Public Welfare and Related Activities

CHAPTER 245

DEPARTMENT OF HUMAN SERVICES

245.01 [Repealed, 1953 c 593 s 6]

245.02 [Repealed, 1953 c 593 s 6]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 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: *1971 c 486 s 1; 1984 c 654 art 5 s 58; 1985 c 21 s 3; 1987 c 44 s 1*

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]
245.32 [Renumbered 256.463]
245.33 [Renumbered 256.464]
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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]

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 taken and recommendations for full implementation of sections 245.461 to 245.486 and 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 coordinated with 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 developing an individual community support plan, referring the person to needed mental health and other services, ensuring coordination of services, and monitoring the delivery of services.

Subd. 4. **Case manager.** "Case manager" means an individual employed by the county or other entity authorized by the county board to provide the case management activities specified in subdivision 3 and sections 245.471 and 245.475. A case manager must have a bachelor's degree in one of the behavioral sciences or related fields from

an accredited college or university and have at least 2,000 hours of supervised experience in the delivery of services to persons with mental illness, must be skilled in the process of identifying and assessing a wide range of client needs, and must be knowledgeable about local community resources and how to use those resources for the benefit of the client. The case manager shall meet in person with a mental health professional at least once each month to obtain clinical supervision of the case manager's activities. Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of services to persons with mental illness must complete 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of persons with serious and persistent mental illness and must receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of supervised experience is met. Clinical supervision must be documented in the client record.

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:

(1) client outreach,

(2) medication management,

(3) assistance in independent living skills,

(4) development of employability and supportive work opportunities,

(5) crisis assistance,

(6) psychosocial rehabilitation,

(7) help in applying for government benefits, and

(8) the development, identification, and monitoring of living arrangements.

The community support services program must be coordinated with the case management activities specified in subdivision 3 and sections 245.471 and 245.475.

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 at least 2,000 hours of supervised experience in the delivery of services to persons with mental illness;

(2) has at least 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 and is formally assigned by an accredited college or university to an agency or facility for clinical training; 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 and has 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 licensed as an independent clinical social worker under section 148B.21, subdivision 6, or 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 at least all of the treatment services and case management activities that are provided to persons with mental illness and are described in sections 245.461 to 245.486.

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 case management and community support services, 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:

(i) has a diagnosis of schizophrenia, bipolar disorder, major depression, or borderline personality disorder;

(ii) indicates a significant impairment in functioning; and

(iii) has a written opinion from a mental health professional stating that the person is reasonably likely to have future episodes requiring inpatient or residential treatment, of a frequency described in clause (1) or (2), unless an ongoing community support services program is provided; or

(4) the person has been committed by a court as a mentally ill person under chapter 253B, or the person's commitment has been stayed or continued.

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. 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 program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital or regional treatment center, that must be licensed as a residential treatment facility for persons with mental illness 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" means the oversight responsibility for individual treatment plans and individual service delivery, including that provided by the case manager. Clinical supervision must 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 by entries in the client's record regarding supervisory activities.

History: *1987 c 403 art 2 s 17; 1988 c 689 art 2 s 64-73*

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 245.461 to 245.486;

(2) provide for case management services to persons with serious and persistent mental illness in accordance with sections 245.462, subdivisions 3 and 4; 245.471; 245.475; and 245.486;

(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; 1988 c 689 art 2 s 74*

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 under section 246.57 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 the 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 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;

(8) screening in accordance with section 245.476; and

(9) case management in accordance with sections 245.462, subdivision 3; 245.471; and 245.475.

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 Minne-

sota 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's mental illness program unit 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; 1988 c 689 art 2 s 75-77*

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.

Subd. 4. **Referral for case management.** Each provider of emergency services, outpatient treatment, community support services, residential treatment, acute care hospital inpatient treatment, or regional treatment center inpatient treatment must inform each of its clients with serious and persistent mental illness of the availability and potential benefits to the client of case management. If the client consents, the provider must refer the client by notifying the county employee designated by the county board to coordinate case management activities of the client's name and address and by informing the client of whom to contact to request case management. The provider must document compliance with this subdivision in the client's record.

Subd. 5. **Information for billing.** Each provider of outpatient treatment, community support services, emergency services, residential treatment, or acute care hospital inpatient treatment must include the name and home address of each client for whom services are included on a bill submitted to a county, if the client has consented to the release of that information and if the county requests the information. Each provider shall attempt to obtain each client's consent and must explain to the client that the information can only be released with the client's consent and may be used only for purposes of payment and maintaining provider accountability. The provider shall document the attempt in the client's record.

Subd. 6. **Restricted access to data.** The county board shall establish procedures to ensure that the names and addresses of persons receiving mental health services are disclosed only to:

(1) county employees who are specifically responsible for determining county of financial responsibility or making payments to providers; and

(2) staff who provide treatment services or case management and their clinical supervisors.

Release of mental health data on individuals submitted under subdivisions 4 and 5, to persons other than those specified in this subdivision, or use of this data for purposes other than those stated in subdivisions 4 and 5, results in civil or criminal liability under the standards in section 13.08 or 13.09.

History: *1987 c 403 art 2 s 22; 1988 c 689 art 2 s 78-80*

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 a mental health professional 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 receives clinical supervision from 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 at least telephone consultation within 30 minutes.

History: *1987 c 403 art 2 s 24; 1988 c 689 art 2 s 81*

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, the county board shall develop case management activities for all persons with serious and persistent mental illness residing in the county who request or consent to the services. Staffing ratios must be sufficient to serve the needs of the clients. The case manager must meet the requirements in section 245.462, subdivision 4.

(b) The case manager must develop an individual community support plan for each client that incorporates the client's 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.

(c) The client's individual community support plan must state:

(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 contacts by the case manager, as appropriate to client need and the implementation of the community support plan.

(d) The county board must establish procedures that ensure ongoing contact and coordination between the case manager and the community support program as well as other mental health services.

Subd. 3. **Day treatment services provided.** (a) By July 1, 1989, day treatment services must be developed as a part of the community support program available to persons with serious and persistent mental illness residing in the 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) day treatment, if included, would be duplicative of other components of the community support program; and

(3) 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; 1988 c 689 art 2 s 82,83*

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. Persons employed in facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, in the capacity of program director as of July 1, 1987, in accordance with Minnesota Rules, parts 9520.0500 to 9520.0690, may be allowed to continue providing clinical supervision within a facility until July 1, 1991, provided they continue to be employed as a program director in a facility licensed under Minnesota Rules, parts 9520.0500 to 9520.0690.

History: *1987 c 403 art 2 s 27; 1988 c 689 art 2 s 84*

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 CASE MANAGEMENT AND COMMUNITY SUPPORT SERVICES.

Subdivision 1. **Case management and community support services.** By January 1, 1989, the county board shall provide case management and other appropriate community support services to each person with serious and persistent mental illness who requests services or is referred by a provider under section 245.467, subdivision 4, and to each person for whom the court appoints a case manager. 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, and 256B.0625.

Subd. 2. **Notification of case management eligibility.** The county board shall notify the client of the person's potential eligibility for case management services within five working days after receiving a request from an individual or a referral from a provider under section 245.467, subdivision 4.

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

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; 1988 c 689 art 2 s 85,86,268*

245.476 SCREENING FOR INPATIENT AND RESIDENTIAL TREATMENT.

Subdivision 1. **Screening required.** No later than January 1, 1991, 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) the case manager, if assigned, is developing an individual community support plan.

The screening process and placement decision must be documented in the client's record.

An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards specified in clauses (1) to (3).

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 sparsely 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; 1988 c 689 art 2 s 87*

245.477 APPEALS.

Any person who requests 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 the request and each time the community service plan is reviewed. Any person whose request for mental health services under sections 245.461 to 245.486 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; 1988 c 689 art 2 s 88*

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. If a proposal complies with sections 245.461 to 245.486, it satisfies the requirement of the community social service plan for the mental illness target population as 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 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 mental health services described in sections 245.468 to 245.476 or that provides over $10,000 of mental health services per year for the county;

(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 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 mental health services 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 for the county;

(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 for each mental health service and revenues for the entire proposal.

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 30 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 or $5,000, whichever is greater, 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; 1988 c 689 art 2 s 89-91*

245.479 COUNTY OF FINANCIAL RESPONSIBILITY.

For purposes of sections 245.461 to 245.486, the county of financial responsibility is determined under section 256G.02, subdivision 4. Disputes between counties regarding financial responsibility must be resolved by the commissioner in accordance with section 256G.09.

History: *1987 c 403 art 2 s 35; 1988 c 689 art 2 s 92*

245.48 MAINTENANCE OF EFFORT.

Counties must continue to spend for mental health services, according to generally accepted budgeting and accounting principles, an amount equal to the total expenditures shown in the county's approved 1987 Community Social Services Act plan under "State CSSA, Title XX and County Tax" for services to persons with mental illness plus the comparable figure for Rule 5 facilities under target populations other than mental illness in the approved 1987 CSSA plan.

History: *1987 c 403 art 2 s 34; 1988 c 689 art 2 s 241*

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 an annual 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 by March 15 of each year.

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; 1988 c 689 art 2 s 93*

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*

245.490 REGIONAL TREATMENT CENTERS: MISSION STATEMENT.

The legislature recognizes that regional treatment centers are an integral part of the continuum of care for people with mental illness. The commissioner of human services shall ensure that regional treatment centers:

(1) develop a policy that identifies persons who have a mental illness and are medically appropriate for admission to inpatient care;

(2) provide active treatment;

(3) provide mental health services in accordance with sections 245.461 to 245.486 for people with mental illness. The services must:

(a) enable and assist people to return to community care settings that promote and maintain community integration at the highest possible level of independent functioning; and

(b) meet contemporary professional standards for staffing levels and for quality of program, staffing, and physical environment;

(4) maximize contact with the surrounding community to minimize isolation of patients and further the goal of community reintegration;

(5) protect patients' rights and their access to advocacy services;

(6) encourage appropriate voluntary admission of individuals seeking regional treatment center services; and

(7) are appropriately funded to implement the goals of this section.

The commissioner shall implement the goals and objectives of this section by June 30, 1993. By February 15, 1989, and annually after that until February 15, 1993, the commissioner shall report to the legislature all steps taken toward implementation. The reports shall include recommendations for full implementation of this section and a thorough analysis of any additional resources needed for implementation.

History: *1988 c 464 s 1*

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 exceptions 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 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. [Repealed, 1987 c 403 art 2 s 164]

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 14.69. 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; 1987 c 384 art 2 s 1*

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]

245.696 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) convene meetings with the commissioners of corrections, health, education, and commerce at least four times each year for the purpose of coordinating services and programs for children with mental illness and children with emotional or behavioral disorders;

(8) 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;

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

(10) 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;

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

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

(13) 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;

(14) 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;

(15) 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

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

History: *1987 c 342 s 1; 1988 c 689 art 2 s 94*

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 expires 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) review recommendations of the subcommittee on children's mental health;

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

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

Subd. 2a. **Subcommittee on children's mental health.** The state advisory council on mental health (the "advisory council") must have a subcommittee on children's mental health. The subcommittee must make recommendations to the advisory council on policies, laws, regulations, and services relating to children's mental health. Members of the subcommittee must include:

(1) the commissioners or designees of the commissioners of the departments of human services, health, education, and corrections;

(2) the commissioner of commerce or a designee of the commissioner who is knowledgeable about medical insurance issues;

(3) at least one representative of an advocacy group for children with mental illness;

(4) providers of children's mental health services, including at least one provider of services to preadolescent children, one provider of services to adolescents, and one hospital-based provider;

(5) parents of children who have mental illness or emotional or behavioral disorders;

(6) a present or former consumer of adolescent mental health services;

(7) educators experienced in working with emotionally disturbed children;

(8) people knowledgeable about the needs of emotionally disturbed children of minority races and cultures;

(9) people experienced in working with emotionally disturbed children who have committed status offenses;

(10) members of the advisory council; and

(11) county commissioners and social services agency representatives.

The chair of the advisory council shall appoint subcommittee members described in clauses (3) to (11) through the process established in section 15.0597. The chair shall appoint members to ensure a geographical balance on the subcommittee. Terms, compensation, removal, and filling of vacancies are governed by subdivision 1, except that terms of subcommittee members who are also members of the advisory council are coterminous with their terms on the advisory council. The subcommittee shall meet at the call of the subcommittee chair who is elected by the subcommittee from among its members. The subcommittee expires with the expiration of the advisory council.

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; 1988 c 629 s 45; 1988 c 689 art 2 s 95,96*

CHILDREN'S MENTAL HEALTH SERVICE SYSTEM

245.698 CHILDREN'S MENTAL HEALTH SERVICE SYSTEM.

The commissioner of human services shall create and ensure a unified, accountable, comprehensive children's mental health service system that:

(a) identifies children who are eligible for mental health services;

(b) makes preventive services available to a wide range of children, including those who are not eligible for more intensive services;

(c) assures access to a continuum of services that:

(1) educate the community about the mental health needs of children;

(2) address the unique physical, emotional, social, and educational needs of children;

(3) are coordinated with other social and human services provided to children and their families;

(4) are appropriate to the developmental needs of children; and

(5) are sensitive to cultural differences and special needs;

(d) includes early screening and prompt intervention in order to:

(1) identify and treat the mental health needs of children in the least restrictive setting appropriate to their needs; and

(2) prevent further deterioration;

(e) provides services to children and their families in the context in which the children live and go to school;

(f) addresses the unique problems of paying for mental health services for children, including:

(1) access to private insurance coverage; and

(2) public funding;

(g) to every extent possible, includes children and their families in planning the child's program of mental health services; and

(h) when necessary, assures a smooth transition to the adult services system.

For purposes of this section, "child" means a person under age 18.

The commissioner shall begin implementing the goals and objectives of this section

by February 15, 1990, and shall fully implement the goals and objectives by February 15, 1992. By February 15, 1989, the commissioner shall present a report to the legislature outlining recommendations for full implementation. The report must include a timetable for implementing the recommendations and identify additional resources needed for full implementation. The report must be updated annually by February 15 of 1990, 1991, and 1992.

History: *1988 c 689 art 2 s 97*

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

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.

Subd. 3. [Repealed, 1987 c 403 art 2 s 164]

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; 1987 c 403 art 2 s 41*

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 MS 1980 [Repealed, 1981 c 355 s 34]

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*

245.73 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 245.812.

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; 1987 c 384 art 2 s 1*

NOTE: The reference to "sections 245.781 to 245.812" in subdivisions 1 and 2 is obsolete. See Laws 1987, chapter 333.

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

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 [Repealed, 1987 c 403 art 2 s 164]

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 commis-

sioner 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.

Subd. 3. **Employment and training programs.** The commissioner of human services may contract with the commissioner of jobs and training to implement and supervise employment and training programs for food stamp recipients that are required by federal regulations.

History: *1986 c 404 s 9; 1988 c 689 art 2 s 98*

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 gross tax capacity 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 gross tax capacity 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 tax capacity 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; 1988 c 719 art 5 s 84*

245.78 [Repealed, 1976 c 243 s 15]

PUBLIC WELFARE LICENSING ACT

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]

245.79 [Repealed, 1976 c 243 s 15]

245.791 [Repealed, 1987 c 333 s 20]

245.792 [Repealed, 1987 c 333 s 20]

245.80 [Repealed, 1976 c 243 s 1]

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: *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; 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]
245.81 [Repealed, 1976 c 243 s 15]
245.811 [Repealed, 1987 c 333 s 20]
245.812 [Repealed, 1987 c 333 s 20]
245.813 [Repealed, 1980 c 542 s 2]

245.814 LIABILITY INSURANCE FOR LICENSED PROVIDERS.

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

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

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

Subd. 2. **Application of coverage.** Coverage shall apply to all foster 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 individual foster home provider, damage caused intentionally by a person 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 home providers, 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 home providers activities as a foster home provider while the foster child or adult is in the care, custody, and control of the foster home provider 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 or adult 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 home provider or foster child or foster adult.

This coverage is extended as a benefit to foster home providers to encourage care

of persons who need out-of-home care. Nothing in this section shall be construed to mean that foster home providers are agents or employees of the state nor does the state accept any responsibility for the selection, monitoring, supervision, or control of foster home providers which is exclusively the responsibility of the counties which shall regulate foster home providers 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; 1988 c 689 art 2 s 99-101*

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 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 autho-

rized 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.

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; 1987 c 110 s 1*

245.827 COMMUNITY INITIATIVES FOR CHILDREN.

Subdivision 1. **Program established.** The commissioner of human services shall establish a demonstration program of grants for community initiatives for children. The goal of the program is to enlist the resources of a community to promote the healthy physical, educational, and emotional development of children who are living in poverty. Community initiatives for children accomplish the goal by offering support services that enable a family to provide the child with a nurturing home environment. The commissioner shall award grants to nonprofit organizations based on the criteria in subdivision 3.

Subd. 2. **Definition.** "Community initiatives for children" are programs that promote the healthy development of children by increasing the stability of their home environment. They include support services such as child care, parenting education, respite activities for parents, counseling, recreation, and other services families may need to maintain a nurturing environment for their children. Community initiatives for children must be planned by members of the community who are concerned about the future of children.

Subd. 3. **Criteria.** In order to qualify for a community initiatives for children grant, a nonprofit organization must:

(1) involve members of the community and use community resources in planning and executing all aspects of the program;

(2) provide a central location that is accessible to low-income families and is available for informal as well as scheduled activities during the day and on evenings and weekends;

(3) provide a wide range of services to families living at or below the poverty level including, but not limited to, quality affordable child care and training in parental skills;

(4) demonstrate that the organization is using and coordinating existing resources of the community;

(5) demonstrate that the organization has applied to private foundations for funding;

(6) ensure that services are focused on development of the whole child; and

(7) have a governing structure that includes consumer families and members of the community.

Subd. 4. **Covered expenses.** Grants awarded under this section may be used for the capital costs of establishing or improving a program that meets the criteria listed in subdivision 3. Capital costs include land and building acquisition, planning, site preparation, design fees, rehabilitation, construction, and equipment costs.

History: *1988 c 689 art 2 s 102*

245.83 CHILD CARE SERVICES; DEFINITIONS.

Subdivision 1. As used in sections 245.83 to 245.858, the words defined in this section shall have the meanings given them.

Subd. 2. **Child care services.** "Child care services" means child care provided in family day care homes, group day care homes, nursery schools, day nurseries, child day care centers, play groups, head start, and parent cooperatives.

Subd. 3. **Child.** "Child" means a person 12 years old or younger, or a person age 13 or 14 who is handicapped, as defined in section 120.03.

Subd. 3a. **Child care.** "Child care" means the care of a child by someone other than a parent or legal guardian outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

Subd. 3b. **Child care worker.** "Child care worker" means a person who cares for children for compensation, including a licensed provider of child care services, an employee of a provider, and a person who has applied for a license as a provider.

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

Subd. 4a. **Facility improvement expenses.** "Facility improvement expenses" means building improvements, equipment, toys, and supplies needed to establish, expand, or improve a licensed child care facility.

Subd. 5. **Interim financing.** "Interim financing" means funds to carry out such activities as are necessary for family day care homes, group family day care homes, and child care centers to receive and maintain state licensing, to expand an existing program or to improve program quality, and to provide 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 child care center. Interim financing may not exceed a period of 18 months.

Subd. 6. **Resource and referral program.** "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.

Subd. 7. **Staff training or development expenses.** "Staff training or development expenses" include the cost to a child care worker of tuition, transportation, required materials and supplies, and wages for a substitute while the child care worker is engaged in a training program.

Subd. 8. **Training program.** "Training program" means child development courses offered by an accredited post-secondary institution or similar training approved by a county board or the department of human services. To qualify as a training program under this section, a course of study must teach specific skills that a child care worker needs to meet licensing requirements.

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; 1988 c 689 art 2 s 103*

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, special tax revenue, or its general 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 245.873.

The board is further authorized to make grants to or contract with any municipality, 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. In awarding grants for training, counties must give priority to child care workers caring for infants, toddlers, sick children, children in low-income families, and children with special needs;

(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. [Repealed, 1988 c 689 art 2 s 269]

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; 1988 c 689 art 2 s 106*

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 [Repealed, 1988 c 689 art 2 s 269]

245.87 [Repealed, 1988 c 689 art 2 s 269]

CHILD CARE SYSTEM SURVEYS

245.871 DUTIES OF COMMISSIONER.

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

(1) by September 1, 1990, and by September 1 of each subsequent even-numbered year, survey and report on all components of the child care system including, but not limited to, availability of licensed child care slots; numbers of children in various kinds of child care settings; staff wages, rate of staff turnover, and qualifications of child care workers; cost of child care by type of service and ages of children; and child care availability through school systems;

(2) by September 1, 1990, and September 1 of each subsequent even-numbered year, survey and report on the extent to which existing child care services fulfill the need for child care, giving particular attention to the need for part-time care and for care of infants, sick children, children with special needs, and low-income children;

(3) administer the child care fund, including the sliding fee program, authorized under section 268.91;

(4) monitor the child care resource and referral programs established under section 268.911; and

(5) encourage child care providers to participate in a nationally-recognized accreditation system for early childhood programs.

History: *1988 c 689 art 2 s 104*

CHILD CARE SERVICE GRANTS

245.872 GRANTS FOR CHILD CARE SERVICES.

Subdivision 1. **Grants established.** The commissioner shall award grants to develop child care services, including facility improvement expenses, interim financing, resource and referral programs, and staff training expenses. The commissioner shall develop a grant application form, inform county social service agencies about the availability of child care services grants, and set a date by which applications must be received by the commissioner.

Subd. 2. **Distribution of funds.** The commissioner shall allocate grant money appropriated for child care services among the 12 development regions designated by the governor under section 462.385, in proportion to the ratio of the number of children to the number of licensed child care slots available in each region. Out of the amount allocated for each development region, the commissioner shall award grants based on the recommendation of the grant review advisory task force. In addition, the commissioner shall:

(1) award no more than 75 percent of the money either to child care facilities for the purpose of facility improvement or interim financing or to child care workers for staff training expenses; and

(2) redistribute funds not awarded by January 1, 1989, without regard to the distribution formula in this subdivision.

Subd. 3. **Grant review advisory task force.** The commissioner shall appoint a child care grant review advisory task force. Members appointed under this subdivision must be parents of children in child care, providers of child care, or citizens with a demonstrated interest in child care issues. The grant review advisory task force shall review and make recommendations to the commissioner on applications for grants under this section. Task force members do not receive a per diem but may be reimbursed for expenses in accordance with section 15.059, subdivision 6. The advisory task force does not expire but is otherwise governed by section 15.059.

Subd. 4. **Funding priorities; facility improvement and interim financing.** In evaluating applications for funding and making recommendations to the commissioner, the grant review advisory task force shall give priority to:

(1) new programs or projects, or the expansion or enrichment of existing programs or projects;

(2) programs or projects in areas where a demonstrated need for child care facilities has been shown, with special emphasis on programs or projects in areas where there is a shortage of licensed child care;

(3) programs and projects that serve sick children, infants, children with special needs, and children from low-income families; and

(4) unlicensed providers who wish to become licensed.

Subd. 5. **Funding priorities; training grants.** In evaluating applications for training grants and making recommendations to the commissioner, the grant review advisory task force shall give priority to:

(1) applicants who will work in facilities caring for sick children, infants, children with special needs, and children from low-income families;

(2) applicants who will work in geographic areas where there is a shortage of child care;

(3) unlicensed providers who wish to become licensed;

(4) child care providers seeking accreditation; and

(5) entities that will use grant money for scholarships for child care workers attending educational or training programs sponsored by the entity.

History: *1988 c 689 art 2 s 105*

INTERAGENCY ADVISORY COMMITTEE ON CHILD CARE

245.873 INTERAGENCY ADVISORY COMMITTEE ON CHILD CARE.

Subdivision 1. **Membership.** By July 1, 1988, the commissioner of the state planning agency shall convene and chair an interagency advisory committee on child care. In addition to the commissioner, members of the committee are the commissioners of each of the following agencies and departments: health, human services, jobs and training, public safety, education, and the higher education coordinating board. The purpose of the committee is to improve the quality and quantity of child care and the coordination of child care related activities among state agencies.

Subd. 2. **Duties.** The committee shall advise its member agencies on matters related to child care policy and planning. Specifically, the committee shall:

(1) develop a consistent policy on issues related to child care;

(2) advise the member agencies on implementing policies and developing rules that are consistent with the committee's policy on child care;

(3) advise the member agencies on state efforts to increase the supply and improve the quality of child care facilities and options; and

(4) perform other advisory tasks related to improving child care options throughout the state.

Subd. 3. **Meetings.** The committee shall meet as often as necessary to perform its duties.

History: *1988 c 689 art 2 s 107*

CHILD CARE SERVICES

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]

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*

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. **Agency.** "Agency" means the divisions, officials, or employees of the state departments of human services and health, and of designated county social service agencies as defined in section 256G.02, subdivision 7, that are engaged in monitoring, providing, or regulating services or treatment for mental illness, mental retardation or a related condition, chemical dependency, or emotional disturbance.

Subd. 3. **Client.** "Client" means a person served by an agency, facility, or program, who is receiving services or treatment for mental illness, mental retardation or a related condition, chemical dependency, or emotional disturbance.

Subd. 4. **Facility or program.** "Facility" or "program" means a nonresidential or residential program as defined in section 245A.02, subdivisions 10 and 14, that is required to be licensed by the commissioner of human services, and an acute care inpatient facility that provides services or treatment for mental illness, mental retardation or a related condition, 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; 1988 c 543 s 1-3*

245.92 OFFICE OF OMBUDSMAN; CREATION; QUALIFICATIONS; FUNCTION.

The ombudsman for persons receiving services or treatment for mental illness, mental retardation or a related condition, chemical dependency, or emotional disturbance shall promote the highest attainable standards of treatment, competence, efficiency, and justice. The ombudsman may gather information about decisions, acts, and other matters of an agency, facility, or program. The ombudsman is appointed by the governor, serves in the unclassified service, and may be removed only for just cause. 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 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; 1988 c 543 s 4*

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) The ombudsman may investigate the quality of services provided to clients and determine the extent to which quality assurance mechanisms within state and county government work to promote the health, safety, and welfare of clients, other than clients in acute care facilities who are receiving services not paid for by public funds.

(d) 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, facility, or program.

(e) The ombudsman may examine, on behalf of a client, records of an agency, facility, or program if the records relate to a matter that is within the scope of the ombudsman's authority. If the records are private and the client is capable of providing consent, the ombudsman shall first obtain the client's consent. The ombudsman is not required to obtain consent for access to private data on clients with mental retardation or a related condition.

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

(g) 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 client, other proceedings affecting the rights of clients. The ombudsman is not required to obtain consent to attend meetings or proceedings and have access to private data on clients with mental retardation or a related condition.

(h) The ombudsman shall have access to data of agencies, facilities, or programs classified as private or confidential as defined in section 13.02, subdivisions 12 and 13, regarding services provided to clients with mental retardation or a related condition.

(i) 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 or program.

(j) 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, facility, or program, or actions of an agency, facility, or program 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, facility, or program;

(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;

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

(7) may impede or promote independence, community integration, and productivity for clients; or

(8) may impede or improve the monitoring or evaluation of services provided to clients.

(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, facility, or program. After completing a review, the ombudsman shall inform the complainant and the agency, facility, or program. No client may be punished nor may the general condition of the client's treatment be unfavorably altered as a result of an investigation, a complaint by the client, or by another person on the client's behalf. An agency, facility, or program shall not retaliate or take adverse action, as defined in section 626.557, subdivision 17, paragraph (c), against a client or other person, who in good faith makes a complaint or assists in an investigation.

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

(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 other action.

(b) At the ombudsman's request, the agency, facility, or program 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; 1988 c 543 s 5-8*

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, facility, program, or any person, the ombudsman shall consult with the governor and the agency, facility, program, or person concerning the conclusion or recommendation. When sending a conclusion or recommendation to the governor that is adverse to an agency, facility, program, or any person, the ombudsman shall include any statement of reasonable length made by that agency, facility, program, 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; 1988 c 543 s 9*

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 individ-

uals served by an agency, facility, or program; human services and health care professionals, including specialists in psychiatry, psychology, internal medicine, and forensic pathology; and other providers of services or treatment to clients.

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, removal and expiration.** The membership terms, compensation, and removal of members of the committee and the filling of membership vacancies are governed by section 15.0575. The ombudsman committee and the medical review subcommittee expire on June 30, 1993.

History: *1987 c 352 s 8; 1988 c 543 s 10; 1988 c 629 s 46*