

CHAPTER 246

PUBLIC INSTITUTIONS

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246.01 POWERS AND DUTIES.

The commissioner of human services is hereby specifically constituted the guardian of both the estate and person of all persons with mental retardation, the guardianship of whom has heretofore been vested in the state board of control or in the director of social welfare whether by operation of law or by an order of court without any further act or proceeding, and all the powers and duties vested in or imposed upon the state board of control or the director of social welfare, with reference to mental testing of persons with mental retardation, and with reference to the institutions of the state of Minnesota except correctional facilities administered and managed by the commissioner of corrections, are hereby transferred to, vested in, and imposed upon the commissioner of human services, and in relation thereto he is hereby charged with and shall have the exclusive power of administration and management of all of the following state institutions: state hospitals for persons with mental retardation, mental illness, or chemical dependency. He shall have power and authority to determine all matters relating to the unified and continuous development of all of the foregoing institutions and of such other institutions, the supervision of which may, from time to time, be vested in him. It is intended that there be vested in him all of the powers, functions, and authority heretofore vested in the state board of control relative to such state institutions. He shall have the power and authority to accept, in behalf of the state, contributions and gifts of money and personal property for the use and benefit of the residents of the public institutions under his control, and all money and securities so received shall be deposited in the state treasury subject to the order of the commissioner of human services. If the gift or contribution is designated by the donor for a certain institution or purpose, the commissioner of human services shall expend or use the same as nearly as may be in accordance with the conditions of the gift or contribution, compatible with the best interests of the inmates and the state. The commissioner of human services is hereby constituted the "state agency" as defined by the social security act of the United States and the laws of this state for all purposes relating to mental health and mental hygiene.

For the purpose of carrying out his duties, the commissioner of human services shall accept from wards with mental retardation for whom he is specifically appointed guardian a signed application for his consent to the marriage of said ward. Upon receipt of such application he shall promptly conduct such investigation as he deems proper and determine if the contemplated marriage is for the best interest of the ward and the public. A signed copy of the commissioner's determination shall be mailed to the ward and to the clerk of the district court of the county where the application for such marriage license was made.

There is hereby appropriated to such persons or institutions as are entitled to such sums as are provided for in this section, from the fund or account in the state treasury to which the money was credited, an amount sufficient to make such payment.

History: 1985 c 21 s 7

246.013 PERSONS WITH MENTAL ILLNESS; CARE, TREATMENT.

Within the limits of the appropriations for the commissioner of human services, he is directed, in the performance of the duties imposed upon him by the laws of this state, to bring to the measure prescribed by section 246.012, the care and treatment of persons with mental illness as speedily as is possible, and to thereafter, subject to the paramount authority of the legislature with respect to appropriations, maintain said standards in the care and treatment of persons with mental illness.

History: 1985 c 21 s 8

246.014 SERVICES.

The measure of services established and prescribed by section 246.012, are:

(1) There shall be served in state hospitals a single standard of food for patients and employees alike, which is nutritious and palatable together with special diets as prescribed by the medical staff thereof. There shall be a chief dietitian in the department of human services and at least one dietitian at each state hospital. There shall be adequate staff and equipment for processing, preparation, distribution and serving of food.

(2) There shall be a staff of persons, professional and lay, sufficient in number, trained in the diagnosis, care and treatment of persons with mental illness, physical illness, and including religious and spiritual counsel through qualified chaplains (who shall be in the unclassified service) adequate to take advantage of and put into practice modern methods of psychiatry, medicine and related field.

(3) There shall be a staff and facilities to provide occupational and recreational therapy, entertainment and other creative activities as are consistent with modern methods of treatment and well being.

(4) There shall be in each state hospital for the care and treatment of persons with mental illness facilities for the segregation and treatment of patients and residents who have communicable disease.

(5) The commissioner of human services shall provide modern and adequate psychiatric social case work service.

(6) The commissioner of human services shall make every effort to improve the accommodations for patients and residents so that the same shall be comfortable and attractive with adequate furnishings, clothing, and supplies.

(7) The commissioner of human services shall establish training programs for the training of personnel and may require the participation of personnel in such programs. Within the limits of the appropriations available he may establish professional training programs in the forms of educational stipends for positions for which there is a scarcity of applicants.

(8) The standards herein established shall be adapted and applied to the diagnosis, care and treatment of persons with chemical dependency or mental retardation who come within those terms as defined in the laws relating to the hospitalization and commitment of such persons, and of persons who are psychopathic personalities within the definition thereof in Minnesota Statutes 1945, section 526.09.

(9) The commissioner of human services shall establish a program of detection, diagnosis and treatment of persons with mental illness and persons described in clause (8), and within the limits of appropriations may establish clinics and staff the same with persons specially trained in psychiatry and related fields.

(10) The commissioner of employee relations may reclassify employees of the state hospitals from time to time, and assign classifications to such salary brackets as will adequately compensate personnel and reasonably assure a continuity of adequate staff.

(11) In addition to the chaplaincy services, provided in clause (2), the commissioner of human services shall open said state hospitals to members of the clergy and other spiritual leaders to the end that religious and spiritual counsel and services are made available to the patients and residents therein, and shall cooperate with all members of the clergy and other spiritual leaders in making said patients and residents available for religious and spiritual counsel, and shall provide such members of the clergy and other spiritual leaders with meals and accommodations.

(12) Within the limits of the appropriations therefor, the commissioner of human services shall establish and provide facilities and equipment for research and study in the field of modern hospital management, the causes of mental and related illness and the treatment, diagnosis and care of persons with mental illness and funds provided therefor may be used to make available services, abilities and advice of leaders in these and related fields, and may provide them with meals and accommodations and compensate them for traveling expenses and services.

History: 1985 c 21 s 9

246.13 RECORD OF PATIENTS AND RESIDENTS; DEPARTMENT OF HUMAN SERVICES.

The commissioner of human services shall keep in his office, accessible only by his consent or on the order of a judge or court of record, a record showing the residence, sex, age, nativity, occupation, civil condition, and date of entrance or commitment of every person, in the state hospitals under his exclusive control, the date of discharge and whether such discharge was final, the condition of such person when he left the state hospital, and the date and cause of all deaths. The record shall state every transfer from one state hospital to another, naming each. This information shall be furnished to the commissioner of human services by each public and private agency, with such other obtainable facts as he may from time to time require. The chief executive officer of each such state hospital, within ten days after the commitment or entrance thereto of a patient or resident, shall cause a true copy of his entrance record to be forwarded to the commissioner of human services. When a patient or resident leaves, is discharged or transferred, or dies in any state hospital, the chief executive officer, or other person in charge shall inform the commissioner of human services within ten days thereafter on forms by him furnished.

The commissioner of human services may authorize the chief executive officer of any state hospital for persons with mental illness or mental retardation, to release to public or private medical personnel, hospitals, clinics, county welfare boards or other specifically designated interested persons or agencies any information regarding any patient or resident thereat, if, in the opinion of the commissioner, it will be for the benefit of the patient or resident.

History: 1985 c 21 s 10

246.23 PERSONS ADMISSIBLE TO STATE HOSPITALS.

No person who has not a settlement in a county, as defined in section 256D.18, shall be admitted to a state hospital for persons with mental illness, mental retardation, or chemical dependency, except that the commissioner of human services may authorize admission thereto when the residence cannot be ascertained, or when the circumstances in his judgment make it advisable. When application is made to a judge of probate for admission to any of the state hospitals above named for admission thereto, if he finds that the person for whom application is made has not such residence, or that his residence cannot be ascertained, he shall so report to the commissioner; and he may recommend that such person be admitted notwithstanding, giving his reasons therefor. The commissioner of human services shall thereupon investigate the question of residence and, if he finds that such person has not such residence and has a legal residence in another state or country, he may cause him to be returned thereto at the expense of this state.

History: 1985 c 21 s 11

246.234 RECIPROCAL EXCHANGE OF PERSONS WITH MENTAL ILLNESS OR MENTAL RETARDATION.

The commissioner of human services is hereby authorized and empowered with the approval of the governor to enter into reciprocal agreements with any other state or states, through the duly authorized authorities thereof, regarding the mutual exchange, return, and transportation of persons with mental illness or mental retardation who are within the confines of one state but have legal residence or legal settlement for the purposes of relief in another state. Such agreements shall contain no provisions conflicting with any law of this state.

History: 1985 c 21 s 12

246.41 CONTRIBUTIONS FOR BENEFIT OF PERSONS WITH MENTAL RETARDATION.

Subdivision 1. **Acceptance.** The commissioner of human services is authorized to accept, for and in behalf of the state, contributions of money for the use and benefit of persons with mental retardation.

Subd. 2. **Special welfare fund.** Any money so received by the commissioner shall be deposited with the state treasurer in a special welfare fund, which fund is to be used by the commissioner of human services for the benefit of persons with mental retardation within the state, including those within state hospitals. And, without excluding other possible uses, research relating to persons with mental retardation shall be considered an appropriate use of such funds; but such funds shall not be used for any structures or installations which by their nature would require state expenditures for their operation or maintenance without specific legislative enactment therefor.

Subd. 3. **Appropriation.** There is hereby appropriated from the special welfare fund in the state treasury to such persons as are entitled thereto to carry out the provisions stated in this section.

History: 1985 c 21 s 13

246.50 CARE OF PATIENTS AND RESIDENTS AT STATE HOSPITALS; DEFINITIONS.

Subdivision 1. For the purposes of sections 246.50 to 246.55, the terms set out in subdivisions 2 to 8 shall have the meanings ascribed to them.

Subd. 2. "Commissioner" means the commissioner of human services of the state of Minnesota.

Subd. 3. "State hospital" means a state facility for treating persons with mental illness, mental retardation, or chemical dependency now existing or hereafter established.

Subd. 4. "Patient" means any person with mental illness or chemical dependency.

Subd. 4a. "Resident" means any mentally retarded person receiving care or treatment at a state hospital whether he entered such hospital voluntarily or under commitment.

Subd. 5. "Cost of care" means the commissioner's determination of the anticipated average per capita cost of all maintenance, treatment and expense, including depreciation of buildings and equipment, interest paid on bonds issued for capital improvements to state hospitals, and indirect costs related to the operation other than that paid from the Minnesota state building fund, at all of the state hospitals during the current year for which billing is being made. The commissioner shall determine the anticipated average per capita cost. The commissioner may establish one all inclusive rate or separate rates for each patient or resident disability group, and may establish separate charges for each hospital. "Cost of care" for outpatient or day-care patients or residents shall be on a cost for service basis under a schedule the commissioner shall establish.

For purposes of this subdivision "resident patient" means a person who occupies a bed while housed in a hospital for observation, care, diagnosis, or treatment.

For purposes of this subdivision "outpatient" or "day-care" patient or resident means a person who makes use of diagnostic, therapeutic, counseling, or other service in a state hospital facility or through state hospital personnel but does not occupy a hospital bed overnight.

For the purposes of collecting from the federal government for the care of those patients eligible for medical care under the social security act "cost of care" shall be determined as set forth in the rules and regulations of the Department of Health and Human Services or its successor agency.

Subd. 6. "Relatives" means the spouse, and parents of a patient or resident, in that order of liability for cost of care.

Subd. 7. "Patient's or resident's county" means the county of the patient's or resident's legal settlement for poor relief purposes at the time of commitment or voluntary admission to a state hospital, or if he has no such legal settlement in this state, it means the county of commitment, except that where a patient or resident with no such legal settlement is committed while serving a sentence at a penal institution, it means the county from which he was sentenced.

Subd. 8. "County welfare board" means the welfare board of the patient's or resident's county as defined in subdivision 7 and of the county of commitment, and any other county welfare board possessing information regarding, or requested by the commissioner to investigate, the financial circumstances of a patient or resident or his relatives.

History: 1985 c 21 s 14

246.511 RELATIVE RESPONSIBILITY.

In no case, shall a patient's or resident's relatives, pursuant to the commissioner's authority under section 246.51, be ordered to pay more than ten percent of the

cost of care, unless they reside outside the state. Parents of children in state hospitals shall have their responsibility to pay determined according to section 252.27, subdivision 2. The commissioner may accept voluntary payments in excess of ten percent. The commissioner may require full payment of the full per capita cost of care in state hospitals for patients or residents whose parent, parents, spouse, guardian or conservator do not reside in Minnesota.

History: 1985 c 21 s 15

246.52 PAYMENT FOR CARE; ORDER; ACTION.

The commissioner shall issue an order to the patient or resident or the guardian of his estate, if there be one, and relatives determined able to pay requiring them to pay monthly to the state of Minnesota the amounts so determined the total of which shall not exceed the full cost of care. Such order shall specifically state the commissioner's determination and shall be conclusive unless appealed from as herein provided. When a patient or resident or relative fails to pay the amount due hereunder the attorney general, upon request of the commissioner, may institute, or direct the appropriate county attorney to institute, civil action to recover such amount.

History: 1985 c 21 s 16

246.53 CLAIM AGAINST ESTATE OF DECEASED PATIENT OR RESIDENT.

Subdivision 1. **Patient's or resident's estate.** Upon the death of a patient or resident, or a former patient or resident, the total cost of care given the patient or resident, less the amount actually paid toward the cost of care by the patient or resident and the patient's or resident's relatives, shall be filed by the commissioner as a claim against the estate of the patient or resident with the court having jurisdiction to probate the estate and all proceeds collected by the state in the case shall be divided between the state and county in proportion to the cost of care each has borne.

Subd. 2. **Preferred status.** An estate claim in subdivision 1 shall be considered an expense of the last illness for purposes of section 524.3-805.

If the commissioner of human services determines that the property or estate of any patient or resident is not more than needed to care for and maintain the spouse and minor or dependent children of a deceased patient or resident, the commissioner has the power to compromise the claim of the state in a manner deemed just and proper.

Subd. 3. **Exception from statute of limitations.** Any statute of limitations which limits the commissioner in recovering the cost of care obligation incurred by a patient or resident or former patient or resident shall not apply to any claim against an estate made hereunder to recover cost of care.

History: 1985 c 21 s 17

246.54 LIABILITY OF COUNTY; REIMBURSEMENT.

The patient's or resident's county shall pay to the state of Minnesota a portion of the cost of care provided in a state hospital to a patient or resident legally settled in that county. A county's payment shall be made from the county's own sources of revenue and payments shall be paid as follows: payments to the state from the county shall equal ten percent of the per capita rate, as determined by the commissioner, for each day, or the portion thereof, that the patient or resident

spends at a state hospital. If payments received by the state under sections 246.50 to 246.53 exceed 90 percent of the per capita rate, the county shall be responsible for paying the state only the remaining amount. The county shall not be entitled to reimbursement from the patient or resident, the patient's or resident's estate, or from the patient's or resident's relatives, except as provided in section 246.53. No such payments shall be made for any patient or resident who was last committed prior to July 1, 1947.

History: 1985 c 21 s 18

246.55 APPEAL FROM ORDER OF COMMISSIONER.

Any patient or resident or relative aggrieved by an order of the commissioner under sections 246.50 to 246.55 may appeal from the order to the district court of the county in which he resides by serving notice of the appeal on the commissioner and filing the notice, with proof of service, in the office of the clerk of the district court of the county within 30 days from the date the order was mailed, or a later date not exceeding one year from the date of mailing as permitted by order of the court. The appeal may be brought on for hearing by the appellant or the commissioner upon ten days' written notice. It shall be tried to the court which shall hear evidence it deems necessary and by order affirm or modify the order of the commissioner. When any order or determination of the commissioner made under sections 246.50 to 246.55 is brought in question on appeal, the order or determination shall be determined de novo. Appeal from the order of the district court may be taken as in other civil cases.

History: 1985 c 21 s 19

246.56 PREVOCATIONAL TRAINING FOR PATIENTS WITH MENTAL ILLNESS OR RESIDENTS WITH MENTAL RETARDATION; ADMINISTRATION.

Subdivision 1. The commissioner of human services is hereby authorized to establish, subject to the approval of the commissioner of economic security, within the state hospitals for the patients with mental illness or residents with mental retardation, work activity programs for the manufacture, processing and repairing of goods, wares, and merchandise for the purpose of providing therapeutic work activities for patients and residents.

Subd. 2. The work activity programs authorized herein shall be planned and designed exclusively to provide therapeutic activities for handicapped workers whose physical or mental impairment is so severe as to make productive capacity inconsequential. The activities within this program shall conform to the rules and regulations relating to work activity centers promulgated by the United States Department of Labor. To accomplish the foregoing purpose the commissioner of human services shall have the power and authority to:

(a) use the diversified labor fund established by Laws 1945, chapter 575, section 19, to purchase equipment and remodel facilities of the state hospitals referred to in subdivision 1 to initiate the work activity program,

(b) formulate a system of records and accounts which shall at all times indicate the extent of purchases, sales, wages, and bidding practices and which shall be open to public inspection.

The commissioner of human services shall, subject to the approval of the commissioner of education, have the power and authority to:

(a) create a work activity center revolving fund for the purpose of receiving and expending moneys in the operation of the said programs,

(b) contract with public and private industries for the manufacture, repair, or assembling of work according to standard bidding practices,

(c) use the revenue from the operation of said programs to pay wages to patients or residents according to their productivity, purchase equipment and supplies and pay other expenses necessary to the operation of the said programs,

(d) establish an advisory committee consisting of representatives from the departments of health, economic security, and human services, labor and business groups, interested community agencies, including but not limited to the Minnesota Association of Rehabilitation Facilities, the Minnesota Association for Retarded Children, and the Minnesota Association for Mental Health, and the general public. This committee will act in an advisory capacity with respect to the scope of work activity programs, the nature of the goods to be produced and services to be performed in such programs,

(e) utilize all available vocational rehabilitation services and encourage the integration of the work activity program into existing vocational rehabilitation and community based programs, so that the work activity program will neither duplicate nor unfairly compete with existing public or private community programs.

History: 1985 c 21 s 20

246.57 SHARED SERVICE AGREEMENTS.

[For text of subds 1 and 2, see M.S.1984]

Subd. 3. **Limited agreements.** Notwithstanding the provisions of subdivision 1, the commissioner of human services may authorize a state hospital or state nursing home to enter into agreements with other governmental or nonprofit organizations for participation in limited shared service agreements that would be of mutual benefit to the state, the organization involved, and the public.

If otherwise permitted under this section, the commissioner may authorize limited shared service agreements with for-profit organizations concerning laundry services only.

The duration of limited agreements may not exceed three calendar years and the total dollar amount attributable to a limited agreement may not exceed \$100,000. Consultation with the legislative advisory committee is not required for agreements made pursuant to this subdivision. The charges for services must be on an actual cost basis and receipts are dedicated for the operations of the state hospitals or state nursing homes that provide the service, and are appropriated for that purpose.

History: 1985 c 213 s 1