-up costs.

35 4. Maintenance. Each program shall document that the
 36 maintenance and upkeep of the facility is being done by staff

1 hired by the program or through a written working agreement with
2 an outside person or firm.

3 5. Non-discrimination policy. Each program shall have a
4 written policy which requires that no resident be discriminated
5 against in admission, termination, or ~~treatment~~ the provision of
6 program services on the basis of race, creed, color, national
7 origin, ~~relatien~~ religion, physical handicap, sexual preference,
8 public assistance status or marital status.

9 6. Each applicant shall document compliance with
10 provisions of Minn. Stat. S 626.557.

11 ~~6-~~ 7. Accident reports. Each program shall have a
12 written policy regarding accidents and missing persons. Each
13 program shall maintain in central files at the facility reports
14 regarding accidents or missing persons if the reports pertain to
15 facility residents.

16 ~~7-~~ 8. Annual comprehensive report. Each program shall
17 give a comprehensive annual report to its governing body and,
18 its advisory committee and to the host county. The report shall
19 also be available to the commissioner. The report shall include
20 documentation in at least the following areas:

- 21 a. a current organizational chart listing the number
- 22 of full-time equivalent positions in each ~~category~~ job class;
- 23 b. training, staff development, and continuing
- 24 education activities of staff;
- 25 c. administrative policy and procedure changes;
- 26 d. program evaluation as required in ~~8-~~ 9.; and
- 27 e. a financial report.

28 ~~8-~~ 9. Program evaluation.

29 a. Process required. Each program shall institute an
30 evaluation process to be conducted on an ongoing basis. An
31 annual ~~report~~ of this evaluation shall be submitted to the
32 program's governing body and advisory committee and to the host
33 county. The evaluation process shall be outcome-based and
34 consistent with the emphasis of 12 MCAR S 2.036 on individual
35 treatment planning. In a format developed by the commissioner,
36 the data and documentation required by b., c., and d. shall be

1 submitted to the commissioner on an annual, aggregate basis for
 2 state-wide summaries and for planning the use of state resources.

3 b. General data. Each program shall systematically
 4 collect data that includes, but need not be limited to:
 5 resident demographic data, program service data, and data on
 6 concurrent services. Each program shall submit the data to the
 7 host county for combination with follow-up data collected by
 8 county case workers. In a format developed by the commissioner,
 9 the data shall be submitted by each program to the commissioner
 10 on an annual, aggregate basis for statewide summaries and for
 11 planning the use of state resources.

12 c. Individual data. Each program shall also, for the
 13 purpose of examining the program's impact, assess the progress
 14 of each resident relative to the resident's individual treatment
 15 plan. Progress shall be assessed by rating each resident within
 16 30 days of admission and thereafter at the time of quarterly
 17 review on uniform level of functioning scales determined by the
 18 commissioner.

19 d. County technical assistance. Each program shall
 20 collaborate with available county technical assistance staff to
 21 examine the evaluation results, to assess the overall progress
 22 of residents in the program, and to demonstrate document how the
 23 results are used in administrative and program development.

24 e. Data restrictions. Each program shall collect the
 25 statistical data described in 8- 9. for the purpose of program
 26 evaluation. The categories of data shall be compatible with the
 27 evaluation requirement of the Community Social Services Act,
 28 Minn. Stat. ch. 256E, and shall not require duplicate data
 29 collection. Dissemination shall be in accordance with
 30 provisions of the Minnesota Government Data Practices Act, Minn.
 31 Stat. SS 15.1611-15.1699, and all applicable federal rules or
 32 laws.

33 I. Personnel policies and procedures.

34 1. General requirements. Each program shall have a
 35 written personnel policy and shall make a copy of it available
 36 to each employee upon employment and to the department for

1 review. Personnel policies shall be carried out in accordance
2 with affirmative action policies and equal employment
3 opportunity regulations.

4 2. Job description. The personnel policy shall contain
5 job descriptions for each position specifying responsibilities,
6 degree of authority to execute job responsibilities, standards
7 of job performance, and qualifications.

8 3. Job evaluation. The personnel policy shall provide
9 for job performance evaluations conducted on a regular and
10 ongoing basis with a written annual review. As part of the
11 annual performance review, each staff member shall have a growth
12 and development plan. Each program shall develop a policy and
13 establish procedures for resident input into staff evaluations.

14 4. Conditions of employment. The personnel policy shall
15 describe the employees' conditions of employment, including
16 their benefits, hours of work, methods of promotion, and the
17 general conditions which constitute grounds for dismissal and
18 suspension, and the ways in which staff stress will be
19 recognized and addressed.

20 5. Organizational chart. The personnel policy shall also
21 include a chart or definition of organizational structure
22 indicating lines of authority.

23 6. Grievance procedure. The personnel policy shall
24 describe a grievance procedure for use by staff. This procedure
25 shall allow the aggrieved party to bring the grievance to the
26 highest level of authority in the operation of the facility. A
27 list of other community resources, such as the Health Facilities
28 Complaint Office in the Department of Health, the Licensing
29 Division in the Department of Public Welfare, and the Department
30 of Human Rights, shall be made available to staff by the
31 facility.

32 7. Personnel data. Program employee personnel data shall
33 be accessible to the department.

34 8. Staff orientation. The personnel policy shall include
35 a program of orientation for all new staff and the orientation
36 shall be based on a written plan. At a minimum, the plan of

1 orientation shall provide for training related to the specific
2 job functions for which the employee was hired, facility
3 policies and procedures, and the needs of mentally ill persons.

4 9. Staff training. The program shall have a staff
5 development plan, including ~~in-service or outside training~~
6 continuing education opportunities. The plan shall be developed
7 -----
8 reviewed annually. The plan shall be relevant to the facility's
9 -----
10 program and resident population. There shall be at least 15
11 hours of ~~in-service training, or training through community~~
12 ~~resources, or both,~~ continuing education annually for each staff
13 -----
14 person working directly with mentally ill persons. The training
15 shall include, but need not be limited to, the following areas:

- 13 a. Red Cross certified first-aid training or
14 equivalent, to be updated at least every three years;
- 15 b. crisis intervention training for psychiatric
16 emergencies;
- 17 c. problems and needs of mentally ill persons and
18 their families;
- 19 d. community resources locally available to mentally
20 ill adults;
- 21 e. psychotropic medications and their side effects;
- 22 f. resident rights;
- 23 g. cultural awareness training;
- 24 h. rules governing the operation of residential
25 facilities for adult mentally ill persons; and

- 26 i. staff stress or burnout; and
27 -----
- 28 ~~i-~~ j. other topics, such as case management,
29 -----
30 individualized goal planning, chemical use and abuse, health and
31 nutrition, and services for multiple disability residents.

30 10. Training for non-direct care staff. Personnel of the
31 -----
32 program not referenced in this rule shall receive continuing
33 -----
34 education as appropriate to their role and function within the
35 -----
36 program.

34 J. Personnel files.

35 1. Central training file. The orientation and ~~in-service~~
36 ~~and training through community resources~~ continuing education

1 required by I. shall be documented by each program in a central
 2 training file. The file shall be available to the department
 3 for review. Documentation shall include, but need not be
 4 limited to: the date, the subject, the name of the person who
 5 conducted the training, the names of staff attending, and the
 6 number of hours attended.

7 2. Individual files. Each program shall maintain a
 8 separate personnel file for each employee. The files shall be
 9 available to the department for review. Employees shall be able
 10 to review their own personnel files, subject to the provisions
 11 of the Minnesota Government Data Practices Act, Minn. Stat. SS
 12 15.1611-15.1699. At a minimum, each file shall contain the
 13 following:

- 14 a. an application for employment or a resume;
- 15 b. verification of employee's credentials;
- 16 c. an annual job performance evaluation;
- 17 d. an annual growth and development plan;
- 18 e. documentation of orientation; and
- 19 f. a record of training and education activities
 20 during employment.

21 K. Admission, discharge, and transfer policies.

22 1. Admission criteria. Each program shall develop
 23 admission criteria delineating the types and characteristics of
 24 persons who can and cannot be served by the program. Intake
 25 policies and procedures shall be developed including the role
 26 and responsibility of community resources.

27 2. Discharge and transfer policies. Each program shall
 28 develop detailed discharge and transfer policies and
 29 procedures. The policies and procedures shall include:

- 30 a. a planned discharge or transfer conference with the
 31 resident, staff representatives, and others requested by the
 32 resident if possible;
- 33 b. identification of community resources which
 34 directly relate to the continuing needs of the resident;
- 35 c. a description of the process by which a discharged
 36 or transferred resident would or would not have access to the

1 staff and other residents in order to facilitate readjustment in
2 the community.

3 L. Program services. The following services shall be
4 offered either ~~within~~ by the ~~facility~~ program or through a
5 ~~contract~~ working agreement with other community resources:

- 6 a- 1. case management services;
- 7 b- 2. crisis services;
- 8 c- 3. independent living ~~services~~ skills training;
- 9 d- 4. mental health therapy;
- 10 e- 5. motivation and remotivation services;
- 11 f- 6. recreation and leisure time services;
- 12 g- 7. socialization services;
- 13 h- 8. support group services;
- 14 i- 9. social services;
- 15 j- 10. vocational services; and
- 16 k- 11. other services if their need is indicated by the
17 resident assessment.

18 M. Policies and procedures guaranteeing resident rights.

19 1. Explanation of rights. A written statement of
20 residents' rights and responsibilities shall be developed
21 encompassing 2.-10 11. Program staff shall explain to each
22 resident the resident's rights and responsibilities. A written
23 statement of residents' rights and responsibilities shall be
24 given to each resident, and to his or her responsible party
25 ~~within 30 days of~~ if the resident has a legal guardian, on
26 admission. A list of residents' rights and responsibilities
27 shall be posted in a place accessible to the residents and shall
28 be available to the department for review.

29 2. Grievance procedure. ~~Within 30 days of~~ Upon admission
30 each resident shall be informed of grievance procedures
31 available to the resident, and a copy of the procedures shall be
32 posted in a place accessible to the resident. The grievance
33 procedures shall include the following:

- 34 a. An offer of assistance by the ~~facility~~ program
35 staff in development and process of the grievance; and
36 b. A list of internal resources for use by the

1 resident, such as the resident council or a grievance committee,
 2 and a list of community resources available to the resident,
 3 such as the health facilities complaint office in the Department
 4 of Health, the Licensing Division in the Department of Public
 5 Welfare, and the Department of Human Rights.

6 3. Resident council. Each program shall have a resident
 7 council through which residents have an opportunity to express
 8 their feelings and thoughts about the program and to affect
 9 policies and procedures of the program. Minutes of council
 10 meetings shall be recorded and made available to the program
 11 director.

12 4. Personal funds policy. If Staff supervises will not
 13 supervise the use of residents' personal funds or property,
 14 unless policies governing the supervision shall be have been
 15 written: and unless the resident shall sign has signed a consent
 16 form prior to the exercise of supervision indicating an
 17 awareness of and consent to procedures governing the program's
 18 use of the resident's personal funds. In order to encourage
 19 independent living skills, any restriction of a resident's
 20 personal funds must be documented in the individual treatment
 21 plan. Resident fund accounts shall be maintained separately
 22 from program fund accounts.

23 5. Resident compensation. A resident who performs labor
 24 which contributes to the operation and maintenance of the
 25 facility for which the facility would otherwise employ someone
 26 other than labor of a housekeeping nature shall be compensated
 27 appropriately and in compliance with applicable state and
 28 federal labor laws, including minimum wage and minimum wage
 29 reduction provisions. This provision shall not apply to labor
 30 of a personal housekeeping nature, nor to labor performed as a
 31 condition of residence in a small group living arrangement Labor
 32 of a housekeeping nature shall be limited to household chores
 33 which a person living in his or her own residence in the
 34 community would normally perform.

35 6. Physician appointments. A resident shall be allowed
 36 to see a private his or her physician at any reasonable time.

1 7. Photographs of residents. Photographs may be taken
 2 and used for personal or social purposes unless the resident has
 3 indicated his or her objection. Photographs may be taken for
 4 informational purposes only upon written consent of the resident
 5 A resident shall not have his or her photograph taken for any
 6 purpose beyond identification unless he or she consents.

7 8. Telephone use. Residents shall have access within the
 8 facility to a telephone for incoming, local outgoing, and
 9 emergency calls. They shall have access within the facility to
 10 a pay phone or its equivalent for outgoing long distance calls.
 11 Any restriction on resident access to telephones shall be
 12 documented in the individual treatment plan.

13 9. Mail. Residents shall be allowed to receive and send
 14 uncensored mail. Any restrictions shall be documented in the
 15 individual treatment plan.

16 10. Restraints. The facility shall have a written policy
 17 that defines the uses of restraint, seclusion, and crisis
 18 medications as a treatment mode; the staff members who may
 19 authorize its use; and a mechanism for monitoring and
 20 controlling its use. Physical restraint and seclusion shall be
 21 used only when absolutely necessary to protect the resident from
 22 injury to himself or to others. Restraint, seclusion, and
 23 medications shall not be used as punishment, for the convenience
 24 of staff, or as a substitute for a program.

25 11. Visitors. Residents shall be allowed to receive
 26 visitors at reasonable times. They shall be allowed to receive
 27 visits at any time from their personal physician, religious
 28 advisor, and attorney. The right to receive visitors other than
 29 those specified above may be subject to reasonable written
 30 visiting rules and hours established by the head of the facility
 31 for all residents. The head of the facility may impose
 32 limitations on visits to an individual resident only if he or
 33 she finds the limitations are necessary for the welfare of the
 34 resident and if the limitation and reasons are fully documented
 35 in the resident's individual treatment plan.

36 N. Resident records.

1 1. Individual program plan development. Each The mental
 2 health residential program staff shall develop and complete a
 3 written individual program plan for each resident, within ten
 4 days after admission, write short-term goals with each resident
 5 in order to address the resident's immediate needs. The program
 6 staff shall, within 30 days of admission, write an individual
 7 program plan which contains the components specified in 2.
 8 Medical, social, psychological, and psychiatric histories of the
 9 resident shall be used in the development of the plan. The plan
 10 shall be developed by an interdisciplinary team including the
 11 resident, the program staff, a representative of the referring
 12 agency and other appropriate resources, such as family,
 13 concerned others, and health care providers requested by the
 14 resident. Each resident shall be actively involved in
 15 developing his or her plan, unless contraindicated. The persons
 16 involved in the development of the individual program plan shall
 17 be noted on the plan. The extent of the resident's
 18 participation in developing the program plan shall also be noted
 19 on the plan. The plan and documentation related to it shall be
 20 kept in the facility where the mental health program is located.

21 2. Plan contents. An individual program plan shall
 22 contain at least the following components:

23 a. an assessment, including a strength and need list,
 24 of the resident in at least the following areas of life: social,
 25 medical, legal, family, leisure and recreation, spiritual or
 26 religious, psychological, financial, vocational and educational;

27 b. the specific problems to be resolved;

28 c. a list of goals in order of priority;

29 d. specific, measurable, and time-limited objectives
 30 which relate directly to the goals;

31 e. specific methods, strategies, and resources,
 32 including medications, to be used by the staff in assisting the
 33 resident to accomplish the goals and objectives;

34 f. the agency names of community resource personnel,
 35 program staff, or other persons designated to assist the

36 resident in implementing the various components of the plan; and

1 g. notes indicating progress in achieving the goals
2 and objectives.

3 3. Progress report. A quarterly review of the resident's
4 response to the individual treatment plan and his or her
5 involvement in the facility's overall program shall be written.
6 Copies of this report shall be given to the resident and shall
7 be sent to the representative of the referring agency and other
8 persons deemed appropriate by the program director and
9 resident. The resident's level of participation in the
10 development and the review of the report shall be documented.
11 The report shall be kept at the facility.

12 4. Discharge or transfer summary. A discharge or
13 transfer summary shall be written for each person transferred or
14 discharged. The summary shall include at least the following
15 information:

16 a. a brief review of the resident's problems,
17 strengths and needs while a resident of the program;

18 b. the response of the resident to his or her
19 individual treatment plan and to the facility's overall program;

20 c. an aftercare plan which identifies the persons,
21 including at least the resident, a program staff member, and a
22 representative of the referring agency, who participated in the
23 development of the aftercare plan; goals and objectives for the
24 first three months after discharge or transfer; and individuals
25 or agencies who will be working with the resident after
26 discharge or transfer; and

27 d. a forwarding address and telephone number for
28 follow-up contacts.

29 5. Accidents and missing persons. A copy of any report
30 regarding accidents and missing persons must be documented in
31 the individual's resident record if the resident is involved in
32 the report.

33 6. Release of information. Private data regarding a
34 resident shall not be used or released by the facility to any
35 person or agency, except pursuant to the Minnesota Government
36 Data Practices Act. The facility shall use written consent

1 forms for any release of resident information or data.

2 O. Living unit requirements.

3 1. Structure. Each living unit of a mental health
4 residential program shall be physically self-contained and shall
5 include bedrooms, living rooms or lounge areas, bathrooms and
6 connecting areas. Walls defining the living unit shall extend
7 from floor to ceiling. These units shall be patterned after a
8 home-like atmosphere, and Furnishings. Each living unit shall
9 include furnishings appropriate to the psychological, emotional,
10 and developmental needs of each resident.

11 2. Ratios. For existing programs each program, there
12 shall be one living room or lounge area per living unit for
13 every up to 25 residents. For new programs there shall be one
14 living room or lounge area for every 16 residents.

15 3. Program space. There shall be space available for
16 program services as indicated in the individual treatment plans
17 such as an area for learning recreation and leisure time skills,
18 and an area for learning independent living skills, such as
19 laundering and cooking.

20 4. Gender of residents. The unit or complex of units
21 shall house both male and female residents insofar as this
22 conforms to prevailing cultural norms, unless contraindicated by
23 the facility's overall program plan. The unit shall provide for
24 appropriate separation of male and female residents.

25 5. Privacy. The living unit shall allow for individual
26 privacy and group socialization. Each resident shall have the
27 opportunity for privacy during assessment, interviews,
28 counseling sessions and visitations.

29 6. Storage space. Each facility shall provide to each
30 resident storage space for clothing and other personal property,
31 including a secure place for valuables. Each facility may
32 exclude particular kinds of personal property from the facility
33 for reasons of space limitations or safety. Any exclusions
34 shall be documented and included in the policies and procedures
35 manual of the facility.

36 P. Additional requirements for Category I programs. In

1 addition to the requirements of A.-0., Category I programs shall
2 meet the requirements of 1.-9.

3 1. Capacity. Facilities, or treatment units within
4 facilities existing as of July 1, 1980, not exceeding a maximum
5 capacity of 40 beds shall be permitted. Facilities or units
6 having over 40 beds shall have a three year period from the
7 effective date of 12 MCAR S 2-036 to reduce the capacity to 40
8 beds or less Applicants with facilities existing as of July 1,
9 1980, with a capacity exceeding 25 beds, shall have a three-year
10 grace period from the effective date of 12 MCAR S 2.036 to
11 reduce capacity to 40 beds or fewer, or to divide the facility
12 into living units which do not exceed 25 beds. Applicants with
13 facilities existing as of July 1, 1980, with a capacity
14 exceeding 25 beds per living unit, shall not increase the total
15 capacity of the facility. New facilities shall not exceed a
16 maximum capacity of 25 beds.

17 2. Department of Health licensing standards. Each
18 program The facility shall be licensed either as a supervised
19 living facility or as, a boarding care facility home, or a
20 hospital.

21 3. Intake information. Each facility shall maintain in
22 the facility documentation that:

23 a. a prospective resident has been diagnosed as being
24 mentally ill and requires treatment;

25 b. the diagnoses are based on medical, social,
26 psychological, and psychiatric information; and

27 c. medical, social, psychological and psychiatric
28 histories were obtained for each resident.

29 4. Administrator. An individual shall be designated
30 as administrator of the mental health residential program. The
31 administrator shall be responsible for continuous overall
32 operation, including maintenance and upkeep of the facility. In
33 the administrator's absence, a staff member who is familiar with
34 operations of the organization shall be designated to assume the
35 responsibilities of the administrator. An individual who is
36 functioning as administrator but not as program director shall

1 meet qualifications determined by the governing body which are
2 consistent with the training and education needed to meet the
3 stated goals of the ~~facility~~ program.

4 ~~4-~~ 5. Program director. An individual shall be
5 designated as the program director. The positions of program
6 director and administrator may be filled by the same person.
7 This individual shall meet at least the following qualifications:

8 a. a master's degree in the behavioral sciences or
9 related field with at least two years of work experience
10 providing services to mentally ill persons, or a bachelor's
11 degree in the behavioral sciences or related field with a
12 minimum of four years of work experience providing services to
13 mentally ill persons; and

14 b. one year of experience or training in
15 administration or supervision.

16 6. Mental health therapist. If mental health therapy is
17 provided within the mental health residential ~~treatment facility~~
18 program, a mental health therapist shall be hired. Persons
19 employed as mental health therapists prior to the effective date
20 of 12 MCAR S 2.036 shall not be required to meet the
21 qualifications of a. and b. Persons employed as mental health
22 therapists after the effective date of 12 MCAR S 2.036 shall be
23 required to meet the qualifications of a. and b. The mental
24 health therapist shall be qualified in at least the following
25 ways:

26 a. a bachelor's degree in one of the behavioral
27 sciences or related field; and

28 b. a master's degree in the behavioral sciences or
29 related field or two years of advanced level, certificate
30 training in mental health therapy; and

31 c. One year of experience providing services to
32 mentally ill persons.

33 7. Mental health counselors. If program services other
34 than mental health therapy are provided within the mental health
35 residential ~~treatment facility~~ program, they shall be provided
36 by mental health counselors or mental health workers, or both.

1 Mental health counselors shall meet the following qualifications-

2 a. A bachelor's degree in one of the behavioral
3 sciences or related field;

4 b. A minimum of one year's experience working with
5 mentally ill persons; and

6 c. Supervision by a mental health therapist or the
7 program director. Persons employed as mental health counselors
8 prior to the effective date of 12 MCAR S 2.036 shall not be
9 required to meet any specific education requirements. Persons
10 employed as mental health counselors after the effective date of
11 12 MCAR S 2.036 shall have at least an Associate of Arts degree
12 in one of the behavioral sciences or a related field or a
13 registered nurse degree.

14 8. Mental health workers. Mental health workers shall
15 qualify in one of the following ways-

16 a. One year of experience working with mentally ill
17 persons;

18 b. One year as a resident of a mental health
19 residential program with three months' training relevant to the
20 job responsibilities of a mental health worker; or

21 c. Three months of on-the-job training with continued
22 supervision by at least a mental health counselor. Persons
23 employed as mental health workers after the effective date of 12
24 MCAR S 2.036 shall meet the qualifications as determined by the
25 governing body to be consistent with those needed to meet the
26 stated goals of the program.

27 9. Staffing ratios. The program shall have sufficient
28 staff to provide the required program services and implement the
29 individual program plans. Staffing patterns shall be developed
30 to ensure 24-hour coverage within the mental health residential
31 treatment facility program and to reflect the need for more
32 staff per number of residents during hours of concentrated
33 programming. The hours of the day devoted to active treatment
34 concentrated programming shall be identified. The following
35 minimum staff-to-resident ratios shall be maintained. The
36 requirements of b. and c. represent full-time equivalencies and

1 may be prorated based on licensed resident capacity.

2 a. The number of work hours performed by the program
3 director shall be prorated based on resident capacity with a
4 ratio of 1 to 40 (1-40 F.T.). No more than one program director
5 per program is required 40 hours per week to 40 residents. With
6 this ratio, applicants shall be allowed to use one program
7 director to direct more than one program and shall be allowed to
8 use one full-time program director for programs with less than a
9 40-bed resident capacity. With this ratio, applicants shall not
10 be required to have more than one full-time program director for
11 programs with more than a 40-bed resident capacity. However,
12 applicants or programs with more than a 40-bed capacity shall
13 describe whatever additional assistance they intend to provide
14 for the program director function.

15 b. The number of work hours performed by the mental
16 health therapist and mental health counselor and mental health
17 worker may be combined in different ways, depending on program
18 needs, to achieve a ratio of one full-time equivalent position
19 for each five residents (1:5 F.T.E., averaged weekly). When the
20 work hours are combined, the facility shall have written
21 documentation that the supervision required by 7-e- and 8-e- is
22 provided.

23 e- The program shall have one quarter-time equivalent
24 in-service training coordinator for each forty residents (1/4-40
25 F.T.E.). The number of work hours performed by this individual
26 may be combined with those of another program staff position.

27 Q. Additional requirements for Category II programs. In
28 addition to the requirements of A.-O., Category II programs
29 shall meet the requirements of 1. to 8.

30 1. Capacity. Facilities existing as of July 1, 1980,
31 with a capacity exceeding 25 beds shall have a three-year period
32 from the effective date of 12 MCAR S 2.036 to divide the
33 facility into living units which do not exceed 25 beds.
34 Facilities existing as of July 1, 1980, with a capacity
35 exceeding 25 beds per living unit shall not increase the total
36 capacity of the facility. New facilities shall not exceed a

1 maximum capacity of 25 beds.

2 2. Department of Health licensing standards. Each

3 program The facility shall have a board and lodging license from
4 the Minnesota Department of Health or its equivalent from a
5 local health department or a health care license.

6 3. Intake information. Each facility shall maintain in
7 the facility documentation that:

8 a. a mental health assessment or reassessment has been
9 completed to determine appropriateness of admission; and

10 b. medical, social, psychological and psychiatric
11 histories were obtained for each resident.

12 4. Medical information. Each program with a board and
13 lodging license shall require that a physical exam be done 30
14 days prior to admission or within three days following
15 admission. Each resident shall have an annual physical and
16 dental examination. Records shall be kept of annual medical and
17 dental examinations, including records on all prescription
18 medications the resident is taking. Records shall also be
19 maintained regarding the general medical condition of the
20 resident, including any disabilities and limitations.

21 5. Administrator. An individual shall be designated
22 as administrator of the mental health residential program. The
23 administrator shall be responsible for continuous overall
24 operation, including maintenance and upkeep of the facility. In
25 the administrator's absence, a staff member who is familiar with
26 operations of the organization shall be designated to assume the
27 responsibilities of the administrator. An individual who is
28 functioning as administrator but not as program director shall
29 meet qualifications determined by the governing body which are
30 consistent with the training and education needed to meet the
31 stated goals of the facility program.

32 6. Program director. An individual shall be
33 designated as the program director. The positions of program
34 director and administrator may be filled by the same person.
35 This individual shall meet at least the following qualifications:

36 a. a master's degree in the behavioral sciences or

1 related field and at least one year of work experience providing
2 services to mentally ill persons, or a bachelor's degree in
3 behavioral sciences or related field with a minimum of two
4 years' work experience providing services to mentally ill
5 persons; and

6 b. one year of experience or training in
7 administration or supervision.

8 7. Mental health therapists, counselors and workers. If
9 program services are offered within the facility, they shall be
10 provided by mental health therapists, mental health counselors,
11 or mental health workers, ~~or both~~. The minimum qualifications
12 for these positions shall be consistent with those of Category I
13 specified in P.6., P.7. and P.8.

14 8. Staffing ratios. The facility shall have sufficient
15 staff to provide the required program services and implement the
16 individual program plans. Staffing patterns shall be developed
17 to ensure 24-hour coverage within the mental health residential
18 ~~treatment facility~~ program and to reflect the need for more
19 staff per number of residents during hours of concentrated
20 programming. The hours of the day devoted to ~~treatment~~
21 concentrated programming shall be identified. The following
22 minimum staff-to-resident ratios shall be maintained. The
23 requirement of b. represents a full-time equivalency and may be
24 prorated based on licensed resident capacity.

25 a. The number of work hours performed by the program
26 director shall be prorated based on resident capacity with the
27 ratio of 1 to 40 (1:40 F-T). ~~No more than one program director~~
28 ~~per program is required~~ 40 hours per week to 40 residents. With
29 this ratio, applicants shall be allowed to use one program
30 director to direct more than one program and shall be allowed to
31 use one full-time program director for programs with less than a
32 40-bed resident capacity. With this ratio, applicants shall not
33 be required to have more than one full-time program director for
34 programs with more than a 40-bed resident capacity. However,
35 applicants or programs with more than a 40-bed capacity shall
36 describe whatever additional assistance they intend to provide

1 for the program director function.

2 b. The number of work hours performed by the mental
3 health therapist, mental health counselor, and mental health
4 worker may be combined to achieve a ratio of one full-time
5 equivalent staff position for each ten residents (1:10 F.T.E.,
6 averaged weekly). When the work hours are combined, the
7 facility shall have written documentation that the supervision
8 required by ~~P-7-e-~~ and ~~P-8-e-~~ is provided.

9 R. Variances. A residential program may request in writing
10 a variance of a specific provision of 12 MCAR S 2.036. The
11 request for a variance must cite the specification of the rule
12 in question; reasons for requesting the variance; the period of
13 time, not to exceed one year, the licensee wishes to have the
14 provision varied; and the equivalent measures planned for
15 assuring that programmatic needs of residents are met. Variances
16 granted by the commissioner shall specify in writing the time
17 limitation and required equivalent measures to be taken to
18 assure that programmatic needs are met. ~~Variances denied by The~~
19 commissioner shall specify in writing the reasons for the denial
20 of a variance. No variance shall be granted that would threaten
21 the health, safety, or rights of residents.

22 S. Appeals. Revocation, suspension or denial of a license
23 may be appealed pursuant to Minn. Stat. ch. 15.

24 Repealer. 12 MCAR S 2.036 which was effective February 4, 1974,
25 is repealed.