

Public Welfare and Related Activities

CHAPTER 245

DEPARTMENT OF HUMAN SERVICES

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245.01 [Repealed, 1953 c 593 s 6]

245.02 [Repealed, 1953 c 593 s 6]

245.03 DEPARTMENT OF HUMAN SERVICES ESTABLISHED; COMMISSIONER.

There is created a department of human services. A commissioner of human services shall be appointed by the governor under the provisions of section 15.06. The commissioner shall be selected on the basis of ability and experience in welfare and without regard to political affiliations. The commissioner shall appoint a deputy commissioner.

History: 1953 c 593 s 1; 1965 c 45 s 17; 1969 c 1129 art 8 s 6; 1977 c 305 s 30; 1984 c 654 art 5 s 58

245.031 [Obsolete]

245.0311 TRANSFER OF PERSONNEL.

(a) Notwithstanding any other law to the contrary, the commissioner of human services shall transfer authorized positions between institutions under the commissioner's control in order to properly staff the institutions, taking into account the differences between programs in each institution.

(b) Notwithstanding any other law to the contrary, the commissioner of corrections may transfer authorized positions between institutions under the commissioner's control in order to more properly staff the institutions.

History: 1971 c 961 s 18; 1984 c 654 art 5 s 58; 1986 c 444

245.0312 DESIGNATING SPECIAL UNITS AND REGIONAL CENTERS.

Notwithstanding any provision of law to the contrary, during the biennium, the commissioner of human services, upon the approval of the governor after consulting with the legislative advisory commission, may designate portions of hospitals for the mentally ill under the commissioner's control as special care units for mentally retarded or inebriate persons, or as nursing homes for persons over the age of 65, and may designate portions of the hospitals designated in Minnesota Statutes 1969, section 252.025, subdivision 1, as special care units for mentally ill or inebriate persons, and may plan to develop all hospitals for mentally ill, mentally retarded, or inebriate persons under the commissioner's control as multipurpose regional centers for programs related to all of the said problems.

If approved by the governor, the commissioner may rename the state hospital as a state regional center and appoint the hospital administrator as administrator of the center, in accordance with section 246.0251.

The directors of the separate program units of regional centers shall be responsible directly to the commissioner at the discretion of the commissioner.

History: 1971 c 961 s 19; 1975 c 271 s 6; 1984 c 654 art 5 s 58; 1986 c 444

245.0313 AID TO THE DISABLED; MENTALLY RETARDED.

Notwithstanding any provision of law to the contrary, the cost of care not met by federal funds for any mentally retarded patient eligible for the medical assistance program or the supplemental security income for the aged, blind and disabled program in institutions under the control of the commissioner of human services shall be paid by the state and county in the same proportion as provided in section 256B.19 for division of costs.

History: 1969 c 1136 s 23 subd 2; 1971 c 961 s 20; 1973 c 717 s 10; 1981 c 360 art 2 s 13; 1984 c 654 art 5 s 58

245.032 [Obsolete]

245.033 [Repealed, 1973 c 717 s 33]

245.035 INTERVIEW EXPENSES.

Job applicants for professional, administrative, or highly technical positions recruited by the commissioner of human services may be reimbursed for necessary travel expenses to and from interviews arranged by the commissioner of human services.

History: 1976 c 163 s 42; 1984 c 654 art 5 s 58

245.04 [Repealed, 1981 c 253 s 48]

245.05 [Repealed, 1981 c 253 s 48]

245.06 [Repealed, 1981 c 253 s 48]

245.07 [Repealed, 1981 c 253 s 48]

245.071 [Repealed, 1969 c 334 s 2]

245.072 MENTAL RETARDATION DIVISION.

A mental retardation division is created in the department of human services which shall coordinate those laws administered and enforced by the commissioner of human services relating to mental retardation and related conditions, as defined in section 252.27, subdivision 1, which the commissioner may assign to the division. The mental retardation division shall be under the supervision of a director whose responsibility it shall be to maximize the availability of federal or private money for programs to assist persons with mental retardation or related conditions. The commissioner shall appoint the director who shall serve in the classified service of the state civil service. The commissioner may employ additional personnel with such qualifications and in such numbers as are reasonable and are necessary to carry out the provisions of this section.

History: 1971 c 486 s 1; 1984 c 654 art 5 s 58; 1985 c 21 s 3

245.08	[Obsolete]
245.09	[Unnecessary]
245.10	[Unnecessary]
245.11	[Unnecessary]
245.12	[Unnecessary]
245.21	[Renumbered 256.451]
245.22	[Renumbered 256.452]
245.23	[Renumbered 256.453]
245.24	[Renumbered 256.454]
245.25	[Renumbered 256.455]
245.26	[Renumbered 256.456]
245.27	[Renumbered 256.457]
245.28	[Renumbered 256.458]
245.29	[Renumbered 256.459]
245.30	[Renumbered 256.461]
245.31	[Renumbered 256.462]
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245.33	[Renumbered 256.464]
245.34	[Renumbered 256.465]
245.35	[Renumbered 256.466]
245.36	[Renumbered 256.467]
245.37	[Renumbered 256.468]
245.38	[Renumbered 256.469]
245.39	[Renumbered 256.471]
245.40	[Renumbered 256.472]
245.41	[Renumbered 256.473]
245.42	[Renumbered 256.474]
245.43	[Renumbered 256.475]
245.46	[Repealed, 1973 c 650 art 21 s 33]

245.50 INTERSTATE CONTRACTS FOR MENTAL HEALTH SERVICES.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "Bordering state" means Iowa, North Dakota, South Dakota, or Wisconsin.

(b) "Agency or facility" means a public or private hospital, mental health center, or other person or organization authorized by a state to provide mental health services.

Subd. 2. **Authority.** Unless prohibited by another law and subject to the excep-

tions listed in subdivision 3, a county board may contract with an agency or facility in a bordering state for mental health services for residents of Minnesota, and a Minnesota mental health agency or facility may contract to provide services to residents of bordering states. A person who receives services in another state under this section is subject to the laws of the state in which services are provided. A person who will receive services in another state under this section must be informed of the consequences of receiving services in another state, including the implications of the differences in state laws.

Subd. 3. **Exceptions.** A contract may not be entered into under this section for services to persons who:

- (1) are serving a sentence after conviction of a criminal offense;
- (2) are on probation or parole;
- (3) are the subject of a presentence investigation;
- (4) have been committed involuntarily; or
- (5) will be receiving treatment for chemical dependency.

Subd. 4. **Contracts.** Contracts entered into under this section must, at a minimum:

- (1) describe the services to be provided;
- (2) establish responsibility for the costs of services;
- (3) establish responsibility for the costs of transporting individuals receiving services under this section;
- (4) specify the duration of the contract;
- (5) specify the means of terminating the contract;
- (6) specify the terms and conditions for refusal to admit or retain an individual; and
- (7) identify the goals to be accomplished by the placement of an individual under this section.

History: 1985 c 253 s 1

245.51 INTERSTATE COMPACT ON MENTAL HEALTH.

The interstate compact on mental health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form as follows:

INTERSTATE COMPACT ON MENTAL HEALTH

The contracting states solemnly agree that:

ARTICLE I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

ARTICLE II

As used in this compact:

(a) "Sending state" shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

(b) "Receiving state" shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

(c) "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

(d) "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

(e) "Aftercare" shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

(f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

(g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE III

(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

(d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

ARTICLE IV

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive aftercare or supervision,

such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that aftercare in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such aftercare in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive aftercare or supervision in the receiving state.

(c) In supervising, treating, or caring for a patient on aftercare pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

ARTICLE V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

ARTICLE VI

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

ARTICLE VII

(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a nonparty state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

ARTICLE VIII

(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances; provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term "guardian" as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

ARTICLE IX

(a) No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

ARTICLE X

(a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No

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such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

ARTICLE XII

This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

ARTICLE XIII

(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) Withdrawal from any agreement permitted by Article VII(b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

ARTICLE XIV

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

History: 1957 c 326 s 1

245.52 COMMISSIONER OF HUMAN SERVICES AS COMPACT ADMINISTRATOR.

The commissioner of human services is hereby designated as "compact administrator." The commissioner shall have the powers and duties specified in the compact, and may, in the name of the state of Minnesota, subject to the approval of the attorney general as to form and legality, enter into such agreements authorized by the compact as the commissioner deems appropriate to effecting the purpose of the compact. The commissioner shall, within the limits of the appropriations for the care of persons with mental illness or mental retardation, authorize such payments as are necessary to discharge any financial obligations imposed upon this state by the compact or any agreement entered into under the compact.

If the patient has no established residence in a Minnesota county, the commissioner shall designate the county of financial responsibility for the purposes of carrying out the provisions of the Interstate Compact on Mental Health as it pertains to patients being transferred to Minnesota. The commissioner shall designate the county which is the residence of the person in Minnesota who initiates the earliest written request for the patient's transfer.

History: 1957 c 326 s 2; 1981 c 98 s 1; 1984 c 654 art 5 s 58; 1985 c 21 s 4; 1986 c 444

245.53 TRANSMITTAL OF COPIES OF ACT.

Duly authenticated copies of sections 245.51 to 245.53 shall, upon its approval, be transmitted by the secretary of state to the governor of each state, the attorney general and the secretary of state of the United States, and the council of state governments.

History: 1957 c 326 s 3

245.61 COUNTY BOARDS MAY MAKE GRANTS FOR LOCAL MENTAL HEALTH PROGRAMS.

County boards are hereby authorized to make grants to public or private agencies to establish and operate local mental health programs to provide the following services: (a) collaborative and cooperative services with public health and other groups for programs of prevention of mental illness, mental retardation, alcoholism, and other psychiatric disabilities; (b) informational and educational services to the general public, and lay and professional groups; (c) consultative services to schools, courts and health and welfare agencies, both public and private, including diagnostic evaluation of cases from juvenile courts; (d) outpatient diagnostic and treatment services; (e) rehabilitative services for patients suffering from mental or emotional disorders, mental retardation, alcoholism, and other psychiatric conditions particularly those who have received prior treatment in an inpatient facility; (f) detoxification in alcoholism evaluation and service facilities.

History: 1957 c 392 s 1; 1969 c 1043 s 7; 1973 c 123 art 5 s 7; 1976 c 163 s 43; 1979 c 324 s 13

245.62 COMMUNITY MENTAL HEALTH CENTER.

Subdivision 1. Establishment. Any city, county, town, combination thereof, or private nonprofit corporation may establish a community mental health center.

Subd. 2. Definition. A community mental health center is a private nonprofit corporation or public agency approved under the emergency and permanent rules promulgated by the commissioner pursuant to subdivision 4.

Subd. 3. Clinical director. All community mental health center services shall be provided under the clinical direction of a licensed consulting psychologist licensed under sections 148.88 to 148.98, or a physician who is board certified or eligible for board certification in psychiatry, and who is licensed under section 147.02.

Subd. 4. Rules. The commissioner shall promulgate emergency and permanent rules to establish standards for the designation of an agency as a community mental health center. These standards shall include, but are not limited to:

(a) provision of mental health services in the prevention, identification, treatment and aftercare of emotional disorders, chronic and acute mental illness, mental retardation and developmental disabilities, and alcohol and drug abuse and dependency, including the services listed in section 245.61 except detoxification services;

(b) establishment of a community mental health center board pursuant to section 245.66; and

(c) approval pursuant to section 245.69, subdivision 2.

History: 1957 c 392 s 2; 1959 c 530 s 1; 1967 c 888 s 1; 1973 c 123 art 5 s 7; 1973 c 583 s 14; 1973 c 773 s 1; 1975 c 69 s 1; 1979 c 324 s 14; 1983 c 312 art 5 s 1; 1984 c 640 s 32

NOTE: For Yellow Medicine County participation in a mental health services program outside its region, see Laws 1977, Chapter 24.

245.63 ASSISTANCE OR GRANT.

Any city, town, or public or private corporation may apply to a county board for assistance in establishing and funding a mental health services program. No programs shall be eligible for a grant hereunder unless its plan and budget have been approved by the county board or boards.

History: 1957 c 392 s 3; 1973 c 123 art 5 s 7; 1975 c 69 s 2; 1979 c 324 s 15

NOTE: For Yellow Medicine County participation in a mental health services program outside its region, see Laws 1977, Chapter 24.

245.64 FUNDS ALLOCATED.

In preparing the biennial plan prescribed in section 256E.09, the county board shall allocate available funds to the mental health programs in accordance with such approved plans and budgets. The county board may, from time to time during the year, review the budgets and expenditures of the various programs and if funds are not needed for a program to which they were allocated, it may, after reasonable notice and opportunity for hearing, withdraw such funds as are unencumbered and reallocate them to other programs. The county board may withdraw funds from any program which is not being administered in accordance with its approved plan and budget.

History: 1957 c 392 s 4; 1979 c 324 s 16; 1981 c 355 s 20

245.65 [Repealed, 1979 c 324 s 50]

245.651 [Repealed, 1979 c 324 s 50]

245.66 COMMUNITY MENTAL HEALTH CENTER BOARDS.

Every city, county, town, combination thereof or nonprofit corporation establishing a community mental health center shall establish a community mental health center board. The community mental health center board may include county commissioner representatives from each participating county and shall be representative of the local population, including at least health and human service professions and advocate associations, other fields of employment, and the general public. Each community mental health center board shall be responsible for the governance and performance of its center.

History: 1957 c 392 s 6; 1959 c 303 s 1; 1963 c 796 s 2; 1973 c 123 art 5 s 7; 1975 c 69 s 3; 1975 c 169 s 2; 1979 c 324 s 17; 1981 c 355 s 21; 1983 c 312 art 5 s 2

245.67 [Repealed, 1981 c 355 s 34]

245.68 [Repealed, 1981 c 355 s 34]

245.69 ADDITIONAL DUTIES OF COMMISSIONER.

Subdivision 1. In addition to the powers and duties already conferred by law the commissioner of human services shall:

(a) Promulgate rules prescribing standards for qualification of personnel and quality of professional service and for in-service training and educational leave programs for personnel, governing eligibility for service so that no person will be denied service on the basis of race, color or creed, or inability to pay, providing for establishment, subject to the approval of the commissioner, of fee schedules which shall be based upon ability to pay, and such other rules as the commissioner deems necessary to carry out the purposes of sections 245.61 to 245.69.

(b) Review and evaluate local programs and the performance of administrative and psychiatric personnel and make recommendations thereon to county boards and program administrators;

(c) Provide consultative staff service to communities to assist in ascertaining local needs and in planning and establishing community mental health programs; and

(d) Employ qualified personnel to implement sections 245.61 to 245.69.

Subd. 1a. Mental health mission statement. The commissioner of human services shall create and ensure a unified, accountable, comprehensive mental health service system that:

(a) recognizes the right of people with mental illness to control their own lives as fully as possible;

- (b) promotes the independence and safety of people with mental illness;
- (c) reduces chronicity of mental illness;
- (d) reduces abuse of people with mental illness;
- (e) provides services designed to:
 - (1) increase the level of functioning of people with mental illness or restore them to a previously held higher level of functioning,
 - (2) stabilize individuals with mental illness,
 - (3) prevent the development and deepening of mental illness,
 - (4) support and assist individuals in resolving emotional problems that impede their functioning,
 - (5) promote higher and more satisfying levels of emotional functioning, and
 - (6) promote sound mental health; and
- (f) provides a quality of service that is effective, efficient, appropriate, and consistent with contemporary professional standards in the field of mental health.

The commissioner shall implement the goals and objectives of this subdivision by February 15, 1990. By February 15, 1987, and annually after that until February 15, 1990, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of this subdivision and on additional resources needed to further implement this subdivision.

Subd. 2. The commissioner of human services has the authority to approve or disapprove public and private mental health centers and public and private mental health clinics for the purposes of section 62A.152, subdivision 2. For the purposes of this subdivision the commissioner shall promulgate both emergency and permanent rules in accordance with sections 14.01 to 14.70. The rules shall require each applicant to pay a fee to cover costs of processing applications and determining compliance with the rules and this subdivision. The commissioner may contract with any state agency, individual, corporation or association to which the commissioner shall delegate all but final approval and disapproval authority to determine compliance or noncompliance.

(a) Each approved mental health center and each approved mental health clinic shall have a multidisciplinary team of professional staff persons as required by rule. A mental health center or mental health clinic may provide the staffing required by rule by means of written contracts with professional persons or with other health care providers. Any personnel qualifications developed by rule shall be consistent with any personnel standards developed pursuant to chapter 214.

(b) Each approved mental health clinic and each approved mental health center shall establish a written treatment plan for each outpatient for whom services are reimbursable through insurance or public assistance. The treatment plan shall be developed in accordance with the rules and shall include a patient history, treatment goals, a statement of diagnosis and a treatment strategy. The clinic or center shall provide access to hospital admission as a bed patient as needed by any outpatient. The clinic or center shall ensure ongoing consultation among and availability of all members of the multidisciplinary team.

(c) As part of the required consultation, members of the multidisciplinary team shall meet at least twice monthly to conduct case reviews, peer consultations, treatment plan development and in-depth case discussion. Written minutes of these meetings shall be kept at the clinic or center for three years.

(d) Each approved center or clinic shall establish mechanisms for quality assurance and submit documentation concerning the mechanisms to the commissioner as required by rule, including:

- (1) Continuing education of each professional staff person;
- (2) An ongoing internal utilization and peer review plan and procedures;
- (3) Mechanisms of staff supervision; and
- (4) Procedures for review by the commissioner or a delegate.

(e) The commissioner shall disapprove an applicant, or withdraw approval of a clinic or center, which the commissioner finds does not comply with the requirements of the rules or this subdivision. A clinic or center which is disapproved or whose approval is withdrawn is entitled to a contested case hearing and judicial review pursuant to sections 14.01 to 14.70.

(f) Data on individuals collected by approved clinics and centers, including written minutes of team meetings, is private data on individuals within the welfare system as provided in chapter 13.

(g) Each center or clinic that is approved and in compliance with the commissioner's existing rule on July 1, 1980 is approved for purposes of section 62A.152, subdivision 2, until rules are promulgated to implement this section.

History: 1957 c 392 s 9; 1975 c 122 s 1; 1979 c 324 s 19; 1980 c 506 s 1; 1981 c 311 s 39; 1982 c 424 s 130; 1982 c 545 s 24; 1984 c 640 s 32; 1984 c 654 art 5 s 58; 1985 c 248 s 70; 1986 c 428 s 1; 1986 c 444

245.691 [Repealed, 1979 c 324 s 50]

245.692 [Repealed, 1973 c 572 s 18]

245.693 [Repealed, 1973 c 572 s 18]

245.694 [Repealed, 1973 c 572 s 18]

245.695 [Repealed, 1973 c 572 s 18]

245.70 MENTAL HEALTH; FEDERAL AID.

Subdivision 1. **Mentally ill.** The commissioner of human services is designated the state agency to establish and administer a statewide plan for the care, treatment, diagnosis, or rehabilitation, of the mentally ill which are or may be required as a condition for eligibility for benefits under any federal law and in particular under the Federal Alcohol, Drug Abuse and Mental Health Block Grant Law, United States Code, title 42, sections 300X to 300X-9. The commissioner of human services is authorized and directed to receive, administer, and expend any funds that may be available under any federal law or from any other source, public or private, for such purposes.

Subd. 2. **Mental health block grants.** The commissioner of human services is designated the state authority to establish and administer the state plan for the federal mental health funds available under the alcohol, drug abuse, and mental health services block grant, United States Code, Title 42, Sections 300X to 300X-9. The commissioner shall receive and administer the available federal mental health funds.

History: 1965 c 626 s 1; 1982 c 607 s 1; 1984 c 654 art 5 s 58; 1985 c 252 s 1

245.71 CONDITIONS TO FEDERAL AID FOR MENTALLY ILL.

Subdivision 1. The commissioner of human services may comply with all conditions and requirements necessary to receive federal aid or block grants with respect to the establishment, construction, maintenance, equipment or operation, for all the people of this state, of adequate facilities and services as specified in section 245.70.

Subd. 2. The commissioner may establish a state mental health services planning council to advise on matters relating to coordination of mental health services among state agencies, the unmet needs for services, including services for minorities or other underserved groups, and the allocation and adequacy of mental health services within the state. The commissioner may establish special committees within the planning council authority to address the needs of special population groups. Members of a state advisory planning council must be broadly representative of other state agencies involved with mental health, service providers, advocates, consumers, local elected officials, age groups, underserved and minority groups, and geographic areas of the state.

History: 1965 c 626 s 2; 1982 c 607 s 2; 1984 c 640 s 32; 1984 c 654 art 5 s 58; 1985 c 252 s 2

245.711 COMPREHENSIVE PROGRAMS; COORDINATION OF LOCAL PROGRAMS.

Subdivision 1. County duties. The county board shall coordinate all services for mentally ill individuals conducted by local agencies under contract to the county boards and review all proposed agreements, contracts, grants, plans, and programs in relation to services for mentally ill individuals prepared by any local agencies for funding from any local, state, or federal governmental sources.

Subd. 2. Grants by counties. The county boards may make grants for comprehensive programs for prevention, care, and treatment of mentally ill individuals. Grants utilizing money under section 245.713 may be made for the cost of these comprehensive programs and services whether provided directly by county boards, by individuals pursuant to contract, or by other public and private not for profit agencies and organizations. When only state and county money is involved, county boards may make comprehensive program grants to profit or not for profit agencies and organizations. Nothing in this section shall prevent the commissioner from entering into contracts with, and making grants to, other state agencies for the purpose of providing specific services and programs. With approval of the county board, the commissioner may make grants or contracts for research or demonstration projects specific to needs within that county.

History: 1982 c 607 s 3; 1985 c 252 s 3

245.712 COUNTY USE OF FEDERAL BLOCK GRANT FUNDS FOR MENTAL HEALTH SERVICES.

Subdivision 1. Allowable services. Funds awarded to the state for mental health services by federal block grants shall be used for grants to counties to directly provide, or contract with qualified community mental health centers for the provision of, the following services:

- (a) Services for chronically mentally ill individuals, which include identification of chronically mentally ill individuals and assistance to them in gaining access to essential services through the assignment of case managers;
- (b) Identification and assessment of severely mentally disturbed children and adolescents and provision of appropriate services to them;
- (c) Identification and assessment of mentally ill elderly individuals and provision of appropriate services to them;
- (d) Services for identifiable populations which are currently underserved in the state; and
- (e) Coordination of mental health and health care services provided within health care centers including planning, administration, and educational activities.

Subd. 2. Prohibited services. Funds allocated to the state for mental health services by the federal block grant may not be used to:

- (a) Provide inpatient services;
- (b) Make cash payments to intended recipients of health services;
- (c) Purchase or improve land, or to purchase, construct or permanently improve any building or other facility, except for minor remodeling, or to purchase major medical equipment;
- (d) Satisfy any requirement for expenditure of nonfederal funds as a condition for receiving federal funds; or
- (e) Provide financial assistance to any entity other than a public or nonprofit private entity.

History: 1982 c 607 s 4

245.713 FORMULA.

Subdivision 1. Allocation. Funds available for grants to qualified community mental health centers shall be allocated to each county according to the formula for the

allocation of federal social service funds described in section 256E.07, subdivision 1, clauses (a) and (b).

Subd. 2. Total funds available; reductions. The amount of funds available for allocation to counties for use by qualified community mental health centers shall be the total amount of funds granted to the state by the federal government under United States Code, title 42, sections 300X to 300X-9 each federal fiscal year for mental health services reduced by the sum of the following:

(a) Any amount set aside by the commissioner of human services for Indian tribal organizations within the state, which funds shall not duplicate any direct federal funding of Indian tribal organizations and which funds shall not exceed 12 percent of the total block grant allocation to the state for mental health services; and, money from this source may be used for special committees to advise the commissioner on mental health programs and services for American Indians and other minorities or underserved groups; and,

(b) Any amount calculated into the base of the block grant that is made available by the commissioner for qualified community mental health centers that were receiving grants for operations or other continuing grant obligations defined in United States Code, title 42, sections 300X to 300X-9 immediately prior to its enactment.

(c) An amount not to exceed ten percent of the total allocation for mental health services to be retained by the commissioner for administration.

(d) Any amount permitted under federal law which the commissioner approves for demonstration or research projects for severely disturbed children and adolescents, the underserved, special populations or multiply disabled mentally ill persons. The groups to be served, the extent and nature of services to be provided, the amount and duration of any grant awards are to be based on criteria set forth in the Alcohol, Drug Abuse and Mental Health Block Grant Law, United States Code, title 42, sections 300X to 300X-9, and on state policies and procedures determined necessary by the commissioner. Grant recipients must comply with applicable state and federal requirements and demonstrate fiscal and program management capabilities that will result in provision of quality, cost-effective services.

(e) The amount required under federal law, for federally mandated expenditures.

Subd. 3. Unused funds. If there are federal funds that have been allocated to the counties for qualified community mental health centers that remain unused at the end of the federal fiscal year in which they were made available, the commissioner shall reduce the allocation for the subsequent federal fiscal year for those counties by the same amount. The unused funds shall remain available to those counties for use during the federal fiscal year that immediately follows the one in which they were originally allocated. Beginning in federal fiscal year 1983, the commissioner shall annually review the use of federal funds for this purpose by each county and shall reallocate any funds that will not be used prior to the end of the second federal fiscal year to those counties needing additional money by using the same formula used under subdivision 1.

Subd. 4. Funds available due to transfer. Any federal funds available to the commissioner for mental health services prescribed under United States Code, title 42, sections 300X to 300X-9 due to transfer of funds between block grants shall be allocated, as prescribed in subdivision 1.

History: 1982 c 607 s 5; 1984 c 654 art 5 s 58; 1985 c 252 s 4

245.714 MAINTENANCE OF EFFORT.

Beginning in federal fiscal year 1983, each county shall annually certify to the commissioner that the county has not reduced funds from state, county, and other nonfederal sources which would in the absence of the federal funds made available by United States Code, title 42, sections 300X to 300X-9 have been made available for services to mentally ill persons.

History: 1982 c 607 s 6

245.715 QUALIFICATIONS AS A COMMUNITY MENTAL HEALTH CENTER.

In addition to those agencies that have previously qualified as comprehensive community mental health centers under the provisions of the federal Community Mental Health Centers Act, other public or nonprofit private agencies that are able to demonstrate their capacity to provide the following services as defined by the commissioner may qualify as a community mental health center for the purposes of the federal block grant. The federally required services may be provided by separate agencies. These services include:

(a) Outpatient services, including specialized outpatient services for children, the elderly, individuals who are chronically mentally ill and residents of its mental health service area who have been discharged from inpatient treatment at a mental health facility;

(b) 24-hour a day emergency care services;

(c) Day treatment or partial hospitalization services;

(d) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of the admission; and

(e) Consultation and education services.

Before accepting federal block grant funds for mental health services, counties shall provide the commissioner with all necessary assurances that the qualified community mental health centers which receive these block grant funds meet the minimum service requirements of clauses (a) to (e). At any time at least 30 days prior to the commissioner's allocation of federal funds, any county may notify the commissioner of its decision not to accept the federal funds for qualified community mental health centers.

History: 1982 c 607 s 7

245.716 REPORTS; DATA COLLECTION.

Subdivision 1. **Periodic reports.** The commissioner shall require collection of data for compliance, monitoring, and evaluation purposes and shall require periodic reports from the counties on the use of funds under the federal block grant by counties for qualified community mental health centers.

Subd. 2. **Quarterly financial statements.** Beginning in calendar year 1982, each county shall include in its quarterly financial accounting report to the commissioner of the county's community social services fund a separate statement identifying the use of funds, including those received under the federal block grant for qualified community mental health centers as specified in section 256E.08, subdivision 8, clauses (a) and (b). The initial quarterly statement shall be submitted not later than 15 days after the end of the first calendar quarter in which funds are allocated to the counties in accordance with section 245.713, subdivisions 1 and 2.

Subd. 3. **Social services report.** Beginning in calendar year 1983, each county shall include in the report required by section 256E.10 a part or subpart which addresses the items specified in section 256E.10, subdivision 1, clauses (a) and (b), as they pertain to the use of funds available from the federal government for services of qualified community mental health centers.

History: 1982 c 607 s 8

245.717 WITHHOLDING OF FUNDS.

Beginning in federal fiscal year 1983, the distribution of funds to counties provided in section 245.713 shall be reduced by an amount equal to the federal block grant funds allotted pursuant to section 245.713 in the immediately preceding year which have been spent for some purpose other than qualified community mental health centers. If it is determined that the state is legally liable for any repayment of federal block funds which were not properly used by the counties, the repayment liability shall be assessed against the counties which did not properly use the funds. The commissioner may withhold future block grant funds to those counties until the obligation is met. The

commissioner shall not award additional block grant funds to those counties until the commissioner is assured that no future violations will occur.

History: 1982 c 607 s 9; 1986 c 444

245.718 APPEAL.

At least 30 days prior to certifying any reduction in funds pursuant to section 245.717, the commissioner shall notify the county of an intention to certify a reduction. The commissioner shall notify the county of the right to a hearing. If the county requests a hearing within 30 days of notification of intention to reduce funds, the commissioner shall not certify any reduction in funds until a hearing is conducted and a decision rendered in accordance with the provisions of chapter 14 for contested cases.

History: 1982 c 424 s 130; 1982 c 607 s 10

245.72 MS1980 [Repealed, 1981 c 355 s 34]

245.73 GRANTS FOR RESIDENTIAL SERVICES FOR ADULT MENTALLY ILL PERSONS.

Subdivision 1. Commissioner's duty. The commissioner shall establish a state-wide program to assist counties in ensuring provision of services to adult mentally ill persons. The commissioner shall make grants to county boards to provide community based services to mentally ill persons through facilities licensed under sections 245.781 to 245.813.

Subd. 2. Application; criteria. County boards may submit an application and budget for use of the money in the form specified by the commissioner. The commissioner shall make grants only to counties whose applications and budgets are approved by the commissioner for residential facilities for adult mentally ill persons to meet licensing requirements pursuant to sections 245.781 to 245.812. Funds shall not be used to supplant or reduce local, state, or federal expenditure levels supporting existing resources unless the reduction in available moneys is the result of a state or federal decision not to refund an existing program. State funds received by a county pursuant to this section shall be used only for direct service costs. Both direct service and other costs, including but not limited to renovation, construction or rent of buildings, purchase or lease of vehicles or equipment as required for licensure as a facility for adult mentally ill persons under sections 245.781 to 245.812, may be paid out of the matching funds required under subdivision 3. Neither the state funds nor the matching funds shall be used for room and board costs.

Subd. 2a. Special programs. Grants received pursuant to this section may be used to fund innovative programs in residential facilities, related to structured physical fitness programs designed as part of a mental health treatment plan.

Subd. 3. Formula. Grants made pursuant to this section shall finance 75 percent of the county's costs of expanding or providing services for adult mentally ill persons in residential facilities as provided in subdivision 2.

Subd. 4. Rules; reports. The commissioner shall promulgate an emergency and permanent rule to govern grant applications, approval of applications, allocation of grants, and maintenance of service and financial records by grant recipients. The commissioner shall require collection of data for compliance, monitoring and evaluation purposes and shall require periodic reports to demonstrate the effectiveness of the services in helping adult mentally ill persons remain and function in their own communities. The commissioner shall report to the legislature no later than December 31 of each even-numbered year as to the effectiveness of this program and recommendations regarding continued funding.

History: 1981 c 360 art 2 s 14; 1983 c 164 s 1; 1984 c 640 s 32; 1986 c 349 s 1

245.74 EQUALIZATION AID TO COUNTIES; OTHER AIDS.

Subdivision 1. Formula. The commissioner of human services shall pay equaliza-

tion aid to counties based upon the appropriation and a formula that includes four factors: recipient rate, per capita income, per capita taxable value, and per capita expenditures for welfare.

Subd. 2. **Expenditures for welfare.** (a) For the purposes of equalization aid, "expenditures for welfare" include all forms of public assistance and the administrative costs thereof, to wit: medical assistance, aid to families with dependent children, Minnesota supplemental aid, payments to the commissioner of human services for care and treatment of patients in state institutions, medical relief, hospital charges, maintenance of children not under state guardianship, general assistance, and all administrative costs except university hospitals care, care of children under state guardianships, and poor burials.

(b) Salary expenditures for computation of equalization aid shall not be included in county expenditures for welfare or for purposes of computing county per capita expenditures for welfare.

Subd. 3. **Payment.** Initial payments for equalization aid to counties shall be made on or before October 1 each fiscal year. Final payments shall be made before January 1 of the following fiscal year.

Subd. 4. **Transfers.** The commissioner shall not pay equalization aid to a county if it has transferred any money available for welfare purposes to any other county funds, except that where money is otherwise unavailable, a county may transfer money to the general revenue fund of the county for payment of rent of office space for the county welfare board. The county shall make the transfer only with the approval of the governor after consultation with the legislative advisory commission. Transfer of money to pay rent shall not be considered an expenditure for welfare for purposes of equalization aid reimbursement. Any federal money received in lieu of taxes because of federal grants shall be available for welfare purposes.

Subd. 5. **Limit.** A county shall not receive from state money paid for equalization aid an amount in excess of 75 percent of its expenditures for welfare as defined in subdivision 2.

History: 1981 c 360 art 1 s 19; 1984 c 654 art 5 s 58

245.75 FEDERAL GRANTS FOR INDIANS.

The commissioner of human services is authorized to enter into contracts with the department of health, education, welfare and the department of interior, bureau of Indian affairs, for the purpose of receiving federal grants for the welfare and relief of Minnesota Indians. Such contract and the plan of distribution of such funds shall be subject to approval of the Minnesota public relief advisory committee.

History: 1965 c 886 s 23; 1984 c 654 art 5 s 58

245.76 INDIAN RELIEF; REIMBURSEMENT OF COSTS.

Subdivision 1. The care and relief of persons of Indian blood is declared to be a matter of special state concern and responsibility. To effectuate this responsibility, the commissioner of human services shall reimburse counties, cities, towns or any other political subdivision for up to 75 percent of the costs of relief and related services provided to persons of Indian blood to the extent that state and federal moneys are available for this purpose.

Subd. 2. For the purposes of this section: (a) An Indian is a person who has at least one-quarter Indian blood or a person listed on the rolls of the United States bureau of Indian affairs as an Indian and who is not residing on the Red Lake Indian Reservation; (b) The term "relief" includes but is not limited to direct relief to persons in their own homes, medical care, hospital care, burial, maintenance of children not under state guardianship and state wards not otherwise provided for. It shall not include university hospital care, sanatorium care, or state institutional charges; (c) The commissioner of human services shall promulgate rules for the administration of relief including standards of assistance and the manner and form of assistance grants. The

commissioner shall have the authority to negotiate for and accept grants from the government of the United States.

Subd. 3. The commissioner of human services may advance grants to the counties, cities, towns or any other political subdivision on an estimated basis subject to audit and adjustment at the end of each state fiscal year.

History: 1969 c 909 s 1-3; 1984 c 654 art 5 s 58; 1985 c 248 s 70; 1986 c 444

245.765 REIMBURSEMENT OF COUNTY FOR CERTAIN INDIAN WELFARE COSTS.

Subdivision 1. The commissioner of human services, to the extent that state and federal money is available therefor, shall reimburse any county for all welfare costs expended by the county to any Indian who is an enrolled member of the Red Lake Band of Chippewa Indians and resides upon the Red Lake Indian Reservation. The commissioner may advance payments to a county on an estimated basis subject to audit and adjustment at the end of each state fiscal year. Reimbursements shall be prorated if the state appropriation for this purpose is insufficient to provide full reimbursement.

Subd. 2. The commissioner may promulgate rules for the carrying out of the provisions of subdivision 1, and may negotiate for and accept grants from the United States for the purposes of this section.

History: 1971 c 935 s 1; 1981 c 360 art 1 s 20; 1984 c 654 art 5 s 58; 1986 c 444

245.77 LEGAL SETTLEMENT OF PERSONS RECEIVING ASSISTANCE; ACCEPTANCE OF FEDERAL FUNDS.

In the event federal funds become available to the state for purposes of reimbursing the several local agencies of the state for costs incurred in providing financial relief to poor persons under the liability imposed by section 256D.18, or for reimbursing the state and counties for categorical aid assistance furnished to persons who are eligible for such assistance only because of the United States Supreme Court decision invalidating state residence requirements the commissioner of human services is hereby designated the state agent for receipt of such funds. Upon receipt of any federal funds the commissioner shall in a uniform and equitable manner use such funds to reimburse counties for expenditures made in providing financial relief to poor persons. The commissioner is further authorized to promulgate rules, consistent with the rules and regulations promulgated by the secretary of health, education and welfare, governing the reimbursement provided for by this provision.

History: 1969 c 910 s 1; 1973 c 380 s 5; 1973 c 650 art 21 s 22; 1976 c 2 s 84; 1984 c 654 art 5 s 58; 1985 c 248 s 70

245.771 SUPERVISION OF FOOD STAMP PROGRAM.

Subdivision 1. **Supervision of program.** The commissioner of human services shall supervise the food stamp program to aid administration of the food stamp program by county welfare boards pursuant to section 393.07, subdivision 10, to promote excellence of administration and program operation, and to ensure compliance with all federal laws and regulations so that all eligible persons are able to participate.

Subd. 2. **Waivers.** The commissioner of human services shall apply to the United States Department of Agriculture for waivers of monthly reporting and retrospective budgeting requirements.

History: 1986 c 404 s 9

245.78 [Repealed, 1976 c 243 s 15]

PUBLIC WELFARE LICENSING ACT

245.781 CITATION.

Sections 245.781 to 245.812 and 252.28, subdivision 2 shall be known as the "public welfare licensing act."

History: 1976 c 243 s 2; 1Sp1981 c 4 art 1 s 106

245.782 DEFINITIONS.

Subdivision 1. For the purposes of sections 245.781 to 245.812 and 252.28, subdivision 2, the following terms shall have the meanings given them:

Subd. 2. "Person" means an adult who is handicapped by reason of mental retardation, mental illness, chemical dependency, or physical handicap; a child, whether handicapped or not; and, for purposes of adult day care, adult foster care, and supportive living residences, an adult who is functionally impaired.

Subd. 3. "Child" means anyone who has not reached the age of 18 years.

Subd. 4. "Agency" means any individual, organization, association, or corporation which for gain or otherwise regularly provides needed social or counseling services for persons living in their own homes, or receives persons unable to remain in their own homes and places them in residential or foster care, or places persons in adoptive homes. "Agency" does not include a local welfare agency or agencies sponsored by community mental health boards pursuant to section 245.66.

Subd. 5. "Day care facility" means any facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, developmental achievement centers, day treatment programs, adult day care centers, and day services.

Subd. 6. "Residential facility" means any facility, public or private, which for gain or otherwise regularly provides one or more persons with a 24 hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home. Residential facilities include, but are not limited to: state institutions under the control of the commissioner of human services, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, supportive living residences for functionally impaired adults, or schools for handicapped children.

Subd. 7. "Placing persons in foster care" means placing persons in any of the following residential facilities: foster home, work home, free home, group home, residential treatment center, institution, residential program, or maternity shelter. It also means placement in a private home for the purpose of legal adoption.

Subd. 8. "Commissioner" means the commissioner of human services and includes any duly authorized representative of the commissioner.

Subd. 9. "Regularly" or "on a regular basis" means the provision of day care or residential or agency services to one or more persons for a cumulative total of more than 30 days within any 12-month period.

Subd. 10. "Related" means any of the following relationships by marriage, blood, or adoption: parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, child, niece, nephew. It shall also include a legally appointed guardian.

Subd. 11. "License" means a certificate issued by the commissioner authorizing the operator to provide specified services for a specified period of time in accordance with the terms of the license, sections 245.781 to 245.812 and 252.28, subdivision 2, and the rules of the commissioner.

Subd. 12. "Provisional license" means the certificate issued by the commissioner, prior to the issuance of a license, authorizing the operator to begin providing specified

services for a specified period of time in accordance with the provisions of the provisional license, sections 245.781 to 245.812 and 252.28, subdivision 2, and the rules of the commissioner. A provisional license may be issued if the operator is temporarily unable to comply with all of the requirements for a license.

Subd. 13. "Operator" means the individual, corporation, partnership, voluntary association, or other public or private organization legally responsible for the operation of a day care or residential facility or service or agency.

Subd. 14. "Functionally impaired" means having a condition that includes having substantial difficulty in carrying out one or more of the essential major activities of daily living, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, or having a disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life and requiring support to maintain independence in the community.

History: 1976 c 243 s 3; 1Sp1981 c 4 art 1 s 107-109; 1984 c 542 s 1-4; 1984 c 654 art 5 s 58; 1985 c 248 s 70; 1986 c 444

245.783 APPLICATIONS; INSPECTION.

Subdivision 1. 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. No unlicensed individual or agency shall receive a child for care or placement, place a child in foster care, assist with plans for placement in foster care, or solicit money in behalf of the agency. Application for license and renewal of license shall be made on forms supplied by the commissioner and in the manner prescribed by the commissioner. The commissioner shall offer consultation, assistance and information to all applicants for licensure under sections 245.781 to 245.812 and 252.28, subdivision 2. This shall include information regarding rules and requirements of other state agencies and departments which affect the applicant, and shall assist applicants and operators to meet and maintain requirements for licensure.

Subd. 2. The commissioner shall be responsible for processing applications for licensure made under sections 245.781 to 245.812 and section 252.28, subdivision 2. State agencies and departments including, but not limited to, the state fire marshal, state building code, state commissioner of health and commissioner of energy and economic development, which are involved in the investigation and review of a facility or an applicant's qualifications shall direct their employees to report directly to the commissioner on these matters and shall be subject to the rules promulgated by the commissioner with respect to the coordination of licensing and inspection functions. This subdivision relates only to other state departments or agencies and confers no additional powers or duties upon the commissioner respecting federal, county, municipal, or other nonstate agencies. Nothing in this subdivision shall prevent the state fire marshal from delegating inspection duties to local units of government.

Subd. 3. **Study of applicant.** Before issuing a license or renewing a license, the commissioner shall conduct a study of the applicant and the agency or the day care or residential facility. The bureau of criminal apprehension, a county attorney, a county sheriff, and a chief of a local police department, after notice to the subject of the data, shall assist in this study by providing to the commissioner, the director of any local agency responsible for licensing, or their representatives all criminal conviction data, arrest information, reports regarding abuse or neglect of children, and investigation results available from local, state, and national criminal history record repositories, including the criminal justice data communications network, pertaining to the following individuals connected with the application for or renewal of a license: applicants, operators, all persons living in the household, all staff of any day care or residential facility and all staff of agencies placing children for care. If the commissioner is satisfied that the provisions of sections 245.781 to 245.812 and 252.28, subdivision 2 and the applicable rules promulgated are substantially met, a license shall be issued.

If the results of the study indicate that all of the applicable laws and rules cannot be met immediately, but can and will be met within one year or less, and the deviations do not threaten the health, rights, or safety of persons to be served, a provisional license may be issued for a period not to exceed one year from the date of issuance.

The commissioner may request advice from persons using the facility, agency, or service, operators of a similar facility, agency, or service, and relevant professionals as part of the evaluation of an applicant.

Subd. 4. An initial license shall remain in force for up to one year. A renewal license may be issued for a period of up to two years at the discretion of the commissioner.

Subd. 5. Every license and provisional license issued to a day care or residential facility shall prescribe the number and age groupings of persons who may receive care at any one time.

Subd. 6. Every license and provisional license shall state the date of expiration and the location of the facility, the rule or rules under which the program is licensed, the name and address of the operator, and the provisional status of a license. A license shall not be transferrable to a new operator or location.

Subd. 7. When issuing new licenses pursuant to this section, the commissioner shall implement a policy preference for residential facilities serving less than 17 individuals who are mentally retarded.

History: 1976 c 243 s 4; 1977 c 305 s 45; 1981 c 290 s 5; 1981 c 356 s 185; 1Sp1981 c 4 art 1 s 110-112; 1983 c 289 s 115 subd 1; 1983 c 304 s 1; 1984 c 617 s 1; 1985 c 248 s 70; 1986 c 444

245.79 [Repealed, 1976 c 243 s 15]

245.791. EXCLUSIONS.

Sections 245.781 to 245.812 shall not apply to:

- (1) Day care or residential care provided by a relative to related persons;
- (2) Day care or residential care provided for a cumulative total of less than 30 days in any 12-month period;
- (3) Day care provided for persons from a single unrelated family for any length of time;
- (4) A home caring for a person placed there by a licensed agency for legal adoption, unless the adoption is not completed within two years after placement;
- (5) A licensed hospital whose psychiatric or chemical dependency program is located within the hospital;
- (6) A nursing home, hospital, or boarding care home, licensed by the state commissioner of health, except that an identifiable unit of such a facility which regularly provides care for more than five adults defined as persons in section 245.782, subdivision 2, who are not residents or patients of the nursing home, hospital, or boarding care home, must be licensed under sections 245.781 to 245.812;
- (7) A day care or residential program serving any number of adults who are not defined as persons under section 245.782, subdivision 2;
- (8) A sheltered workshop day program, certified by the state board of education;
- (9) A work activity day program, certified by the state board of education;
- (10) A work-wage home providing care for one nonrelated child who has reached age 16 and who has been independently placed for purposes of education or employment;
- (11) A school under the general supervision of the commissioner of education or a local education agency;
- (12) A residential or day care facility under the direct control and supervision of a local education agency or a state agency other than the commissioner;

(13) Day care provided for periods of no more than three hours per day for any person while relatives are in the same building, or can be present in the same building within 30 minutes;

(14) Facilities which in the judgment of the commissioner of education are operated for the primary purpose of educating children shall be exempt from these rules except insofar as the rules affect the health and safety of the children therein. The classrooms shall meet the applicable standards of the commissioner of public safety and state commissioner of health;

(15) Programs not located in family or group family day care homes and whose primary purpose is to provide activities outside the regular school day for children age five and over.

History: 1976 c 243 s 5; 1977 c 25 s 1; 1977 c 305 s 45; 1Sp1981 c 4 art 1 s 113; 1984 c 542 s 5; 1985 c 248 s 70; 1986 c 395 s 1; 1986 c 444

NOTE: The amendment to this section by Laws 1986, chapter 395, section 1, is repealed effective June 30, 1987. See Laws 1986, chapter 395, section 17.

245.792 RULES.

The commissioner may promulgate permanent rules to implement the provisions of Laws 1984, chapter 542, sections 1 to 5. The commissioner of health shall assist the commissioner of human services in determining appropriate license requirements.

History: 1984 c 542 s 7; 1984 c 654 art 5 s 58

245.80 [Repealed, 1976 c 243 s 1]

245.801 REVOCATION OF LICENSE; DENIAL.

Subdivision 1. An applicant who has been denied a license by the department shall be given prompt written notice thereof, by certified mail to the address shown in the application. The notice shall contain a statement of the reasons for the denial and shall inform the applicant of the right to appeal the decision to the commissioner. Written notice of appeal must be mailed within 20 days after receipt of the notice of denial. Upon receiving a timely written appeal, the commissioner shall give the applicant reasonable notice and an opportunity for a prompt hearing before an impartial administrative law judge. The administrative law judge shall make a recommendation to the commissioner of whether the application shall be denied or granted either for a license or a provisional license. The commissioner shall not be bound by the recommendation of the administrative law judge. The final decision of the commissioner shall be sent to the applicant by certified mail, and shall inform the applicant of rights under chapter 14.

Subd. 2. Failure of the commissioner to approve or deny an application within 90 days of receipt of a completed application shall be deemed to be an approval of license.

Subd. 3. The commissioner may suspend, revoke, or make probationary a license if an operator fails to comply with applicable laws or the rules of the commissioner.

Subd. 4. **Suspension; appeal.** An operator whose license the commissioner proposes to suspend, revoke, or make probationary shall be given notice by certified mail addressed to the location shown on the license. The notice shall contain a statement of, and the reasons for, the proposed action and shall inform the operator of the right to appeal the decision to the commissioner, in writing, within ten days after receipt of the notice of the proposed action. Upon receiving a timely written appeal, the commissioner shall give the operator reasonable notice and an opportunity for a prompt hearing before an impartial administrative law judge. The local welfare agency may demonstrate reasonable cause to revoke, suspend, not renew, or make probationary a family foster care or family day care license by submitting reports, statements, affidavits, or other reliable hearsay to substantiate the allegations of noncompliance with rules promulgated by the commissioner pursuant to section 245.802 governing

family foster care licensing and family day care licensing. Upon demonstration by the agency that reasonable cause exists to take the proposed action with respect to a family foster care or family day care license, the burden of proof shifts to the licensee to demonstrate compliance with the rule by a preponderance of the evidence. The administrative law judge shall make a recommendation to the commissioner as to whether the license shall be suspended, revoked, or made probationary. However, if the commissioner finds that the health, safety or rights of the persons served by the facility or agency are in imminent danger, the commissioner shall order the immediate suspension of the license. The operator shall be given written notice of the order by personal service. The notice shall contain a statement of the reasons for the suspension and shall inform the operator of the right to petition the commissioner for reconsideration of the order. The petition shall be in writing and shall be made within five days after the personal service of the order. Upon receiving a timely written petition, the commissioner shall give the operator reasonable notice and an opportunity for a prompt hearing before an impartial administrative law judge with respect to the order of suspension of the license. The administrative law judge shall make a recommendation to the commissioner as to whether the order of suspension should be affirmed or reversed. The commissioner shall not be bound by the recommendation of the administrative law judge. The final decision of the commissioner shall be served on the operator by personal service, and shall inform the applicant of rights under chapter 14 and as stated in this section.

Subd. 5. At any hearing provided for by sections 245.781 to 245.812 and 252.28, subdivision 2, the applicant or operator may be represented by counsel and has the right to call, examine, and cross-examine witnesses. The administrative law judge is empowered to require the presence of witnesses and evidence by subpoena on the behalf of any party. Each decision of an administrative law judge shall be in writing, shall contain findings of fact and conclusions, and shall be mailed to the parties by certified mail to their last known addresses as shown in the application.

Subd. 6. An operator whose license has been revoked or not renewed because of noncompliance with applicable laws or rules may not be granted a new license for five years following the revocation or denial of renewal except that the commissioner may grant a variance to this provision for family day care after two years following the revocation or denial of a family day care license and issue a license according to criteria established by rules adopted under sections 14.29 to 14.36. The commissioner may grant variances immediately upon the effective date of and in accordance with the rules.

History: 1976 c 243 s 6; 1978 c 674 s 60; 1981 c 264 s 1; 1Sp1981 c 4 art 1 s 114; 1982 c 424 s 130; 1983 c 304 s 2; 1984 c 640 s 32; 1985 c 248 s 70; 1986 c 444

245.802 RULES.

Subdivision 1. The commissioner shall develop and promulgate rules pursuant to chapter 14 for the operation and maintenance of day care and residential facilities and agencies, and for granting, suspending, revoking, and making licenses probationary. In developing rules, the commissioner shall consult with:

(1) Other appropriate state agencies including, but not limited to, the state commissioner of health, the state board of education, and the fire marshal. Any agency consulted is directed to cooperate with and assist the commissioner in developing appropriate rules for the licensing of day care and residential facilities and agencies;

(2) Persons and the relatives of the persons who use the service;

(3) Advocacy groups;

(4) Representatives of those who operate day care or residential facilities or agencies;

(5) Experts in relevant professional fields.

Rules promulgated under this section establishing the maximum number of children permitted to reside in group foster homes shall require that children in the group foster parents' natural family be counted in the number of children actually residing

in the group foster home, and the application of the rules providing the maximum number and manner of counting residents shall not be waived.

Subd. 1a. Standards for supportive living residences. Standards for licensing supportive living residences shall include provisions concerning the referral of adults needing treatment to appropriate programs and the prevention of inappropriate placements in supportive living residences, a maximum bed limit of 40, and provisions discouraging the concentration of supportive living residences in any one region or neighborhood.

Subd. 2. The commissioner shall conduct a comprehensive review of the rules promulgated under sections 245.781 to 245.812 and 252.28, subdivision 2 at least once every five years.

Subd. 3. A residential facility that is federally certified as an intermediate care facility serving adult mentally ill persons on July 1, 1981 shall not be denied a program license on the basis of any rule that requires physical plant specifications regarding the alteration of a certain number of beds and a certain number or size of living areas per treatment unit which would require the facility to alter its total number of beds.

Subd. 4. The commissioners of human services, public safety, and administration shall conduct a comprehensive study of the issues surrounding the licensure of family or group family day care homes and day care centers. The commissioners shall prepare a report for the legislature with recommendations for rules that will ensure a safe environment for children but which do not discourage the provision of quality day care services. The report must be delivered to the appropriate legislative committees by February 1, 1985.

Before adopting any rules regulating family or group family day care homes, the commissioner of human services shall consult with the state fire marshal and the state building inspector. The fire marshal and the state building inspector shall review the rules to ensure compliance with laws that are administered and enforced by their agencies.

History: 1976 c 243 s 7; 1977 c 305 s 45; 1980 c 618 s 18; 1981 c 360 art 2 s 15; 1Sp1981 c 4 art 1 s 115; 1982 c 424 s 130; 1984 c 542 s 6; 1984 c 654 art 5 s 58; 1984 c 658 s 2; 1985 c 248 s 70; 1986 c 444

245.803 VIOLATIONS; PENALTIES.

Subdivision 1. The operation of a day care or residential facility or agency required to be licensed under sections 245.781 to 245.812 and 252.28, subdivision 2 without a license is a misdemeanor punishable by a fine of not more than \$300. The commissioner may seek an injunction in the district court against the continuing operation of a day care or residential facility or agency:

(1) If the facility or agency is in violation of sections 245.781 to 245.812 and 252.28, subdivision 2 or of the rules promulgated by the commissioner and the operator has failed to correct the violation within 30 days of receipt of a written order to do so; or

(2) If an operator has willfully failed to apply for a license or renewal of license.

Proceedings for securing injunctions may be brought by the attorney general, or by the appropriate county attorney.

Subd. 2. Any individual who advertises a facility required to be licensed pursuant to sections 245.781 to 245.812 and 252.28, subdivision 2 prior to obtaining a license is guilty of a misdemeanor.

Subd. 3. The sanctions provided in sections 245.781 to 245.812 and 252.28, subdivision 2 are cumulative, and shall not be construed as restricting any sanctions otherwise available.

History: 1976 c 243 s 8; 1Sp1981 c 4 art 1 s 116-118; 1985 c 248 s 70

245.804 INSPECTION.

Subdivision 1. In exercising the powers of licensing, renewing, suspending, revoking, or making licenses probationary, the commissioner shall study and evaluate operators and applicants for a license. To carry out these duties the commissioner shall employ qualified personnel who, insofar as possible, are knowledgeable about the operation of the types and characters of facilities and agencies to be inspected. Authorized representatives of the commissioner may visit a day care or residential facility or agency at any time during the hours of operation for purposes of the study and inspection. In conducting evaluations and inspections, the commissioner may call upon and receive appropriate assistance from other governmental agencies within their authorized fields. Inspections may be made without prior notice to the applicant or operator.

Subd. 2. The operator or applicant shall cooperate with the evaluation and inspection by providing access to its facilities, records, and staff. Failure to comply with the reasonable requests of the commissioner in connection with the study and inspection is cause for revocation of license or for a denial of application. The study and inspection may involve consideration of any facts, conditions, or circumstances relative to the operation of the day care or residential facility or agency, including data on previous operation of a facility or service, references, and other information about the character and qualifications of the personnel of the facility or agency.

History: 1976 c 243 s 9

245.805 FINES.

Whenever the commissioner finds, upon inspection of a facility, that the operator is not in compliance with an applicable law or rule, a correction order shall be issued to the operator. The correction order shall state the deficiency or deficiencies, cite the specific law or rules violated, and specify the time allowed for correction.

If, upon reinspection, it is found that the operator has not corrected the deficiency or deficiencies specified in the correction order, the operator may be required to forfeit to the state within 15 days a sum of up to \$250 for each deficiency not corrected. A forfeiture order may be appealed in accordance with the procedures set forth in section 245.801. All forfeitures shall be paid into the general fund. Any unpaid forfeitures may be recovered by the attorney general.

History: 1976 c 243 s 10; 1985 c 248 s 70

245.81 [Repealed, 1976 c 243 s 15]**245.811 FEES.**

Subdivision 1. **Commissioner's authority.** The commissioner may charge a reasonable fee for the issuance or renewal of a license except that no fee may be charged for a family foster care or family day care home license. Fees may be waived at the discretion of the commissioner.

Subd. 2. **Rules.** The commissioner may adopt reasonable rules pursuant to chapter 14 as may be necessary to carry into effect the provisions of subdivision 1.

History: 1976 c 243 s 11; 1984 c 654 art 5 s 18; 1985 c 248 s 70

245.812 LOCATION AND ZONING.

Subdivision 1. No license or provisional license shall be granted when the issuance of the license would substantially contribute to the excessive concentration of residential facilities within any town, municipality or county of the state.

Subd. 2. In determining whether a license shall be issued, the commissioner shall specifically consider the population, size, land use plan, availability of community services and the number and size of existing public and private community residential facilities in the town, municipality or county in which an applicant seeks to operate a residence. Under no circumstances may the commissioner newly license any group

residential facility pursuant to sections 245.781 to 245.812 and 252.28, subdivision 2 if such residential facility will be within 1,320 feet of any existing group residential facility unless the appropriate town, municipality or county zoning authority grants the facility a conditional use or special use permit. With the exception of foster family homes the requirements of this subdivision apply to all licensed residential facilities, and for cities of the first class apply even if a facility is considered a permitted single family residential use of property according to subdivision 3.

Subd. 2a. It is the policy of this state that handicapped persons and children should not be excluded by municipal zoning ordinances or other land use regulations from the benefits of normal residential surroundings.

Subd. 3. A licensed residential facility serving six or fewer persons or a licensed day care facility serving 12 or fewer persons shall be considered a permitted single family residential use of property for the purposes of zoning.

Subd. 4. Unless otherwise provided in any town, municipal or county zoning regulation, a licensed residential facility serving from seven through 16 persons or a licensed day care facility serving from 13 through 16 persons shall be considered a permitted multifamily residential use of property for purposes of zoning. A township, municipal or county zoning authority may require a conditional use or special use permit in order to assure proper maintenance and operation of a facility, provided that no conditions shall be imposed on the facility which are more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones, unless such additional conditions are necessary to protect the health and safety of the residents of the facility. Nothing herein shall be construed to exclude or prohibit residential or day care facilities from single family zones if otherwise permitted by a local zoning regulation.

Subd. 5. Notwithstanding any law to the contrary, no license or provisional license shall be issued under sections 245.781 to 245.812 and 252.28, subdivision 2 without 30 days written notice from the commissioner to the affected municipality or other political subdivision.

Subd. 6. No state funds shall be made available to or be expended by any state or local agency for facilities licensed under sections 245.781 to 245.812 and 252.28, subdivision 2 unless and until the provisions of subdivision 5 have been complied with in full.

Subd. 7. (a) Residential facilities for adult mentally ill persons established on or before July 1, 1980, are exempt from the requirements of this section until July 1, 1985.

(b) Before January 1, 1985, each county having one or more group residential facilities within 1,320 feet of any existing group residential facility shall submit to the department of human services a plan to promote dispersal of group residential facilities. In formulating its plan, the county shall solicit the participation of affected persons, facilities, municipalities having highly concentrated residential facility populations, and advocacy groups. For purposes of this subdivision, "highly concentrated" means having a population in residential facilities serving seven or more persons that exceeds one-half of one percent of the population of a recognized planning district or other administrative subdivision.

(c) Within 45 days after submission of the plan by the county, the commissioner shall certify whether the plan fulfills the purposes and requirements of this subdivision including the following requirements.

(1) No new facility serving seven or more persons shall be located in any recognized planning district or other administrative subdivision where the population in residential facilities is highly concentrated.

(2) The county plan shall promote dispersal of highly concentrated residential facility populations.

(3) The county plan shall promote the development of residential facilities in areas that are not highly concentrated.

(4) No person in a residential facility shall be displaced as a result of this section

until a relocation plan has been implemented that provides for an acceptable alternative placement.

(5) If the plan provides for the relocation of residential facilities, the relocation shall be completed by January 1, 1990.

On certifying that the plan does not do so, the commissioner shall state the reasons, and the county shall have 30 days to submit a plan amended to comply with the requirements of the commissioner.

(d) After July 1, 1985, the commissioner may reduce grants pursuant to section 245.73 to a county required to have an approved plan under clause (b) if the county does not have a plan approved by the commissioner. The county board has the right to be provided with advance notice and to appeal the commissioner's decision. If the county requests a hearing within 30 days of the notification of intent to reduce grants, the commissioner shall not certify any reduction in grants until a hearing is conducted and a decision rendered in accordance with the contested case provisions of chapter 14.

History: 1976 c 243 s 12; 1979 c 42 s 1; 1980 c 612 s 1; 1981 c 360 art 2 s 16; 1Sp1981 c 4 art 1 s 119-121; 1984 c 617 s 2-5; 1984 c 654 art 5 s 58; 1986 c 444

245.813 [Repealed, 1980 c 542 s 2]

245.814 LIABILITY INSURANCE FOR LICENSED PROVIDERS.

Subdivision 1. **Insurance for foster parents.** The commissioner of human services shall within the appropriation provided purchase and provide insurance to foster parents to cover their liability for:

(1) injuries or property damage caused or sustained by foster children in their home; and

(2) actions arising out of alienation of affections sustained by the natural parents of a foster child.

Subd. 2. **Application of coverage.** Coverage shall apply to all foster boarding homes licensed by the department of human services, licensed by a federally recognized tribal government, or established by the juvenile court and certified by the commissioner of corrections pursuant to section 260.185, subdivision 1, clause (c)(5), to the extent that the liability is not covered by the provisions of the standard homeowner's or automobile insurance policy. The insurance shall not cover property owned by the foster parents, damage caused intentionally by a child over 12 years of age, or property damage arising out of business pursuits or the operation of any vehicle, machinery, or equipment.

Subd. 3. **Compensation provisions.** If the commissioner of human services is unable to obtain insurance through ordinary methods for coverage of foster parents, the appropriation shall be returned to the general fund and the state shall pay claims subject to the following limitations.

(a) Compensation shall be provided only for injuries, damage, or actions set forth in subdivision 1.

(b) Compensation shall be subject to the conditions and exclusions set forth in subdivision 2.

(c) The state shall provide compensation for bodily injury, property damage, or personal injury resulting from the foster parent's activities as a foster parent while the foster child is in the care, custody, and control of the foster parent in an amount not to exceed \$250,000 for each occurrence.

(d) The state shall provide compensation for damage or destruction of property caused or sustained by a foster child in an amount not to exceed \$250 for each occurrence.

(e) The compensation in clauses (c) and (d) is the total obligation for all damages because of each occurrence regardless of the number of claims made in connection with

the same occurrence, but compensation applies separately to each foster home. The state shall have no other responsibility to provide compensation for any injury or loss caused or sustained by any foster parent or foster child.

This coverage is extended as a benefit to foster parents to encourage care of children who need out-of-home care. Nothing in this section shall be construed to mean that foster parents are agents or employees of the state nor does the state accept any responsibility for the selection, monitoring, supervision, or control of foster parents which is exclusively the responsibility of the counties which shall regulate foster parents in the manner set forth in the rules of the commissioner of human services.

Subd. 4. Liability insurance; risk pool. If the commissioner determines that appropriate commercial liability insurance coverage is not available for a licensed foster home, group home, developmental achievement center, or day care provider, and that coverage available through the joint underwriting authority of the commissioner of commerce or other public entity is not appropriate for the provider or a class of providers, the commissioner of human services and the commissioner of commerce may jointly establish a risk pool to provide coverage for licensed providers out of premiums or fees paid by providers. The commissioners may set limits on coverage, establish premiums or fees, determine the proportionate share of each provider to be collected in a premium or fee based on the provider's claim experience and other factors the commissioners consider appropriate, establish eligibility and application requirements for coverage, and take other action necessary to accomplish the purposes of this subdivision. A human services risk pool fund is created for the purposes of this subdivision. Fees and premiums collected from providers for risk pool coverage are appropriated to the risk pool fund. Interest earned from the investment of money in the fund must be credited to the fund and money in the fund is appropriated to the commissioner of human services to pay administrative costs and covered claims for participating providers. In the event that money in the fund is insufficient to pay outstanding claims and associated administrative costs, the commissioner of human services may assess providers participating in the risk pool amounts sufficient to pay the costs. The commissioner of human services may not assess a provider an amount exceeding one year's premiums collected from that provider.

History: 1977 c 360 s 1; 1980 c 614 s 125; 1984 c 654 art 5 s 58; 1986 c 313 s 10; 1986 c 455 s 61

245.82 [Repealed, 1976 c 243 s 15]

245.821 NOTICE OF ESTABLISHMENT OF FACILITIES FOR TREATMENT, HOUSING OR COUNSELING OF HANDICAPPED PERSONS.

Subdivision 1. Notwithstanding any law to the contrary, no private or public facility for the treatment, housing, or counseling of more than five persons with mental illness, physical disabilities, mental retardation or related conditions, as defined in section 252.27, subdivision 1, chemical dependency, or another form of dependency, nor any correctional facility for more than five persons, shall be established without 30 days written notice to the affected municipality or other political subdivision.

Subd. 2. No state funds shall be made available to or be expended by any state or local agency for facilities or programs enumerated in this section unless and until the provisions of this section have been complied with in full.

History: 1974 c 274 s 3; 1985 c 21 s 5

245.825 USE OF AVERSIVE OR DEPRIVATION PROCEDURES IN FACILITIES SERVING PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.

Subdivision 1. Rules governing use of aversive and deprivation procedures. The commissioner of human services shall by October, 1983 promulgate rules governing the use of aversive and deprivation procedures in all licensed facilities serving persons with mental retardation or related conditions, as defined in section 252.27, subdivision 1.

No provision of these rules shall encourage or require the use of aversive and deprivation procedures. The rules shall prohibit: (a) the application of certain aversive or deprivation procedures in facilities except as authorized and monitored by the designated regional review committees; and (b) the use of aversive or deprivation procedures that restrict the consumers' normal access to nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions, and necessary clothing. The rule shall further specify that consumers may not be denied ordinary access to legal counsel and next of kin. In addition, the rule may specify other prohibited practices and the specific conditions under which permitted practices are to be carried out.

Subd. 2. Regional review committee. After the rules have been promulgated the commissioner shall appoint regional review committees to monitor the rules.

History: 1982 c 637 s 1,2; 1984 c 654 art 5 s 58; 1985 c 21 s 6

245.83 CHILD CARE SERVICES; DEFINITIONS.

Subdivision 1. As used in sections 245.83 to 245.87 the words defined in this section shall have the meanings given them.

Subd. 2. "Child care services" means family day care homes, group day care centers, nursery schools, day nurseries, child day care centers, play groups, head start and parent cooperatives, as defined by rules of the commissioner, and in-home child care as defined in the Minnesota plan for social services to families and children.

Subd. 3. "Child" means any person 14 years of age or younger.

Subd. 4. "Commissioner" means the commissioner of human services.

Subd. 5. "Interim financing" means funds to carry out such activities as are necessary for family day care homes, group family day care homes and cooperative child care centers to receive and maintain state licensing, and operating funds for a period of six consecutive months following receipt of state licensing by a family day care home, group family day care home, or cooperative child care center.

Subd. 6. "Resource and referral program" means a program that provides information to parents, including referrals and coordination of community child care resources for parents and public or private providers of care. Services may include parent education, technical assistance for providers, staff development programs, and referrals to social services.

History: 1971 c 848 s 1; 1973 c 584 s 1-3; 1976 c 306 s 1,2; 1983 c 312 art 2 s 1; 1984 c 654 art 5 s 58; 1986 c 404 s 1

245.84 AUTHORIZATION TO MAKE GRANTS.

Subdivision 1. Authority. The county board is authorized to provide child care services, to make grants from the community social service fund or other sources to any municipality, corporation or combination thereof for the cost of providing technical assistance and child care services, or to contract for services with any licensed day care facility, as the board deems necessary or proper to carry out the purposes of sections 245.83 to 245.87.

The board is further authorized to make grants to or contract with any municipality, incorporated licensed child care facility or resource and referral program, or corporation or combination thereof for any of the following purposes:

(a) For creating new licensed day care facilities and expanding existing facilities including, but not limited to, supplies, equipment, and facility renovation and remodeling;

(b) For improving licensed day care facility programs, including, but not limited to, staff specialists, staff training, supplies, equipment, and facility renovation and remodeling;

(c) For supportive child development services including, but not limited to, in-service training, curriculum development, consulting specialist, resource centers, and program and resource materials;

(d) For carrying out programs including, but not limited to, staff, supplies, equipment, facility renovation, and training;

(e) For interim financing; and

(f) For carrying out the resource and referral program services identified in section 268.911, subdivision 3.

Subd. 2. [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

Subd. 3. For the purposes of this section, donated professional and volunteer services, program materials, equipment, supplies, and facilities may be approved as part of a matching share of the cost, provided that total costs shall be reduced by the costs charged to parents if a sliding fee scale has been used.

Subd. 4. The commissioner may appoint an advisory task force of not more than 35 members which shall advise the commissioner on grants and other child care issues. One-third of the members of the advisory council shall be parents who use child care services. The membership expiration, terms, compensation and removal from office of members of the advisory council shall be according to section 15.059.

Subd. 5. **Biennial plan.** The county board shall biennially develop a plan for the distribution of money for child care services as part of the community social services plan prescribed in section 256E.09. All licensed child care programs shall be given written notice concerning the availability of money and the application process.

History: 1971 c 848 s 2; 1973 c 584 s 4; 1976 c 306 s 3; 1979 c 307 s 1; 1979 c 324 s 20,21; 1981 c 355 s 22,23; 1982 c 424 s 130; 1982 c 607 s 11; 1983 c 260 s 52; 1983 c 312 art 2 s 2-4; 1984 c 640 s 32; 1986 c 404 s 2

245.85 SUPERVISION OF SERVICES.

The county board shall supervise and coordinate all child care services and programs for which money has been made available pursuant to sections 245.83 to 245.87, and shall endeavor insofar as possible to establish a set of program standards and uniform regulations to coordinate child care services and programs at the local level. The board shall, from time to time, review the budgets, expenditures and development of each child care service and program to which money has been made available pursuant to sections 245.83 to 245.87.

History: 1971 c 848 s 3; 1973 c 584 s 5; 1976 c 306 s 4; 1979 c 324 s 22; 1983 c 312 art 2 s 5

245.86 AUTHORIZATION TO COUNTIES AND MUNICIPALITIES TO CONTRACT OR MAKE GRANTS.

Any county or municipality may contract for services or make grants from special tax revenues or from its general fund to any organization, governmental or corporate, for the same purposes for which the commissioner is authorized to make allocations by sections 245.83 to 245.87.

History: 1971 c 848 s 4; 1973 c 584 s 6; 1976 c 306 s 5; 1983 c 312 art 2 s 6

245.87 ALLOCATIONS.

At least ten percent of the total program allocation under section 245.84, subdivision 1 shall be designated for interim financing. The commissioner is further instructed that the allocation in each area be based on a need and population basis.

History: 1971 c 848 s 5; 1973 c 584 s 7; 1976 c 306 s 6; 1979 c 324 s 23; 1983 c 312 art 2 s 7; 1Sp1985 c 14 art 9 s 11

CHILD CARE SERVICES

245.88 CITATION.

Laws 1986, chapter 395, sections 3 to 15 may be cited as the "child care services act." The child care services act is to be read in conjunction with the public welfare licensing act and with sections 245.83 to 245.87.

History: 1986 c 395 s 2

245.881 PURPOSE.

The legislature recognizes that the availability of child care is essential to the welfare of the state. Further, the legislature recognizes that the regulation of child care services affects the availability of child care. It is the intent of the legislature that child care standards and regulatory methods facilitate the availability of safe, affordable, quality child care throughout the state.

History: 1986 c 395 s 3

245.882 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to Laws 1986, chapter 395, sections 3 to 15.

Subd. 2. **Agency.** "Agency" means the county social or human service agency governed by the board of county commissioners.

Subd. 3. **Applicant.** "Applicant" means an applicant for licensure as a day care provider under Minnesota Rules, parts 9545.0315 to 9545.0445.

Subd. 4. **Child.** "Child" has the definition given in section 245.83, subdivision 3.

Subd. 5. **Child care services.** "Child care services" has the definition given in section 245.83, subdivision 2.

Subd. 6. **Commissioner.** "Commissioner" means the commissioner of human services.

Subd. 7. **Day care.** "Day care" means the care of a child outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

Subd. 8. **Day care rule.** "Day care rule" means any rule promulgated under section 245.802 to regulate day care as defined in this section.

Subd. 9. **Consumer.** "Consumer" means a parent who places a child in day care.

Subd. 10. **Department.** "Department" means the department of human services.

Subd. 11. **Parent.** "Parent" means a person who has the legal responsibility for a child such as the child's mother, father, or legally appointed guardian.

Subd. 12. **Provider.** "Provider" means the day care license holder and primary caregiver in a family or group family facility.

History: 1986 c 395 s 4

245.883 RULES.

Rules for family day care and group family day care homes must be adopted in consultation with representatives of counties and with families who reflect the diversity of families who use day care, including families from urban, suburban, and rural communities, and with representatives of those who operate day care homes in urban, suburban, and rural communities. In addition, the commissioner shall:

(1) summarize day care rules in language understandable to the general public and provide a copy of each rule and its summary to each agency and provider;

(2) develop and distribute to providers and applicants information, in language understandable to the general public, that:

(i) describes services offered to applicants by the department under section 245.783, subdivision 1;

(ii) summarizes procedures for appealing a denial, revocation, suspension, or nonrenewal of license as set forth in section 245.801 and in rules promulgated by the commissioner;

(iii) explains penalties for failure to license a day care facility or failure to take corrective action as set forth in section 245.803; and

(iv) explains the necessity of maintaining and providing access to records as set forth in section 245.804;

(3) provide an information service to consumers and providers that interprets day care rules;

(4) ensure that day care rules are interpreted uniformly throughout the state by providing information, training, and technical assistance to licensing agencies prior to implementing a day care rule or any revision to a day care rule, and by developing and implementing certification standards and reviewing annually each county agency for compliance with certification standards; and

(5) conduct a thorough review of the relevant professional literature, identify objectively validated predictors of service outcomes, and incorporate these predictors in rules adopted under this section, to the extent feasible and appropriate.

History: 1986 c 395 s 5

245.884 STANDARDS AND REGULATORY METHODS.

In writing and enforcing day care rules, the commissioner shall identify, and when feasible and appropriate, incorporate objectively validated indicators of quality day care; methods for establishing child/staff ratios that take into consideration the age distribution of children in day care; and methods for establishing safety standards for day care facilities that take into consideration the findings of empirical studies of fire detection factors, fire spread factors, and evacuation of day care homes in case of fire. The commissioner shall provide an information service that will interpret day care rules and provide assistance to consumers and providers. To the extent feasible and appropriate, the commissioner shall identify and incorporate alternative methods of day care regulation that:

(1) increase the variety of day care available to consumers by expanding the types and categories of licensure, including the use of conditional and restricted licenses;

(2) establish a substantial compliance standard rather than a full or absolute compliance standard;

(3) include providers, consumers, advocacy groups, and experts in relevant professional fields in establishing weighted values that describe the relative importance of compliance with each provision of a day care rule;

(4) incorporate the use of national accreditation as a partial substitute for state licensing;

(5) when appropriate, incorporate performance standards in place of specification standards to allow flexibility in regulation;

(6) set minimum standards for safety, sanitation, and meeting the developmental needs of children; and

(7) use graded licenses as a means of informing consumers about the quality of day care delivered by a provider.

History: 1986 c 395 s 6

245.885 REGULATION BY LOCAL GOVERNMENT.

The authority of local units of government to establish requirements for day care facilities is limited by section 299F.011, subdivision 4a, clauses (1) and (2).

History: 1986 c 395 s 10

245.90 COURT AWARDED FUNDS, DISPOSITION.

The commissioner of human services shall notify the house appropriations and senate finance committees of the terms of any contractual arrangement entered into by the commissioner and the attorney general, pursuant to an order of any court of law, which provides for the receipt of funds by the commissioner.

Any funds recovered or received by the commissioner pursuant to an order of any court of law shall be placed in the general fund.

History: 1975 c 434 s 24; 1984 c 654 art 5 s 58