CHAPTER 245

DEPARTMENT OF HUMAN SERVICES

245.072 DIVISION FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.

A division for persons with developmental disabilities 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 division for persons with developmental disabilities 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: *1987 c 44 s 1*

MINNESOTA COMPREHENSIVE MENTAL HEALTH ACT

245.461 POLICY AND CITATION.

Subdivision 1. **Citation.** Sections 245.461 to 245.486 may be cited as the "Minnesota comprehensive mental health act."

Subd. 2. **Mission statement.** The commissioner shall create and ensure a unified, accountable, comprehensive mental health service system that:

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

(2) promotes the independence and safety of people with mental illness;

(3) reduces chronicity of mental illness;

(4) reduces abuse of people with mental illness;

(5) provides services designed to:

(i) increase the level of functioning of people with mental illness or restore them to a previously held higher level of functioning;

(ii) stabilize individuals with mental illness;

(iii) prevent the development and deepening of mental illness;

(iv) support and assist individuals in resolving emotional problems that impede their functioning;

(v) promote higher and more satisfying levels of emotional functioning; and

(vi) promote sound mental health; and

(6) provides a quality of service that is effective, efficient, appropriate, and consistent with contemporary professional standards in the field of mental health.

Subd. 3. **Report.** By February 15, 1988, and annually after that until February 15, 1990, the commissioner shall report to the legislature on all steps t[illegible]n and recommendations for full implementation of sections 245.461 to 245.48[illegible]d on additional resources needed to further implement those sections.

History: *1987 c 403 art 2 s 16*

245.462 DEFINITIONS.

Subdivision 1. **Definitions.** The definitions in this section apply to sections 245.461 to 245.486.

Subd. 2. **Acute care hospital inpatient treatment.** "Acute care hospital inpatient treatment" means short-term medical, nursing, and psychosocial services provided in an acute care hospital licensed under chapter 144.

Subd. 3. **Case management activities.** "Case management activities" means activities that are part of the community support services program as defined in subdivision 6 and are designed to help people with serious and persistent mental illness in gaining access to needed medical, social, educational, vocational, and other necessary services as they relate to the client's mental health needs. Case management activities include obtaining a diagnostic assessment, developing an individual community support plan, referring the person to needed mental health and other services, coordinating services, and monitoring the delivery of services.

Subd. 4. **Case manager.** "Case manager" means an individual authorized by the county board to provide case management activities as part of a community support services program. A case manager must be qualified at the mental health practitioner level, skilled in the process of identifying and assessing a wide range of client needs, and knowledgeable about local community resources and how to use those resources for the benefit of the client.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of human services.

Subd. 6. **Community support services program.** "Community support services program" means services, other than inpatient or residential treatment services, provided or coordinated by an identified program and staff under the clinical supervision of a mental health professional designed to help people with serious and persistent mental illness to function and remain in the community. A community support services program includes case management activities provided to persons with serious and persistent mental illness, client outreach, medication management, assistance in independent living skills, development of employability and supportive work opportunities, crisis assistance, psychosocial rehabilitation, help in applying for government benefits, and the development, identification, and monitoring of living arrangements.

Subd. 7. **County board.** "County board" means the county board of commissioners

or board established pursuant to the joint powers act, section 471.59, or the human services board act, sections 402.01 to 402.10.

Subd. 8. **Day treatment services.** "Day treatment services" means a structured program of intensive therapeutic and rehabilitative services at least one day a week for a minimum three-hour time block that is provided within a group setting by a multidisciplinary staff under the clinical supervision of a mental health professional. Day treatment services are not a part of inpatient or residential treatment services, but may be part of a community support services program.

Subd. 9. **Diagnostic assessment.** "Diagnostic assessment" means a written summary of the history, diagnosis, strengths, vulnerabilities, and general service needs of a person with mental illness using diagnostic, interview, and other relevant mental health techniques provided by a mental health professional used in developing an individual treatment plan or individual community support plan.

Subd. 10. **Education and prevention services.** "Education and prevention services" means services designed to educate the general public or special high-risk target populations about mental illness, to increase the understanding and acceptance of problems associated with mental illness, to increase people's awareness of the availability of resources and services, and to improve people's skills in dealing with high-risk situations known to affect people's mental health and functioning.

Subd. 11. **Emergency services.** "Emergency services" means an immediate response service available on a 24-hour, seven-day-a-week basis for persons having a psychiatric crisis or emergency.

Subd. 12. **Individual community support plan.** "Individual community support plan" means a written plan developed by a case manager on the basis of a diagnostic assessment. The plan identifies specific services needed by a person with serious and persistent mental illness to develop independence or improved functioning in daily living, health and medication management, social functioning, interpersonal relationships, financial management, housing, transportation, and employment.

Subd. 13. **Individual placement agreement.** "Individual placement agreement" means a written agreement or supplement to a service contract entered into between the county board and a service provider on behalf of an individual client to provide residential treatment services.

Subd. 14. **Individual treatment plan.** "Individual treatment plan" means a written plan of intervention, treatment, and services for a person with mental illness that is developed by a service provider under the clinical supervision of a mental health professional on the basis of a diagnostic assessment. The plan identifies goals and objectives of treatment, treatment strategy, a schedule for accomplishing treatment goals and objectives, and the individual responsible for providing treatment to the person with mental illness.

Subd. 15. **Local mental health proposal.** "Local mental health proposal" means the proposal developed by the county board, reviewed by the commissioner, and described in section 245.463.

Subd. 16. **Mental health funds.** "Mental health funds" are funds expended under sections 245.73 and 256E.12, federal mental health block grant funds, and funds expended under sections 256D.06 and 256D.37 to facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690.

Subd. 17. **Mental health practitioner.** "Mental health practitioner" means a person providing services to persons with mental illness who is qualified in at least one of the following ways:

(1) holds a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university, and has 2,000 hours of supervised experience in the delivery of services to persons with mental illness;

(2) has 6,000 hours of supervised experience in the delivery of services to persons with mental illness;

(3) is a graduate student in one of the behavioral sciences or related fields formally

assigned to an agency or facility for clinical training by an accredited college or university; or

(4) holds a master's or other graduate degree in one of the behavioral sciences or related fields from an accredited college or university with less than 4,000 hours post-master's experience in the treatment of mental illness.

Subd. 18. **Mental health professional.** "Mental health professional" means a person providing clinical services in the treatment of mental illness who is qualified in at least one of the following ways:

(1) in psychiatric nursing: a registered nurse with a master's degree in one of the behavioral sciences or related fields from an accredited college or university or its equivalent, who is licensed under sections 148.171 to 148.285, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) in clinical social work: a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in psychology: a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental illness;

(4) in psychiatry: a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry; or

(5) in allied fields: a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness.

Subd. 19. **Mental health services.** "Mental health services" means all of the treatment services and management activities that are provided to persons with mental illness and are described in sections 245.468 to 245.476.

Subd. 20. **Mental illness.** (a) "Mental illness" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD), current edition, Axes I, II, or III, and that seriously limits a person's capacity to function in primary aspects of daily living such as personal relations, living arrangements, work, and recreation.

(b) A "person with acute mental illness" means a person who has a mental illness that is serious enough to require prompt intervention.

(c) For purposes of sections 245.461 to 245.486, a "person with serious and persistent mental illness" means a person who has a mental illness and meets at least one of the following criteria:

(1) The person has undergone two or more episodes of inpatient care for a mental illness within the preceding 24 months.

(2) The person has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding 12 months.

(3) The person has had a history of recurring inpatient or residential treatment episodes of a frequency described in clause (1) or (2), but not within the preceding 24 months. There must also be a written opinion of a mental health professional stating that the person is reasonably likely to have future episodes requiring inpatient or residential treatment unless an ongoing community support services program is provided.

Subd. 21. **Outpatient services.** "Outpatient services" means mental health services, excluding day treatment and community support services programs, provided by

or under the clinical supervision of a mental health professional to persons with a mental illness who live outside a hospital or residential treatment setting. Outpatient services include clinical activities such as individual, group, and family therapy; individual treatment planning; diagnostic assessments; medication management; and psychological testing.

Subd. 22. **Regional treatment center inpatient services.** "Regional treatment center inpatient services" means the medical, nursing, or psychosocial services provided in a regional treatment center operated by the state.

Subd. 23. **Residential treatment.** "Residential treatment" means a 24-hour-a-day residential program under the clinical supervision of a mental health professional, other than an acute care hospital or regional treatment center, which must be licensed as a residential treatment facility for mentally ill persons under Minnesota Rules, parts 9520.0500 to 9520.0690 for adults, 9545.0900 to 9545.1090 for children, or other rule adopted by the commissioner.

Subd. 24. **Service provider.** "Service provider" means either a county board or an individual or agency including a regional treatment center under contract with the county board that provides mental health services funded by sections 245.461 to 245.486.

Subd. 25. **Clinical supervision.** "Clinical supervision," when referring to the responsibilities of a mental health professional, means the oversight responsibility of a mental health professional for individual treatment plans, service delivery, and program activities. Clinical supervision may be accomplished by full or part-time employment of or contracts with mental health professionals. Clinical supervision must be documented by the mental health professional cosigning individual treatment plans and evidence of input into service delivery and program development.

History: *1987 c 403 art 2 s 17*

245.463 PLANNING FOR A MENTAL HEALTH SYSTEM.

Subdivision 1. **Planning effort.** Starting on the effective date of sections 245.461 to 245.486 and ending June 30, 1988, the commissioner and the county agencies shall plan for the development of a unified, accountable, and comprehensive statewide mental health system. The system must be planned and developed by stages until it is operating at full capacity.

Subd. 2. **Technical assistance.** The commissioner shall provide ongoing technical assistance to county boards to develop local mental health proposals as specified in section 245.479, to improve system capacity and quality. The commissioner and county boards shall exchange information as needed about the numbers of persons with mental illness residing in the county and extent of existing treatment components locally available to serve the needs of those persons. County boards shall cooperate with the commissioner in obtaining necessary planning information upon request.

History: *1987 c 403 art 2 s 18*

245.464 COORDINATION OF MENTAL HEALTH SYSTEM.

Subdivision 1. **Supervision.** The commissioner shall supervise the development and coordination of locally available mental health services by the county boards in a manner consistent with sections 245.461 to 245.486. The commissioner shall coordinate locally available services with those services available from the regional treatment center serving the area. The commissioner shall review local mental health service proposals developed by county boards as specified in section 245.463 and provide technical assistance to county boards in developing and maintaining locally available mental health services. The commissioner shall monitor the county board's progress in developing its full system capacity and quality through ongoing review of the county board's mental health proposals, quarterly reports, and other information as required by sections 245.461 to 245.486.

Subd. 2. **Priorities.** By January 1, 1990, the commissioner shall require that each

of the treatment services and management activities described in sections 245.469 to 245.477 are developed for persons with mental illness within available resources based on the following ranked priorities:

(1) the provision of locally available emergency services;

(2) the provision of locally available services to all persons with serious and persistent mental illness and all persons with acute mental illness;

(3) the provision of specialized services regionally available to meet the special needs of all persons with serious and persistent mental illness and all persons with acute mental illness;

(4) the provision of locally available services to persons with other mental illness; and

(5) the provision of education and preventive mental health services targeted at high-risk populations.

History: *1987 c 403 art 2 s 19*

245.465 DUTIES OF COUNTY BOARD.

The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local mental health service proposal approved by the commissioner. The county board must:

(1) develop and coordinate a system of affordable and locally available mental health services in accordance with sections 245.466 to 245.474;

(2) provide for case management services to persons with serious and persistent mental illness in accordance with section 245.475;

(3) provide for screening of persons specified in section 245.476 upon admission to a residential treatment facility or acute care hospital inpatient, or informal admission to a regional treatment center; and

(4) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.461 to 245.486.

History: *1987 c 403 art 2 s 20*

245.466 LOCAL SERVICE DELIVERY SYSTEM.

Subdivision 1. **Development of services.** The county board in each county is responsible for using all available resources to develop and coordinate a system of locally available and affordable mental health services. The county board may provide some or all of the mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers. County boards shall demonstrate their continuous progress toward full implementation of sections 245.461 to 245.486 during the period July 1, 1987 to January 1, 1990. County boards must develop fully each of the treatment services and management activities prescribed by sections 245.461 to 245.486 by January 1, 1990, according to the priorities established in section 245.464 and local mental health services proposal approved by the commissioner under section 245.478.

Subd. 2. **Mental health services.** The mental health service system developed by each county board must include the following treatment services:

(1) education and prevention services in accordance with section 245.468;

(2) emergency services in accordance with section 245.469;

(3) outpatient services in accordance with section 245.470;

(4) community support program services in accordance with sections 245.471 and 245.475;

(5) residential treatment services in accordance with section 245.472;

(6) acute care hospital inpatient treatment services in accordance with section 245.473;

(7) regional treatment center inpatient services in accordance with section 245.474; and

(8) screening in accordance with section 245.476.

Subd. 3. **Local contracts.** Effective January 1, 1988, the county board shall review all proposed county agreements, grants, or other contracts related to mental health services for funding from any local, state, or federal governmental sources. Contracts with service providers must:

(1) name the commissioner as a third party beneficiary;

(2) identify monitoring and evaluation procedures not in violation of the Minnesota government data practices act, chapter 13, which are necessary to ensure effective delivery of quality services;

(3) include a provision that makes payments conditional on compliance by the contractor and all subcontractors with sections 245.461 to 245.486 and all other applicable laws, rules, and standards; and

(4) require financial controls and auditing procedures.

Subd. 4. **Joint county mental health agreements.** In order to provide efficiently the services required by sections 245.461 to 245.486, counties are encouraged to join with one or more county boards to establish a multicounty local mental health authority pursuant to the joint powers act, section 471.59, the human service board act, sections 402.01 to 402.10, community mental health center provisions, section 245.62, or enter into multicounty mental health agreements. Participating county boards shall establish acceptable ways of apportioning the cost of the services.

Subd. 5. **Local advisory council.** The county board, individually or in conjunction with other county boards, shall establish a local mental health advisory council or mental health subcommittee of an existing advisory council. The council's members must reflect a broad range of community interests. They must include at least one consumer, one family member of a person with mental illness, one mental health professional, and one community support services program representative. The local mental health advisory council or mental health subcommittee of an existing advisory council shall meet at least quarterly to review, evaluate, and make recommendations regarding the local mental health system. Annually, the local advisory council or mental health subcommittee of an existing advisory council shall arrange for input from the regional treatment center review board regarding coordination of care between the regional treatment center and community-based services. The county board shall consider the advice of its local mental health advisory council or mental health subcommittee of an existing advisory council in carrying out its authorities and responsibilities.

Subd. 6. **Other local authority.** The county board may establish procedures and policies that are not contrary to those of the commissioner or sections 245.461 to 245.486 regarding local mental health services and facilities. The county board shall perform other acts necessary to carry out sections 245.461 to 245.486.

History: *1987 c 403 art 2 s 21*

245.467 QUALITY OF SERVICES.

Subdivision 1. **Criteria.** Mental health services required by this chapter must be:

(1) based, when feasible, on research findings;

(2) based on individual clinical needs, cultural and ethnic needs, and other special needs of individuals being served;

(3) provided in the most appropriate, least restrictive setting available to the county board;

(4) accessible to all age groups;

(5) delivered in a manner that provides accountability;

(6) provided by qualified individuals as required in this chapter;

(7) coordinated with mental health services offered by other providers; and

(8) provided under conditions which protect the rights and dignity of the individuals being served.

Subd. 2. **Diagnostic assessment.** All providers of residential, acute care hospital inpatient, and regional treatment centers must complete a diagnostic assessment for each of their clients within five days of admission. Providers of outpatient and day treatment services must complete a diagnostic assessment within ten days of admission. In cases where a diagnostic assessment is available and has been completed within 90 days preceding admission, only updating is necessary.

Subd. 3. **Individual treatment plans.** All providers of outpatient, residential treatment, acute care hospital inpatient treatment, and all regional treatment centers must develop an individual treatment plan for each of their clients. The individual treatment plan must be based on a diagnostic assessment. To the extent possible, the client shall be involved in all phases of developing and implementing the individual treatment plan. The individual treatment plan must be developed within ten days of client intake and reviewed every 90 days thereafter.

History: *1987 c 403 art 2 s 22*

245.468 EDUCATION AND PREVENTION SERVICES.

By July 1, 1988, county boards must provide or contract for education and prevention services to persons residing in the county. Education and prevention services must be designed to:

(1) convey information regarding mental illness and treatment resources to the general public or special high-risk target groups;

(2) increase understanding and acceptance of problems associated with mental illness;

(3) improve people's skills in dealing with high-risk situations known to have an impact on people's mental health functioning; and

(4) prevent development or deepening of mental illness.

History: *1987 c 403 art 2 s 23*

245.469 EMERGENCY SERVICES.

Subdivision 1. **Availability of emergency services.** By July 1, 1988, county boards must provide or contract for enough emergency services within the county to meet the needs of persons in the county who are experiencing an emotional crisis or mental illness. Clients may be required to pay a fee based on their ability to pay. Emergency services must include assessment, intervention, and appropriate case disposition. Emergency services must:

(1) promote the safety and emotional stability of people with mental illness or emotional crises;

(2) minimize further deterioration of people with mental illness or emotional crises;

(3) help people with mental illness or emotional crises to obtain ongoing care and treatment; and

(4) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs.

Subd. 2. **Specific requirements.** The county board shall require that all service providers of emergency services provide immediate direct access to mental health professionals during regular business hours. For evenings, weekends, and holidays, the service may be by direct toll free telephone access to a mental health professional, a mental health practitioner, or a designated person with training in human services who

is under the supervision of a mental health professional. Whenever emergency service during nonbusiness hours is provided by anyone other than a mental health professional, a mental health professional must be available for consultation within 30 minutes.

History: *1987 c 403 art 2 s 24*

245.470 OUTPATIENT SERVICES.

Subdivision 1. **Availability of outpatient services.** (a) By July 1, 1988, county boards must provide or contract for enough outpatient services within the county to meet the needs of persons with mental illness residing in the county. Clients may be required to pay a fee based on their ability to pay. Outpatient services include:

(1) conducting diagnostic assessments;

(2) conducting psychological testing;

(3) developing or modifying individual treatment plans;

(4) making referrals and recommending placements as appropriate;

(5) treating a person's mental health needs through therapy;

(6) prescribing and managing medication; and

(7) preventing placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs.

(b) County boards may request a waiver allowing outpatient services to be provided in a nearby trade area if it is determined that the client can best be served outside the county.

Subd. 2. **Specific requirements.** The county board shall require that all service providers of outpatient services:

(1) meet the professional qualifications contained in sections 245.461 to 245.486;

(2) use a multidisciplinary mental health professional staff including at a minimum, arrangements for psychiatric consultation, licensed consulting psychologist consultation, and other necessary multidisciplinary mental health professionals;

(3) develop individual treatment plans;

(4) provide initial appointments within three weeks, except in emergencies where there must be immediate access as described in section 245.469; and

(5) establish fee schedules approved by the county board that are based on a client's ability to pay.

History: *1987 c 403 art 2 s 25*

245.471 COMMUNITY SUPPORT SERVICES PROGRAM.

Subdivision 1. **Availability of community support services program.** By July 1, 1988, county boards must provide or contract for sufficient community support services within the county to meet the needs of persons with serious and persistent mental illness residing in the county. Clients may be required to pay a fee. The county board shall require that all service providers of community support services set fee schedules approved by the county board which are based on the client's ability to pay. The community support services program must be designed to improve the ability of persons with serious and persistent mental illness to:

(1) work in a regular or supported work environment;

(2) handle basic activities of daily living;

(3) participate in leisure time activities;

(4) set goals and plans;

(5) obtain and maintain appropriate living arrangements; and

(6) reduce the use of more intensive, costly, or restrictive placements both in number of admissions and lengths of stay as determined by client need.

Subd. 2. **Case management activities.** (a) By January 1, 1989, case management activities must be developed as part of the community support program available to

all persons with serious and persistent mental illness residing in the county. Staffing ratios must be sufficient to serve the needs of the clients. The case manager must at a minimum qualify as a mental health practitioner.

(b) All providers of case management activities must develop an individual community support plan. The individual community support plan must state for each of their clients:

(1) the goals of each service;

(2) the activities for accomplishing each goal;

(3) a schedule for each activity; and

(4) the frequency of face-to-face client contacts, as appropriate to client need and the implementation of the community support plan.

The individual community support plan must incorporate the individual treatment plan. The individual treatment plan may not be a substitute for the development of an individual community support plan. The individual community support plan must be developed within 30 days of client intake and reviewed every 90 days after it is developed. The case manager is responsible for developing the individual community support plan based on a diagnostic assessment and for implementing and monitoring the delivery of services according to the individual community support plan. To the extent possible, the person with serious and persistent mental illness, the person's family, advocates, service providers, and significant others must be involved in all phases of development and implementation of the individual community support plan.

Subd. 3. **Day treatment activities provided.** (a) By July 1, 1989, day treatment activities must be developed as a part of the community support program available to persons with serious and persistent mental illness residing in the county. Day treatment services must be available to persons with serious and persistent mental illness residing in the county as part of the community support program of each county. Clients may be required to pay a fee. Day treatment services must be designed to:

(1) provide a structured environment for treatment;

(2) provide family and community support;

(3) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client need; and

(4) establish fee schedules approved by the county board that are based on a client's ability to pay.

(b) County boards may request a waiver from including day treatment services if they can document that:

(1) an alternative plan of care exists through the county's community support program for clients who would otherwise need day treatment services;

(2) that day treatment, if included, would be duplicative of other components of the community support program; and

(3) that county demographics and geography make the provision of day treatment services cost ineffective and unfeasible.

Subd. 4. **Benefits assistance.** By July 1, 1988, help in applying for federal benefits, including supplemental security income, medical assistance, and Medicare, must be offered as a part of the community support program available to individuals with serious and persistent mental illness for whom the county is financially responsible and who may qualify for these benefits. The county board must offer help in applying for federal benefits to all persons with serious and persistent mental illness.

History: *1987 c 403 art 2 s 26*

245.472 RESIDENTIAL TREATMENT SERVICES.

Subdivision 1. **Availability of residential treatment services.** By July 1, 1988, county boards must provide or contract for enough residential treatment services to meet the needs of all persons with mental illness residing in the county. Residential treatment services include both intensive and structured residential treatment with

length of stay based on client residential treatment need. Services must be as close to the county as possible. Residential treatment must be designed to:

(1) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs;

(2) help clients achieve the highest level of independent living;

(3) help clients gain the necessary skills to be referred to a community support services program or outpatient services; and

(4) stabilize crisis admissions.

Subd. 2. **Specific requirements.** Providers of residential services must be licensed under applicable rules adopted by the commissioner and must be clinically supervised by a mental health professional.

History: *1987 c 403 art 2 s 27*

245.473 ACUTE CARE HOSPITAL INPATIENT SERVICES.

Subdivision 1. **Availability of acute care inpatient services.** By July 1, 1988, county boards must make available through contract or direct provision enough acute care hospital inpatient treatment services as close to the county as possible to meet the needs of persons with mental illness residing in the county. Acute care hospital inpatient treatment services must be designed to:

(1) stabilize the medical condition of people with acute or serious and persistent mental illness;

(2) improve functioning; and

(3) facilitate appropriate referrals, follow-up, and placements.

Subd. 2. **Specific requirements.** Providers of acute care hospital inpatient services must meet applicable standards established by the commissioners of health and human services.

History: *1987 c 403 art 2 s 28*

245.474 REGIONAL TREATMENT CENTER INPATIENT SERVICES.

Subdivision 1. **Availability of regional treatment center inpatient services.** By July 1, 1987, the commissioner shall make sufficient regional treatment center inpatient services available to people with mental illness throughout the state. Regional treatment centers are responsible to:

(1) stabilize the medical condition of the person with mental illness;

(2) improve functioning;

(3) strengthen family and community support; and

(4) facilitate appropriate discharge, aftercare, and follow-up placements in the community.

Subd. 2. **Quality of service.** The commissioner shall biennially determine the needs of all mentally ill patients served by regional treatment centers by administering a client-based evaluation system. The client-based evaluation system must include at least the following independent measurements: behavioral development assessment; habilitation program assessment; medical needs assessment; maladaptive behavioral assessment; and vocational behavior assessment. The commissioner shall propose staff ratios to the legislature for the mental health and support units in regional treatment centers as indicated by the results of the client-based evaluation system. The proposed staffing ratios shall include professional, nursing, direct care, medical, clerical, and support staff based on the client-based evaluation system. The commissioner shall recompute staffing ratios and recommendations on a biennial basis.

History: *1987 c 403 art 2 s 29*

245.475 COUNTY RESPONSIBILITY TO PROVIDE COMMUNITY SUPPORT SERVICES.

Subdivision 1. **Client eligibility.** The county board shall provide case management and other appropriate community support services to all persons with serious and persistent mental illness. Case management services provided to people with serious and persistent mental illness eligible for medical assistance must be billed to the medical assistance program under section 256B.02, subdivision 8.

Subd. 2. **Designation of case manager.** The county board shall designate a case manager within five working days after receiving an application for community support services or immediately after authorizing payment for residential, acute care hospital inpatient, or regional treatment center services under section 245.476.

The county board shall send a written notice to the applicant and the applicant's representative, if any, that identifies the designated case manager.

Subd. 3. **Diagnostic assessment.** The case manager shall promptly arrange for a diagnostic assessment of the applicant when one is not available as described in section 245.467, subdivision 2, to determine the applicant's eligibility as a person with serious and persistent mental illness for community support services. The county board shall notify in writing the applicant and the applicant's representative, if any, if the applicant is determined ineligible for community support services.

Subd. 4. **Community support services.** Upon a determination of eligibility for community support services, the case manager shall develop an individual community support plan as specified in section 245.471, subdivision 2, paragraph (b), arrange and authorize payment for appropriate community support services, review the client's progress, and monitor the provision of services. If services are to be provided in a host county that is not the county of financial responsibility, the case manager shall consult with the host county and obtain a letter demonstrating the concurrence of the host county regarding the provision of services.

History: *1987 c 403 art 2 s 30*

NOTE: This section, as added by Laws 1987, chapter 403, article 2, section 30, is effective July 1, 1988. See Laws 1987, chapter 403, article 2, section 165.

245.476 SCREENING FOR INPATIENT AND RESIDENTIAL TREATMENT.

Subdivision 1. **Screening required.** By January 1, 1989, the county board shall screen all persons before they may be admitted for treatment of mental illness to a residential treatment facility, an acute care hospital, or informally admitted to a regional treatment center if public funds are used to pay for the services. Screening prior to admission must occur within ten days. If a person is admitted for treatment of mental illness on an emergency basis to a residential facility or acute care hospital or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, screening must occur within five days of the admission. Persons must be screened within ten days before or within five days after admission to ensure that: (1) an admission is necessary, (2) the length of stay is as short as possible consistent with individual client need, and (3) a case manager is immediately assigned to individuals with serious and persistent mental illness and an individual community support plan is developed. The screening process and placement decision must be documented.

Subd. 2. **Qualifications.** Screening for residential and inpatient services must be conducted by a mental health professional. Mental health professionals providing screening for inpatient and residential services must not be financially affiliated with any acute care inpatient hospital, residential treatment facility, or regional treatment center. The commissioner may waive this requirement in sparsley populated areas.

Subd. 3. **Individual placement agreement.** The county board shall enter into an individual placement agreement with a provider of residential services to a person eligible for services under this section. The agreement must specify the payment rate and terms and conditions of county payment for the placement.

History: *1987 c 403 art 2 s 31*

NOTE: This section, as added by Laws 1987, chapter 403, article 2, section 31, is effective July 1, 1988. See Laws 1987, chapter 403, article 2, section 165.

245.477 APPEALS.

Any person who applies for mental health services under sections 245.461 to 245.486 must be advised of services available and the right to appeal at the time of application and each time the community service plan is reviewed. Any person whose application for mental health services under sections 245.468 to 245.476 is denied, not acted upon with reasonable promptness, or whose services are suspended, reduced, or terminated may contest that action before the state agency as specified in section 256.045. The commissioner shall monitor the nature and frequency of administrative appeals under this section.

History: *1987 c 403 art 2 s 32*

245.478 LOCAL MENTAL HEALTH PROPOSAL.

Subdivision 1. **Time period.** The first local mental health proposal period is from July 1, 1988, to December 31, 1989. The county board shall submit its first proposal to the commissioner by January 1, 1988. Subsequent proposals must be on the same two-year cycle as community social service plans required by section 256E.09. The proposal must be made available upon request to all residents of the county at the same time it is submitted to the commissioner.

Subd. 2. **Proposal content.** The local mental health proposal must include:

(1) the local mental health advisory council's or mental health subcommittee of an existing advisory council's report on unmet needs and any other needs assessment used by the county board in preparing the local mental health proposal;

(2) a description of the local mental health advisory council's or the mental health subcommittee of an existing advisory council's involvement in preparing the local mental health proposal and methods used by the county board to obtain participation of citizens, mental health professionals, and providers in development of the local mental health proposal;

(3) information for the preceding year, including the actual number of clients who received each of the mental health services listed in sections 245.468 to 245.476, and actual expenditures and revenues for each mental health service;

(4) for the first proposal period only, information for the year during which the proposal is being prepared:

(i) a description of the current mental health system identifying each mental health service listed in sections 245.468 to 245.476;

(ii) a description of each service provider, including a listing of the professional qualifications of the staff involved in service delivery, that is either the sole provider of one of the treatment services or management activities described in sections 245.468 to 245.476 or that provides over $10,000 of mental health services per year;

(iii) a description of how the mental health services in the county are unified and coordinated;

(iv) the estimated number of clients receiving each mental health service;

(v) estimated expenditures and revenues for each mental health service; and

(5) the following information describing how the county board intends to meet the requirements of sections 245.461 to 245.486 during the proposal period:

(i) specific objectives and outcome goals for each mental health service listed in sections 245.468 to 245.476;

(ii) a description of each service provider, including county agencies, contractors, and subcontractors, that is expected to either be the sole provider of one of the treatment services or management activities described in sections 245.468 to 245.476 or to provide over $10,000 of mental health services per year, including a listing of the professional qualifications of the staff involved in service delivery;

(iii) a description of how the mental health services in the county will be unified and coordinated;

(iv) the estimated number of clients who will receive each mental health service; and

(v) estimated expenditures and revenues for each mental health service.

Subd. 3. **Proposal format.** The local mental health proposal must be made in a format prescribed by the commissioner.

Subd. 4. **Provider approval.** The commissioner's review of the local mental health proposal must include a review of the qualifications of each service provider required to be identified in the local mental health proposal under subdivision 2. The commissioner may reject a county board's proposal for a particular provider if:

(1) the provider does not meet the professional qualifications contained in sections 245.461 to 245.486;

(2) the provider does not possess adequate fiscal stability or controls to provide the proposed services as determined by the commissioner; or

(3) the provider is not in compliance with other applicable state laws or rules.

Subd. 5. **Service approval.** The commissioner's review of the local mental health proposal must include a review of the appropriateness of the amounts and types of mental health services in the local mental health proposal. The commissioner may reject the county board's proposal if the commissioner determines that the amount and types of services proposed are not cost effective, do not meet client needs, or do not comply with sections 245.461 to 245.486.

Subd. 6. **Proposal approval.** The commissioner shall review each local mental health proposal within 90 days and work with the county board to make any necessary modifications to comply with sections 245.461 to 245.486. After the commissioner has approved the proposal, the county board is eligible to receive an allocation of mental health and community social service act funds.

Subd. 7. **Partial or conditional approval.** If the local mental health proposal is in substantial, but not in full compliance with sections 245.461 to 245.486 and necessary modifications cannot be made before the proposal period begins, the commissioner may grant partial or conditional approval and withhold a proportional share of the county board's mental health and community social service act funds until full compliance is achieved.

Subd. 8. **Award notice.** Upon approval of the county board proposal, the commissioner shall send a notice of approval for funding. The notice must specify any conditions of funding and is binding on the county board. Failure of the county board to comply with the approved proposal and funding conditions may result in withholding or repayment of funds as specified in section 245.483.

Subd. 9. **Plan amendment.** If the county board finds it necessary to make significant changes in the approved local proposal, it must present the proposed changes to the commissioner for approval at least 60 days before the changes take effect. "Significant changes" means:

(1) the county board proposes to provide a mental health service through a provider other than the provider listed for that service in the approved local proposal;

(2) the county board expects the total annual expenditures for any single mental health service to vary more than ten percent from the amount in the approved local proposal;

(3) the county board expects a combination of changes in expenditures per mental health service to exceed more than ten percent of the total mental health services expenditures; or

(4) the county board proposes a major change in the specific objectives and outcome goals listed in the approved local proposal.

History: *1987 c 403 art 2 s 33*

245.479 COUNTY OF FINANCIAL RESPONSIBILITY.

For purposes of section 245.476, the county of financial responsibility is the same as that for community social services under section 256E.08, subdivision 7. Disputes between counties regarding financial responsibility must be resolved by the commissioner in accordance with section 256D.18, subdivision 4.

History: *1987 c 403 art 2 s 35*

245.482 REPORTING AND EVALUATION.

Subdivision 1. **Fiscal reports.** The commissioner shall develop a unified format for quarterly fiscal reports that will include information that the commissioner determines necessary to carry out sections 245.461 to 245.486 and section 256E.08. The county board shall submit a completed fiscal report in the required format no later than 15 days after the end of each quarter.

Subd. 2. **Program reports.** The commissioner shall develop a unified format for a semiannual program report that will include information that the commissioner determines necessary to carry out sections 245.461 to 245.486 and section 256E.10. The county board shall submit a completed program report in the required format no later than 75 days after each six-month period.

Subd. 3. **Provider reports.** The commissioner may develop a format and procedures for direct reporting from providers to the commissioner to include information that the commissioner determines necessary to carry out sections 245.461 to 245.486. In particular, the provider reports must include aggregate information by county of residence about mental health services paid for by funding sources other than counties.

Subd. 4. **Inaccurate or incomplete reports.** The commissioner shall promptly notify a county or provider if a required report is clearly inaccurate or incomplete. The commissioner may delay all or part of a mental health fund payment if an appropriately completed report is not received as required by this section.

Subd. 5. **Statewide evaluation.** The commissioner shall use the county and provider reports required by this section to complete the statewide report required in section 245.461.

History: *1987 c 403 art 2 s 36*

245.483 TERMINATION OR RETURN OF AN ALLOCATION.

Subdivision 1. **Funds not properly used.** If the commissioner determines that a county is not meeting the requirements of sections 245.461 to 245.486 or that funds are not being used according to the approved local proposal, all or part of the mental health and community social service act funds may be terminated upon 30 days notice to the county board. The commissioner may require repayment of any funds not used according to the approved local proposal. If the commissioner receives a written appeal from the county board within the 30-day period, opportunity for a hearing under the Minnesota administrative procedure act, chapter 14, must be provided before the allocation is terminated or is required to be repaid. The 30-day period begins when the county board receives the commissioner's notice by certified mail.

Subd. 2. **Use of returned funds.** The commissioner may reallocate the funds returned.

Subd. 3. **Delayed payments.** If the commissioner finds that a county board or its contractors are not in compliance with the approved local proposal or sections 245.461 to 245.486, the commissioner may delay payment of all or part of the quarterly mental health and community social service act funds until the county board and its contractors meet the requirements. The commissioner shall not delay a payment longer than three months without first issuing a notice under subdivision 2 that all or part of the allocation will be terminated or required to be repaid. After this notice is issued, the commissioner may continue to delay the payment until completion of the hearing in subdivision 2.

Subd. 4. **State assumption of responsibility.** If the commissioner determines that services required by sections 245.461 to 245.486 will not be provided by the county board in the manner or to the extent required by sections 245.461 to 245.486, the commissioner shall contract directly with providers to ensure that clients receive appropriate services. In this case, the commissioner shall use the county's community social service act and mental health funds to the extent necessary to carry out the county's responsibilities under sections 245.461 to 245.486. The commissioner shall work with the county board to allow for a return of authority and responsibility to the county board as soon as compliance with sections 245.461 to 245.486 can be assured.

History: *1987 c 403 art 2 s 37*

245.484 RULES.

The commissioner shall adopt permanent rules as necessary to carry out Laws 1987, chapter 403.

History: *1987 c 403 art 2 s 38*

245.485 NO RIGHT OF ACTION.

Sections 245.461 to 245.484 do not independently establish a right of action on behalf of recipients of services or service providers against a county board or the commissioner. A claim for monetary damages must be brought under section 3.736 or 3.751.

History: *1987 c 403 art 2 s 39*

245.486 LIMITED APPROPRIATIONS.

Nothing in sections 245.461 to 245.485 shall be construed to require the commissioner or county boards to fund services beyond the limits of legislative appropriations.

History: *1987 c 403 art 2 s 40*

245.69 ADDITIONAL DUTIES OF COMMISSIONER.

[For text of subd 1, see M.S.1986]

Subd. 1a. [Repealed, 1987 c 403 art 2 s 164]

[For text of subd 2, see M.S.1986]

245.696 ADDITIONAL DUTIES OF COMMISSIONER.

Subdivision 1. **Mental health division.** A mental health division is created in the department of human services. The division shall enforce and coordinate the laws administered by the commissioner of human services, relating to mental illness, which the commissioner assigns to the division. The mental health division shall be under the supervision of an assistant commissioner of mental health appointed by the commissioner. The commissioner, working with the assistant commissioner of mental health, shall oversee and coordinate services to people with mental illness in both community programs and regional treatment centers throughout the state.

Subd. 2. **Specific duties.** In addition to the powers and duties already conferred by law, the commissioner of human services shall:

(1) review and evaluate local programs and the performance of administrative and mental health personnel and make recommendations to county boards and program administrators;

(2) provide consultative staff service to communities and advocacy groups to assist in ascertaining local needs and in planning and establishing community mental health programs;

(3) employ qualified personnel to implement this chapter;

(4) as part of the biennial budget process, report to the legislature on staff use and staff performance, including in the report a description of duties performed by each person in the mental health division;

(5) adopt rules for minimum standards in community mental health services as directed by the legislature;

(6) cooperate with the commissioners of health and jobs and training to coordinate services and programs for people with mental illness;

(7) evaluate the needs of people with mental illness as they relate to assistance payments, medical benefits, nursing home care, and other state and federally funded services;

(8) provide data and other information, as requested, to the advisory council on mental health;

(9) develop and maintain a data collection system to provide information on the prevalence of mental illness, the need for specific mental health services and other services needed by people with mental illness, funding sources for those services, and the extent to which state and local areas are meeting the need for services;

(10) apply for grants and develop pilot programs to test and demonstrate new methods of assessing mental health needs and delivering mental health services;

(11) study alternative reimbursement systems and make waiver requests that are deemed necessary by the commissioner;

(12) provide technical assistance to county boards to improve fiscal management and accountability and quality of mental health services, and consult regularly with county boards, public and private mental health agencies, and client advocacy organizations for purposes of implementing this chapter;

(13) promote coordination between the mental health system and other human service systems in the planning, funding, and delivery of services; entering into cooperative agreements with other state and local agencies for that purpose as deemed necessary by the commissioner;

(14) conduct research regarding the relative effectiveness of mental health treatment methods as the commissioner deems appropriate, and for this purpose, enter treatment facilities, observe clients, and review records in a manner consistent with the Minnesota government data practices act, chapter 13; and

(15) enter into contracts and promulgate rules the commissioner deems necessary to carry out the purposes of this chapter.

History: *1987 c 342 s 1*

245.697 STATE ADVISORY COUNCIL ON MENTAL HEALTH.

Subdivision 1. **Creation.** A state advisory council on mental health is created. The council must have 25 members appointed by the governor in accordance with federal requirements. The council must be composed of:

(1) the assistant commissioner of mental health for the department of human services;

(2) a representative of the department of human services responsible for the medical assistance program;

(3) one member of each of the four core mental health professional disciplines (psychiatry, psychology, social work, nursing);

(4) one representative from each of the following advocacy groups: mental health association of Minnesota, Minnesota alliance for the mentally ill, and Minnesota mental health law project;

(5) providers of mental health services;

(6) consumers of mental health services;

(7) family members of persons with mental illnesses;

(8) legislators;

(9) social service agency directors;

(10) county commissioners; and

(11) other members reflecting a broad range of community interests, as the United States secretary of health and human services may prescribe by regulation or as may be selected by the governor.

Terms, compensation, and removal of members and filling of vacancies are governed by section 15.059, except that members shall not receive a per diem. The council does not expire as provided in section 15.059.

Subd. 2. **Duties.** The state advisory council on mental health shall:

(1) advise the governor, the legislature, and heads of state departments and agencies about policy, programs, and services affecting people with mental illness;

(2) advise the commissioner of human services on all phases of the development of mental health aspects of the biennial budget;

(3) advise the governor and the legislature about the development of innovative mechanisms for providing and financing services to people with mental illness;

(4) encourage state departments and other agencies to conduct needed research in the field of mental health;

(5) educate the public about mental illness and the needs and potential of people with mental illness; and

(6) review and comment on all grants dealing with mental health and on the development and implementation of state and local mental health plans.

Subd. 3. **Reports.** The state advisory council on mental health shall report from time to time on its activities to the governor, the legislature, and the commissioners of health, jobs and training, and human services. It shall file a formal report with the governor not later than October 15 of each even-numbered year so that the information contained in the report, including recommendations, can be included in the governor's budget message to the legislature. It shall also report to the legislature not later than November 15 of each even-numbered year.

History: *1987 c 342 s 2*

245.713 FORMULA.

[For text of subd 1, see M.S.1986]

Subd. 2. **Total funds available; allocation.** 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 must be allocated as follows:

(a) Any amount set aside by the commissioner of human services for American Indian organizations within the state, which funds shall not duplicate any direct federal funding of American Indian organizations and which funds shall be at least 25 percent of the total federal allocation to the state for mental health services; provided that sufficient applications for funding are received by the commissioner which meet the specifications contained in requests for proposals. 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. For purposes of this subdivision, "American Indian organization" means an American Indian tribe or band or an organization providing mental health services that is legally incorporated as a nonprofit organization registered with the secretary of state and governed by a board of directors having at least a majority of American Indian directors.

(b) An amount not to exceed ten percent of the federal block grant allocation for mental health services to be retained by the commissioner for administration.

(c) 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.

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

(e) An amount not to exceed ten percent of the federal block grant allocation for mental health services to be retained by the commissioner for planning and evaluation.

[For text of subds 3 and 4, see M.S.1986]

History: *1987 c 403 art 2 s 41*

NOTE: Subdivisions 1 and 3 are repealed by Laws 1987, chapter 403, article 2, section 164, effective July 1, 1988. See Laws 1987, chapter 403, article 2, section 164.

245.721 MENTAL ILLNESS INFORMATION MANAGEMENT SYSTEM.

By January 1, 1990, the commissioner of human services shall establish an information management system for collecting data about individuals who suffer from severe and persistent mental illness and who receive publicly funded services for mental illness.

History: *1987 c 403 art 2 s 42*

245.76 [Repealed, 1987 c 403 art 2 s 164]

245.775 EQUALIZATION AID.

Subdivision 1. **Terms defined.** As used in subdivisions 1 to 6, the terms defined in this section have the meanings given them.

(a) **Recipient rate.** "Recipient rate" means the number of individual income maintenance program recipients per 10,000 people in a county during the calendar year ending immediately before the fiscal year for which equalization aid is paid.

(b) **Per capita income.** "Per capita income" means the estimate of income per person in a county most recently published by the United States Bureau of the Census on October 1 of the fiscal year for which equalization aid is paid.

(c) **Per capita taxable value.** "Per capita taxable value" means the adjusted assessed value of taxable property within a county reported by the department of revenue for the calendar year ending immediately before the fiscal year, divided by the population of the county. The adjusted assessed value of taxable property in counties receiving taconite production tax revenue shall be increased by an amount equal to the taconite regular production tax revenue divided by the county's mill rate.

(d) **County income maintenance expenditures.** "County income maintenance expenditures" means the income maintenance program expenditures, including administrative costs, of a county for income maintenance programs, minus federal, state, and other revenue received for income maintenance programs during the calendar year ending immediately before the fiscal year for which equalization aid is paid.

(e) **Per capita county income maintenance expenditures.** "Per capita county income maintenance expenditures" means county income maintenance expenditures divided by the population of the county.

(f) **Income maintenance programs.** "Income maintenance programs" include, for equalization aid purposes, aid to families with dependent children, general assistance, general assistance medical care, work readiness, and medical assistance.

(g) **Population.** "Population" means the estimate of population in a county most recently issued by the state demographer's office on October 1 of the fiscal year for which equalization aid is paid.

Subd. 2. **County eligibility.** The commissioner of human services shall establish a county's eligibility for equalization aid using the following formula:

(a) A statewide standard deviation from the mean shall be calculated for each of the following factors: recipient rate, per capita income, per capita taxable value, and per capita income maintenance expenditures.

(b) A standard score shall be calculated for each factor; the standard score is the factor minus the state mean for that factor divided by the statewide standard deviation from the mean for that factor.

(c) The standard score for per capita income and per capita taxable value shall be multiplied by negative one.

(d) The county's average score of the standard scores of the four factors shall be computed.

Every county with an average score equal to one or higher shall be eligible for equalization aid.

Subd. 3. **Amount of equalization aid.** The commissioner shall establish a distress indicator for each county eligible for equalization aid by multiplying the county's

average standard score by its population. Equalization aid shall be allocated to all eligible counties in proportion to each eligible county's distress indicator.

Subd. 4. **Phase-in.** Notwithstanding the provisions of subdivisions 2 and 3, the commissioner of human services shall make minimum equalization aid payments to counties during fiscal years 1989 and 1990 as follows:

(a) A base amount equal to the average amount of equalization aid received for fiscal years 1981 to 1987 shall be calculated for every county.

(b) If the appropriation for equalization aid during fiscal year 1989 or 1990 is less than the average of all equalization aid appropriations for fiscal years 1981 to 1987, the base amount for each county shall be reduced by that proportion for that fiscal year.

(c) In fiscal year 1989, each county shall receive 100 percent of its base amount within the limit of available appropriations. In fiscal year 1990, each county shall receive 90 percent of its base amount within the limit of available appropriations.

Subd. 5. **Limit.** No county shall receive equalization aid for any fiscal year amounting to more than 75 percent of county income maintenance expenditures.

Subd. 6. **Payment.** The commissioner of human services shall make preliminary payments for equalization aid for a fiscal year by December 15 of the fiscal year. The commissioner shall adjust each county's equalization aid in accordance with the allocation formula established in subdivision 3 and make final payments by June 30 of the fiscal year.

History: *1987 c 403 art 2 s 43*

NOTE: This section, as added by Laws 1987, chapter 403, article 2, section 43, is effective July 1, 1988. See Laws 1987, chapter 403, article 2, section 165, as amended by Laws 1987, chapter 384, article 3, section 8.

245.781 [Repealed, 1987 c 333 s 20]

245.782 [Repealed, 1987 c 333 s 20]

NOTE: Subdivision 5 was also amended by Laws 1987, chapter 403, article 5, section 1, to read as follows:

"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 for children, day training and habilitation services for adults, day treatment programs, adult day care centers, and day services."

245.783 [Repealed, 1987 c 333 s 20]

245.791 [Repealed, 1987 c 333 s 20]

245.792 [Repealed, 1987 c 333 s 20]

245.801 [Repealed, 1987 c 333 s 20]

245.802 RULES.

Subdivision 1. [Repealed, 1987 c 333 s 20]

Subd. 1a. [Repealed, 1987 c 333 s 20]

Subd. 1b. **Monitoring of facilities.** After June 30, 1989, no residential facility licensed by the commissioner of human services or the commissioner of health, other than facilities specifically licensed for people with mental illness, may have more than four residents with a diagnosis of mental illness. The commissioner of health, with the cooperation of the commissioner of human services, shall monitor licensed boarding care, board and lodging, and supervised living facilities to assure that this requirement is met. By January 1, 1989, the commissioner of health shall recommend to the legislature an appropriate mechanism for enforcing this requirement.

Subd. 2. [Repealed, 1987 c 333 s 20]

Subd. 2a. **Specific review of rules.** The commissioner shall:

(1) provide in rule for various levels of care to address the residential treatment needs of persons with mental illness;

(2) review Category I and II programs established in Minnesota Rules, parts 9520.0500 to 9520.0690 to ensure that the categories of programs provide a continuum of residential service programs for persons with mental illness;

(3) provide in rule for a definition of the term "treatment" as used in relation to persons with mental illness;

(4) adjust funding mechanisms by rule as needed to reflect the requirements established by rule for services being provided;

(5) review and recommend staff educational requirements and staff training as needed; and

(6) review and make changes in rules relating to residential care and service programs for persons with mental illness as the commissioner may determine necessary.

Subd. 3. [Repealed, 1987 c 333 s 20]

Subd. 4. [Repealed, 1987 c 333 s 20]

Subd. 5. **Housing services for persons with mental illness.** The commissioner of human services shall study the housing needs of people with mental illness and shall articulate a continuum of services from residential treatment as the most intensive service through housing programs as the least intensive. The commissioner shall develop recommendations for implementing the continuum of services and shall present the recommendations to the legislature by January 31, 1988.

History: *1987 c 197 s 2-4*

NOTE: Subdivision 1a was also amended by Laws 1987, chapter 197, section 1, to read as follows:

"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. The commissioner shall develop no licensing standards for supportive living residences until the legislature has met and considered recommendations presented under subdivision 5."

245.803 [Repealed, 1987 c 333 s 20]

245.804 [Repealed, 1987 c 333 s 20]

245.805 [Repealed, 1987 c 333 s 20]

245.811 [Repealed, 1987 c 333 s 20]

245.812 [Repealed, 1987 c 333 s 20]

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 and licensed services 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; (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; and (c) the use of faradic shock without a court order. 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. For any persons receiving faradic shock, a plan to reduce and eliminate the use of faradic shock shall be in effect upon implementation of the procedure.

[For text of subd 2, see M.S.1986]

History: *1987 c 110 s 1*

245.88 [Repealed, 1987 c 333 s 20]

245.881 [Repealed, 1987 c 333 s 20]
245.882 [Repealed, 1987 c 333 s 20]
245.883 [Repealed, 1987 c 333 s 20]
245.884 [Repealed, 1987 c 333 s 20]
245.885 [Repealed, 1987 c 333 s 20]

OMBUDSMAN FOR MENTAL HEALTH AND MENTAL RETARDATION

245.91 DEFINITIONS.

Subdivision 1. **Applicability.** For the purposes of sections 245.91 to 245.97, the following terms have the meanings given them.

Subd. 2. **Mental health or mental retardation agency.** "Mental health or mental retardation agency" or "agency" means the divisions, officials, or employees of the state departments of human services and health, that are engaged in monitoring, providing, or regulating services to mental health or mental retardation clients. It does not include a political subdivision of the state.

Subd. 3. **Mental health or mental retardation client.** "Mental health or mental retardation client" or "client" means a patient, resident, or other person served by a mental health or mental retardation agency or facility, who is receiving residential treatment for mental illness, mental retardation, chemical dependency, or emotional disturbance.

Subd. 4. **Mental health or mental retardation facility.** "Mental health or mental retardation facility" or "facility" means a regional center operated by the commissioner of human services, a residential facility as defined in section 245.782, subdivision 6, that is required to be licensed by the commissioner of human services, and an acute care inpatient facility, that provides treatment for mental illness, mental retardation, chemical dependency, or emotional disturbance.

Subd. 5. **Regional center.** "Regional center" means a regional center as defined in section 253B.02, subdivision 18.

History: *1987 c 352 s 2*

245.92 OFFICE OF OMBUDSMAN; CREATION; QUALIFICATIONS; FUNCTION.

The ombudsman for mental health and mental retardation shall promote the highest attainable standards of treatment, competence, efficiency, and justice for people receiving care or treatment for mental illness, mental retardation, chemical dependency, or emotional disturbance. The ombudsman may gather information about decisions, acts, and other matters of an agency or facility. The ombudsman serves at the pleasure of the governor in the unclassified service and is accountable to the governor. The ombudsman must be selected without regard to political affiliation and must be a person who has knowledge and experience concerning the treatment, needs, and rights of mental health and mental retardation clients, and who is highly competent and qualified. No person may serve as ombudsman while holding another public office.

History: *1987 c 352 s 3*

245.93 ORGANIZATION OF OFFICE OF OMBUDSMAN.

Subdivision 1. **Staff.** The ombudsman may appoint a deputy and a confidential secretary in the unclassified service and may appoint other employees as authorized by the legislature. The ombudsman and the full-time staff are members of the Minnesota state retirement association.

Subd. 2. **Advocacy.** The function of mental health and mental retardation client advocacy in the department of human services is transferred to the office of ombudsman according to section 15.039. The ombudsman shall maintain at least one client advocate in each regional center.

Subd. 3. **Delegation.** The ombudsman may delegate to members of the staff any authority or duties of the office except the duty of formally making recommendations to an agency or facility or reports to the governor or the legislature.

History: *1987 c 352 s 4*

245.94 POWERS OF OMBUDSMAN; REVIEWS AND EVALUATIONS; RECOMMENDATIONS.

Subdivision 1. **Powers.** (a) The ombudsman may prescribe the methods by which complaints to the office are to be made, reviewed, and acted upon. The ombudsman may not levy a complaint fee.

(b) The ombudsman may mediate or advocate on behalf of a client.

(c) At the request of a client, or upon receiving a complaint or other information affording reasonable grounds to believe that the rights of a client who is not capable of requesting assistance have been adversely affected, the ombudsman may gather information about and analyze, on behalf of the client, the actions of an agency or facility.

(d) The ombudsman may examine, on behalf of a client, records of an agency or facility to which the client is entitled to access if the records relate to a matter that is within the scope of the ombudsman's authority. If the records are private and confidential and the client is capable of providing consent, the ombudsman shall first obtain the client's consent.

(e) The ombudsman may, at reasonable times in the course of conducting a review, enter and view premises within the control of an agency or facility.

(f) The ombudsman may attend department of human services review board and special review board proceedings; proceedings regarding the transfer of patients or residents, as defined in section 246.50, subdivisions 4 and 4a, between institutions operated by the department of human services; and, subject to the consent of the affected patient or resident, other proceedings affecting the rights of residents or patients.

(g) To avoid duplication and preserve evidence, the ombudsman shall inform relevant licensing or regulatory officials before undertaking a review of an action of the facility.

(h) Sections 245.91 to 245.97 are in addition to other provisions of law under which any other remedy or right is provided.

Subd. 2. **Matters appropriate for review.** (a) In selecting matters for review by the office, the ombudsman shall give particular attention to unusual deaths or injuries of a client served by an agency or facility, or actions of an agency or facility that:

(1) may be contrary to law or rule;

(2) may be unreasonable, unfair, oppressive, or inconsistent with a policy or order of an agency or facility;

(3) may be mistaken in law or arbitrary in the ascertainment of facts;

(4) may be unclear or inadequately explained, when reasons should have been revealed;

(5) may result in abuse or neglect of a person receiving treatment; or

(6) may disregard the rights of a client or other individual served by an agency or facility.

(b) The ombudsman shall, in selecting matters for review and in the course of the review, avoid duplicating other investigations or regulatory efforts.

Subd. 3. **Complaints.** The ombudsman may receive a complaint from any source concerning an action of an agency or facility. After completing a review, the ombudsman shall inform the complainant and the agency or facility. No client may be punished nor may the general condition of the client's treatment be unfavorably altered as a result of a complaint by the client or by another person on the client's behalf.

Subd. 4. **Recommendations to agency.** (a) If, after reviewing a complaint and considering the response of an agency or facility and any other pertinent material, the ombudsman determines that the complaint has merit, the ombudsman may recommend that the agency or facility:

(1) consider the matter further;

(2) modify or cancel its actions;

(3) alter a rule, order, or internal policy;

(4) explain more fully the action in question; or

(5) take any other action the ombudsman recommends to the agency or facility involved.

(b) At the ombudsman's request, the agency or facility shall, within a reasonable time, inform the ombudsman about the action taken on the recommendation or the reasons for not complying with it.

History: *1987 c 352 s 5*

245.95 RECOMMENDATIONS AND REPORTS TO GOVERNOR.

Subdivision 1. **Specific reports.** The ombudsman may send conclusions and suggestions concerning any matter reviewed to the governor. Before making public a conclusion or recommendation that expressly or implicitly criticizes an agency or facility or any person, the ombudsman shall consult with the governor and the agency, facility, or person concerning the conclusion or recommendation. When sending a conclusion or recommendation to the governor that is adverse to an agency or facility or any person, the ombudsman shall include any statement of reasonable length made by that agency, facility, or person in defense or mitigation of the office's conclusion or recommendation.

Subd. 2. **General reports.** In addition to whatever conclusions or recommendations the ombudsman may make to the governor on an ad hoc basis, the ombudsman shall at the end of each year report to the governor concerning the exercise of the ombudsman's functions during the preceding year.

History: *1987 c 352 s 6*

245.96 CIVIL ACTIONS.

The ombudsman and his designees are not civilly liable for any action taken under sections 245.91 to 245.97 if the action was taken in good faith, was within the scope of the ombudsman's authority, and did not constitute willful or reckless misconduct.

History: *1987 c 352 s 7*

245.97 OMBUDSMAN COMMITTEE.

Subdivision 1. **Membership.** The ombudsman committee consists of 15 members appointed by the governor to three-year terms. Members shall be appointed on the basis of their knowledge of and interest in the health and human services system subject to the ombudsman's authority. In making the appointments, the governor shall try to ensure that the overall membership of the committee adequately reflects the agencies, facilities, and programs within the ombudsman's authority and that members include consumer representatives, including clients, former clients, and relatives of present or former clients; representatives of advocacy organizations for clients and other individuals served by an agency or facility; human services and health care professionals, including specialists in psychiatry, psychology, internal medicine, and forensic pathology; and other providers of services to mental health or mental retardation clients or other individuals served by an agency or facility.

Subd. 2. **Compensation; chair.** Members do not receive compensation, but are entitled to receive reimbursement for reasonable and necessary expenses incurred. The governor shall designate one member of the committee to serve as its chair at the pleasure of the governor.

Subd. 3. **Meetings.** The committee shall meet at least four times a year at the request of its chair or the ombudsman.

Subd. 4. **Duties.** The committee shall advise and assist the ombudsman in selecting matters for attention; developing policies, plans, and programs to carry out the ombudsman's functions and powers; and making reports and recommendations for changes designed to improve standards of competence, efficiency, justice, and protection of rights. The committee shall function as an advisory body.

Subd. 5. **Medical review subcommittee.** At least five members of the committee, including at least three physicians, one of whom is a psychiatrist, must be designated by the governor to serve as a medical review subcommittee. Terms of service, vacancies, and compensation are governed by subdivision 2. The governor shall designate one of the members to serve as chair of the subcommittee. The medical review subcommittee may:

(1) make a preliminary determination of whether the death of a client that has been brought to its attention is unusual or reasonably appears to have resulted from causes other than natural causes and warrants investigation;

(2) review the causes of and circumstances surrounding the death;

(3) request the county coroner or medical examiner to conduct an autopsy;

(4) assist an agency in its investigations of unusual deaths and deaths from causes other than natural causes; and

(5) submit a report regarding the death of a client to the committee, the ombudsman, the client's next-of-kin, and the facility where the death occurred and, where appropriate, make recommendations to prevent recurrence of similar deaths to the head of each affected agency or facility.

Subd. 6. **Terms, compensation, and removal.** The membership terms, compensation, and removal of members of the committee and the filling of membership vacancies are governed by section 15.0575.

History: *1987 c 352 s 8*