

CHAPTER 246

PUBLIC INSTITUTIONS

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246.01 POWERS AND DUTIES.

The commissioner of human services is hereby specifically constituted the guardian of both the estate and person of all persons with mental retardation, the guardianship of whom has heretofore been vested in the state board of control or in the director of social welfare whether by operation of law or by an order of court without any further act or proceeding, and all the powers and duties vested in or imposed upon the state board of control or the director of social welfare, with reference to mental testing of persons with mental retardation, and with reference to the institutions of the state of Minnesota except correctional facilities administered and managed by the commissioner of corrections, are hereby transferred to, vested in, and imposed upon the commissioner of human services, and in relation thereto is hereby charged with and shall have the exclusive power of administration and management of all of the following state institutions: state hospitals for persons with mental retardation, mental illness, or chemical dependency. The commissioner shall have power and authority to determine all matters relating to the unified and continuous development of all of the foregoing institutions and of such other institutions, the supervision of which may, from time to time, be vested in the commissioner. It is intended that there be vested in the commissioner all of the powers, functions, and authority heretofore vested in the state board of control relative to such state institutions. The commissioner shall have the power and authority to accept, in behalf of the state, contributions and gifts of money and personal property for the use and benefit of the residents of the public institutions

under the commissioner's control, and all money and securities so received shall be deposited in the state treasury subject to the order of the commissioner of human services. If the gift or contribution is designated by the donor for a certain institution or purpose, the commissioner of human services shall expend or use the same as nearly as may be in accordance with the conditions of the gift or contribution, compatible with the best interests of the inmates and the state. The commissioner of human services is hereby constituted the "state agency" as defined by the Social Security Act of the United States and the laws of this state for all purposes relating to mental health and mental hygiene.

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

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

History: (3199-103) 1939 c 431 art 7 s 3; 1943 c 570 s 2; 1943 c 612 s 3; 1947 c 211 s 1; 1949 c 512 s 7; 1949 c 561 s 1; 1951 c 713 s 23; 1953 c 562 s 1; 1957 c 287 s 3; 1959 c 158 s 16; 1959 c 638 s 2; 1965 c 45 s 18; 1973 c 540 s 3; 1976 c 271 s 76; 1979 c 102 s 13; 1983 c 10 s 1; 1984 c 654 art 5 s 58; 1985 c 21 s 7; 1986 c 444; 1Sp1986 c3 art 1 s 82

246.012 MEASURE OF SERVICE.

The measure of services hereinafter set forth are established and prescribed as the goal of the state of Minnesota, in its care and treatment of the mentally ill people of the state.

History: 1949 c 512 s 1

246.013 PERSONS WITH MENTAL ILLNESS; CARE, TREATMENT.

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

History: 1949 c 512 s 2; 1953 c 724 s 1; 1967 c 839 s 3; 1984 c 654 art 5 s 58; 1985 c 21 s 8; 1986 c 444

246.014 SERVICES.

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

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

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

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

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

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

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

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

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

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

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

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

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

History: 1949 c 512 s 3; 1953 c 561 s 1; 1967 c 839 s 4; 1973 c 507 s 45; 1980 c 357 s 16; 1980 c 614 s 126; 1980 c 617 s 47; 1984 c 654 art 5 s 58; 1985 c 21 s 9; 1986 c 444

246.015 CONSULTATIVE SERVICES; AFTERCARE OF PATIENTS; PUBLIC INFORMATION; FUNDS.

Subdivision 1. [Repealed, 1953 c 608 s 1]

Subd. 2. [Repealed, 1953 c 608 s 1]

Subd. 3. Within the limits of the appropriations available, the commissioner of human services may provide consultative services for courts, and state welfare agencies, supervise the placement and aftercare of patients provisionally or otherwise discharged from a state hospital or institution, promote and conduct programs of

education for the people of the state relating to the problem of mental health and mental hygiene. The commissioner shall administer, expend and distribute federal funds which may be made available to the state and funds other than those appropriated by the legislature, which may be made available to the state for mental health and mental hygiene purposes.

History: 1949 c 512 s 4; 1953 c 608 s 1,2; 1984 c 654 art 5 s 58; 1986 c 444

246.016 OFFICE OF COMMISSIONER OF MENTAL HEALTH AND MENTAL HOSPITALS ABOLISHED.

The office of the commissioner of mental health and mental hospitals is hereby abolished.

History: 1953 c 608 s 1

246.017 MEDICAL POLICY DIRECTIONAL COMMITTEE ON MENTAL HEALTH.

Subdivision 1. System of records and statistics. The commissioner of human services shall cause to be devised, installed and operated an adequate system of records and statistics which shall consist of all basic record forms including patient personal records and medical record forms and the manner of their use shall be precisely uniform throughout all hospitals for the mentally ill.

Subd. 2. Membership, duties, meetings. The commissioner of human services may appoint a medical policy directional task force on mental health including members who are experts in their fields of medicine, mental health, mental retardation, or related sciences. Members shall also be selected from social service, rehabilitation, volunteer services, nursing, hospital administration or related fields. Not more than one member shall be selected from any one field of medicine or related sciences which shall include the field of psychiatry, neurology, physiology, biochemistry, internal medicine, pediatrics, pharmacology, and psychology. The task force shall expire, and the terms, compensation, and removal of members shall be as provided in section 15.059.

The commissioner of human services shall appoint, and unless otherwise established by law, set the salary of a licensed physician to serve as medical director to assist in establishing and maintaining the medical policies of the department of human services. The commissioner may place the medical director's position in the unclassified service if the position meets the criteria of section 43A.08, subdivision 1a.

History: 1953 c 608 s 3,4; 1955 c 528 s 1; 1971 c 148 s 1; 1982 c 560 s 52; 1983 c 260 s 53; 1984 c 654 art 5 s 58; 1986 c 444

246.02 EXECUTIVE OFFICERS.

Subdivision 1. The commissioner of human services shall appoint a chief executive officer for each institution under exclusive control of the commissioner and may remove a chief executive officer for misconduct, incompetency, or neglect of official duty. No such removal shall be made except upon written charges and opportunity to be heard. Every such executive officer shall have the qualifications and perform the duties now or hereafter required by law, or by rules prescribed by the commissioner of human services. The commissioner may appoint an acting chief executive officer during such interim period as is necessary to select and appoint a chief executive officer. In case of an apparent conflict between the powers conferred by law upon any executive officer of a state institution and those conferred by this chapter upon the commissioner of human services, it shall be conclusively presumed that the power belongs to the latter. When a chief executive officer is required to live on the institution grounds, the chief executive officer is entitled to residence and maintenance in addition to salary.

Subd. 2. The commissioner of human services shall act with the advice of the medical policy directional committee on mental health in the appointment and removal of the chief executive officers of the following institutions: Anoka-Metro Regional

Treatment Center, Ah-Gwah-Ching Nursing Home, Fergus Falls Regional Treatment Center, Moose Lake Regional Treatment Center, Oak Terrace Nursing Home, Rochester State Hospital, St. Peter Regional Treatment Center, Willmar Regional Treatment Center, Faribault Regional Center, Cambridge Regional Human Services Center, and Brainerd Regional Human Services Center.

Subd. 3. [Repealed, 1973 c 540 s 5]

Subd. 4. Within the limits of appropriations available and with the advice of the medical policy directional committee, the commissioner shall set the salary of the individual officers named in subdivision 2 according to standards of training and experience established by the commissioner. The commissioner may not reduce the salary of any officers incumbent at the time of the passage of this subdivision. In addition to salary, each officer named in subdivision 2 is entitled to reimbursement for all expenses necessarily incurred in the performance of duties.

History: (4405) *RL s 1865; 1953 c 344 s 1; 1955 c 746 s 1; 1957 c 19 s 2; 1967 c 6 s 2; 1976 c 163 s 45,46; 1976 c 239 s 77; 1977 c 347 s 37; 1978 c 554 s 2; 1984 c 654 art 5 s 58; 1986 c 444; 1987 c 384 art 1 s 49*

246.022 STATE HOSPITAL PLANNING COMMITTEES.

Subdivision 1. **Appointment.** The commissioner may appoint for each state hospital a hospital planning committee that includes, but is not limited to, the chief executive officer of each state institution appointed pursuant to section 246.02, representatives of the professional staff and human services technicians and of other staff as the chief executive officer deems appropriate, representatives of the patients served in the institution, and representatives of the counties served by the institution.

Subd. 2. **Duties of committee.** The hospital planning committee of each state institution may present recommendations on such matters as:

(a) Setting measurable goals and objectives for the management and service programs of the institution;

(b) Identifying the capital, staff and financial resources needed to attain the goals and objectives established; and

(c) Adopting a method, approved by the commissioner, whereby the degree of attainment of the established goals and objectives may be evaluated.

Subd. 3. **Commissioner's responsibility.** Within the appropriations available, the commissioner of human services shall provide technical assistance to each hospital planning committee in the performance of its duties.

Subd. 4. **Biennial plan.** Each hospital planning committee shall submit to the commissioner a biennial report to be included in the report to the governor and legislature prepared pursuant to section 246.06. The commissioner shall establish schedules for submission of hospital planning committee plans so that each plan is substantially reflected in the biennial estimates prepared pursuant to section 246.12.

History: *1980 c 614 s 127; 1984 c 654 art 5 s 58*

246.023 INTERAGENCY BOARD.

Subdivision 1. **Legislative policy.** It is recognized that closure and consolidation of regional treatment centers have negative economic effects upon public employees and communities. It is the policy of the state that deinstitutionalization policies shall be carried out in a manner that ensures fair and equitable arrangements to protect the interests of employees and communities affected by deinstitutionalization.

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

Subd. 3. [Repealed, 1988 c 689 art 2 s 269]

Subd. 4. [Repealed, 1988 c 689 art 2 s 269]

Subd. 5. [Repealed, 1988 c 689 art 2 s 269]

History: *1984 c 654 art 5 s 19,58; 1Sp1985 c 14 art 9 s 75; 1988 c 689 art 2 s 108*

246.025 [Repealed, 1965 c 45 s 73].

246.0251 HOSPITAL ADMINISTRATOR.

Notwithstanding any provision of law to the contrary, the commissioner of human services may appoint a hospital administrator at any state hospital. Such hospital administrator shall be a graduate of an accredited college giving a course leading to a degree in hospital administration and the commissioner of human services, by rule, shall designate such colleges which in the opinion of the commissioner give an accredited course in hospital administration. The provisions of this section shall not apply to any chief executive officer now appointed to that position who on the effective date of this section is neither a physician and surgeon nor a graduate of a college giving a degree in hospital administration. In addition to a hospital administrator, the commissioner of human services may appoint a licensed doctor of medicine as chief of the medical staff who shall be in charge of all medical care, treatment, rehabilitation and research.

History: 1963 c 764 s 10; 1984 c 654 art 5 s 58; 1985 c 248 s 70; 1986 c 444

246.03 OFFICIAL BONDS.

The commissioner of human services shall require the commissioner's officers and employees, and those of the several institutions under control of the commissioner, who may be charged with any money or property belonging to the state, to give bond to the state, properly conditioned, in such sum and with such sureties as the commissioner shall approve.

History: (4408) RL s 1868; 1984 c 654 art 5 s 58; 1986 c 444

246.04 BOOKS AND ACCOUNTS.

The commissioner of human services shall keep at the commissioner's office a proper and complete system of books and accounts with each institution, showing every expenditure authorized and made therefor. Such books shall contain a separate account of each extraordinary or special appropriation made by the legislature, with every item of expenditure therefrom. The commissioner shall maintain a separate fund for all chemical dependency appropriations that will provide for an ascertainable review of receipts and expenditures under section 246.18, subdivision 2.

History: (4412) RL s 1872; 1984 c 654 art 5 s 58; 1986 c 394 s 1; 1986 c 444

246.05 DISSEMINATION OF INFORMATION.

The commissioner of human services may, from time to time, publish and distribute scientific, educational, and statistical articles, bulletins, and reports concerning clinical, research and other studies conducted in the department of human services in the fields of mental or nervous diseases, mental deficiency, or epilepsy.

History: (4414) RL s 1874; 1949 c 262 s 1; 1984 c 654 art 5 s 58

246.06 REPORTS.

On or before November 15 in each even-numbered year, the commissioner of human services shall make a report to the governor and legislature covering the biennial period ending June 30th preceding, therein giving observations and conclusions respecting each institution under control of the commissioner. This report shall contain the reports of the executive officers of the institutions, a statement of the visitations thereto, and when and by whom made, the name and salary of every employee of the commissioner, and of every officer and employee of the several institutions. Such report shall be published under the direction of the commissioner of administration and paid for out of the appropriation for public printing. The commissioner of human services shall make such other reports to the governor as the commissioner may from time to time require, or as the commissioner may deem necessary, relating to the condition and wants of the several institutions.

History: (4415) RL s 1875; 1984 c 654 art 5 s 58; 1986 c 444

246.07 DAILY RECORDS.

The commissioner of human services shall require the proper officer of each of the institutions to keep, in a book prepared for that purpose, a daily record of the time and number of hours of service of each employee; the monthly payroll shall be made from such time book, and accord therewith. When an appropriation is based on the number of inmates in, or persons at, an institution, the commissioner shall require a daily record to be kept of the persons actually residing at and domiciled in such institution.

History: (4416) *RL s 1876; 1984 c 654 art 5 s 58*

246.08 INSPECTIONS; INVESTIGATIONS; WITNESSES; CONTEMPT.

At least once each year and in addition as frequently as the commissioner deems necessary, the commissioner, or a designated representative, shall visit and inspect each institution, and investigate its financial condition and management, and the care being provided for the inmates thereof. The commissioner shall have power to summon and compel the attendance of witnesses; to examine them under oath, and order the production of all books, property, and papers material to such investigation. Witnesses other than those in the employ of the state shall receive the same fees as in civil cases in the district court. The claim that any testimony or evidence sought to be elicited or produced may tend to criminate the person giving or producing it, or to expose the person to public ignominy, shall not excuse the person, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any matter or thing concerning which the person may be so required to testify or produce evidence; provided, that the person shall not be exempted from prosecution and punishment for perjury committed in so testifying. The commissioner of human services shall cause the testimony so taken to be transcribed and filed with the commissioner as soon as practicable and when so filed it shall be open to public inspection. Every person failing or refusing to obey any order of the commissioner of human services issued under this section, or to give or produce evidence when so requested, shall be reported by the commissioner to the district court and dealt with as for a contempt of court.

History: (4417) *RL s 1877; 1953 c 239 s 1; 1984 c 654 art 5 s 58; 1986 c 444*

246.09 [Repealed, 1953 c 254 s 1]

246.10 [Repealed, 1967 c 638 s 22]

246.101 [Repealed, 1967 c 638 s 22]

246.11 INSPECTION.

The commissioner of human services, upon stated visits to any institution, shall inspect every part thereof, the general and special dietary, and the stores and methods of supply; and, so far as practicable, shall see all inmates of the charitable institutions, especially those admitted since the preceding visit, and shall give such as desire it suitable opportunity to converse with the commissioner privately. The commissioner may examine under oath the officers, attendants, guards, and other employees in order to determine their fitness for their duties.

History: (4423) *RL s 1879; 1984 c 654 art 5 s 58; 1986 c 444*

246.12 BIENNIAL ESTIMATES; SUGGESTIONS FOR LEGISLATION.

The commissioner of human services shall prepare, for the use of the legislature, biennial estimates of appropriations necessary or expedient to be made for the support of the several institutions and for extraordinary and special expenditures for buildings and other improvements. The commissioner shall, in connection therewith, make suggestions relative to legislation for the benefit of the institutions, or for improving the condition of the dependent, defective, or criminal classes. The commissioner shall report the estimates and suggestions to the legislature on or before November 15 in each even-numbered year. The commissioner of human services on request shall appear before any legislative committee and furnish any required information in regard to the condition of any such institution.

History: (4427) *RL s 1883; 1969 c 540 s 11; 1984 c 654 art 5 s 58; 1986 c 444*

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

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

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

History: (4437) *RL s 1889; 1957 c 319 s 1; 1961 c 750 s 13 subd 1; 1983 c 10 s 1; 1984 c 654 art 5 s 58; 1985 c 21 s 10; 1986 c 444*

246.14 USE OF SPACE IN INSTITUTIONS.

The commissioner of human services may use available space in any institution under jurisdiction of the commissioner, or in any institution under the jurisdiction of another department or agency of the state in which space is proffered the commissioner, by executive or legislative action, for the care and custody of persons, patients, or inmates of the institutions under exclusive control of the commissioner for whom other, more suitable, space is not available. All laws relating to the commitment and care of such persons who may be so committed and institutionalized shall be applicable to such persons.

History: (4438) *RL s 1890; 1953 c 515 s 1; 1957 c 261 s 1; 1961 c 750 s 14 subd 1; 1967 c 839 s 5; 1984 c 654 art 5 s 58; 1986 c 444*

246.15 MONEY OF INMATES OF PUBLIC WELFARE INSTITUTIONS.

Subdivision 1. The chief executive officer of each institution under the jurisdiction of the commissioner of human services shall have the care and custody of all money belonging to inmates thereof which may come into the chief executive officer's hands, keep accurate accounts thereof, and pay them out under rules prescribed by law or by the commissioner of human services, taking vouchers therefor. The chief executive officer shall give such additional bond as the commissioner may require, conditioned to safely keep and account for such funds. All such money received by any officer or employee shall be paid to the chief executive officer forthwith. Every such executive officer, at the close of each month, or oftener if required by the commissioner, shall forward to the commissioner a statement of the amount of all money so received and the names of the inmates from whom received, accompanied by a check for the amount, payable to the state treasurer. On receipt of such statement, the commissioner shall transmit the same to the commissioner of finance, together with such check, who shall deliver the same to the state treasurer. Upon the payment of such check, the amount shall be credited to a fund to be known as "Inmates Fund," for the institution from which the same was received. All such funds shall be paid out by the state treasurer

upon vouchers duly approved by the commissioner of human services as in other cases. The commissioner may permit a contingent fund to remain in the hands of the executive officer of any such institution from which necessary expenditure may from time to time be made.

Subd. 2. Any money in the inmates fund provided for in this section, belonging to inmates of state institutions under the jurisdiction of the commissioner of corrections shall forthwith be transferred by the commissioner of human services to the correctional inmates fund created by section 241.08.

History: (4439) *RL s 1891; 1907 c 280 s 1; 1961 c 750 s 15 subds 1,2; 1973 c 492 s 14; 1984 c 654 art 5 s 58; 1985 c 248 s 70; 1986 c 444*

246.151 COMPENSATION PAID TO PATIENT.

Subdivision 1. **Compensation.** Notwithstanding any law to the contrary, the commissioners of human services and veterans affairs are authorized to provide for the payment to patients or residents of state institutions under their management and control of such pecuniary compensation as they may deem proper, the amount of compensation to depend upon the quality and character of the work performed as determined by the commissioner and the chief executive officer, but in no case less than 25 percent of the minimum wage established pursuant to section 177.24.

Subd. 2. **Imprest cash fund.** The commissioners of human services and veterans affairs may establish an imprest cash fund at each of the state operated residential facilities to be utilized for payment to residents participating in on-campus work programs.

History: 1978 c 560 s 1; 1981 c 360 art 1 s 21; 1984 c 654 art 5 s 58; 1986 c 355 s 1; 1986 c 444

246.16 UNCLAIMED MONEY OR PERSONAL PROPERTY OF INMATES.

Subdivision 1. **Unclaimed money.** When there has heretofore accumulated or shall hereafter accumulate in the hands of the superintendent of any state institution under the jurisdiction of the commissioner of human services money belonging to inmates of such institution who have died therein, or disappeared therefrom, and for which money there is no claimant or person entitled thereto known to the superintendent, such money may, at the discretion of such superintendent, to be expended under direction of the superintendent for the amusement, entertainment, and general benefit of the inmates of such institution. No money shall be so used until it shall have remained unclaimed for at least five years. If, at any time after the expiration of the five years, the legal heirs of the inmate shall appear and make proper proof of such heirship, they shall be entitled to receive from the state treasurer such sum of money as shall have been expended by the superintendent belonging to the inmate.

Subd. 2. **Unclaimed personal property.** When any inmate of a state institution under the jurisdiction of the commissioner of human services has died or disappeared therefrom, or hereafter shall die or disappear therefrom leaving in the custody of the superintendent thereof personal property, exclusive of money, which remains unclaimed for a period of two years, and there is no person entitled thereto known to the superintendent, the superintendent or an agent may sell such property at public auction. Notice of such sale shall be published for two consecutive weeks in a legal newspaper in the county wherein the institution is located and shall state the time and place of such sale. The proceeds of the sale, after deduction of the costs of publication and auction, may be expended, at the discretion of the superintendent, for the entertainment and benefit of the inmates of such institution. Any inmate, or heir or representative of the inmate, may file with, and make proof of ownership to, the superintendent of the institution disposing of such personal property within four years after such sale, and, upon proof satisfactory to such superintendent, shall certify for payment to the state treasurer the amount received by the sale of such property. No suit shall be brought for damages consequent to the disposal of personal property or

use of money in accordance with this section against the state or any official, employee, or agent thereof.

History: (4440) 1905 c 199 s 1; 1951 c 369 s 1; 1961 c 750 s 16 subd 1; 1984 c 654 art 5 s 58; 1986 c 444

246.17 [Repealed, 1953 c 341 s 1]

246.18 DISPOSAL OF FUNDS.

Subdivision 1. Generally. Except as provided in subdivisions 2 and 4, every officer and employee of the several institutions under the jurisdiction of the commissioner of human services who has money belonging to an institution shall pay the money to the accounting officer thereof. Every accounting officer, at the close of each month or oftener, shall forward to the commissioner of human services a statement of the amount and sources of all money received. On receipt of such statement, the commissioner shall transmit the same to the commissioner of finance, who shall deliver to the state treasurer a draft upon the accounting officer for the same specifying the funds to which it is to be credited. Upon payment of such draft, the amount shall be so credited.

Subd. 2. Chemical dependency fund. Money received by a chemical dependency treatment facility operated by a regional treatment center or nursing home under the jurisdiction of the commissioner of human services must be deposited in the state treasury and credited to a chemical dependency fund. Money in the chemical dependency fund is appropriated to the commissioner to operate chemical dependency programs.

Subd. 3. Chemical dependency accounts. The commissioner of finance shall provide technical assistance and accounting procedures for separate interest-bearing chemical dependency accounts within the chemical dependency fund for each state facility providing chemical dependency services that will allow money to be readily available to finance chemical dependency programs. After June 30, 1992, the commissioner must not allocate money to a state facility for chemical dependency programs in excess of the amount of deposits of money received by the facility and deposited in the facility's chemical dependency account without the approval of the governor after consultation with the legislative advisory commission, except that before June 30, 1992, the commissioner may transfer or supplement funds in chemical dependency accounts to cover any revenue shortfall in a particular regional treatment center chemical dependency program. Twenty percent of the money in the chemical dependency fund that was reappropriated from the regional treatment center account must be transferred to the regional treatment centers' chemical dependency accounts on a pro rata basis as an advance payment for chemical dependency services to be delivered under sections 254B.01 to 254B.09.

Subd. 4. Collections deposited in medical assistance account. Except as provided in subdivision 2, all receipts from collection efforts for the regional treatment centers and state nursing homes must be deposited in the medical assistance account and are appropriated for that purpose. The commissioner shall ensure that the departmental financial reporting systems and internal accounting procedures comply with federal standards for reimbursement for program and administrative expenditures and fulfill the purpose of this paragraph.

History: (4441) RL s 1892; 1961 c 750 s 17 subd 1; 1973 c 492 s 14; 1984 c 654 art 5 s 58; 1986 c 394 s 2; 1986 c 444; 1987 c 403 art 2 s 44,45

246.19 PROTECTION AGAINST FIRE.

The commissioner of human services shall provide at each institution adequate and ready means of protection against fire, construct proper means of escape for inmates, and establish and enforce rigid rules by which danger from fire may be minimized.

History: (4442) RL s 1893; 1984 c 654 art 5 s 58; 1985 c 248 s 70

246.20 [Repealed, 1973 c 400 s 2]

246.21 CONTINGENT FUND.

The commissioner of human services may permit a contingent fund to remain in the hands of the accounting officer of any such institution from which expenditures may be made in case of actual emergency requiring immediate payment to prevent loss or danger to the institution or its inmates and for the purpose of paying freight, purchasing produce, livestock and other commodities requiring a cash settlement, and for the purpose of discounting bills incurred, but in all cases subject to revision by the commissioner of human services. An itemized statement of every expenditure made during the month from such fund shall be submitted to the commissioner under rules established by the commissioner. If necessary, the commissioner shall make proper requisition upon the commissioner of finance for a warrant upon the state treasurer to secure the contingent fund for each institution.

History: (4445) *RL s 1896; 1909 c 74 s 1; 1961 c 750 s 20 subd 1; 1973 c 492 s 14; 1984 c 654 art 5 s 58; 1986 c 444*

246.22 [Repealed, 1961 c 750 s 28]

246.23 PERSONS ADMISSIBLE TO REGIONAL TREATMENT CENTERS.

No person who has not a settlement in a county, as defined in section 256D.18, shall be admitted to a regional treatment center for persons with mental illness, mental retardation, or chemical dependency, except that the commissioner of human services may authorize admission thereto when the residence cannot be ascertained, or when the circumstances in the judgment of the commissioner make it advisable. Except for emergency admissions under sections 253B.05 and 253B.11, or when authorized by the commissioner, a chemical dependency program must not admit a chemically dependent person unless the cost of services will be paid for by private money or nongovernmental third-party payments, the person has been placed by a county or a federally recognized tribal unit that is responsible for payment, or the regional treatment center obtains approval of the admission from the county financially responsible for the person. The commissioner shall maintain and enhance cooperative and effective relationships between counties and regional treatment centers and between the various regional treatment center chemical dependency programs. In carrying out this responsibility the commissioner shall maintain a regionally based, state administered system of chemical dependency programs. When application is made to a judge of probate for admission to any of the regional treatment centers above named for admission thereto, if the judge finds that the person for whom application is made has not such residence, or that residence cannot be ascertained, the judge shall so report to the commissioner; and may recommend that such person be admitted notwithstanding, giving reasons therefor. The commissioner of human services shall thereupon investigate the question of residence and, if the commissioner finds that such person has not such residence and has a legal residence in another state or country, the commissioner may cause the person to be returned thereto at the expense of this state.

History: (4447) *RL s 1898; 1965 c 45 s 19; 1973 c 123 art 5 s 7; 1976 c 2 s 85; 1983 c 10 s 1; 1984 c 654 art 5 s 58; 1985 c 21 s 11; 1986 c 394 s 3; 1986 c 444*

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

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

History: 1945 c 228 s 1; 1965 c 45 s 20; 1983 c 10 s 1; 1984 c 654 art 5 s 58; 1985 c 21 s 12

246.24 COMPROMISE OF CLAIMS.

In case of any disagreement between the commissioner of human services and any person concerning a claim of such person to any right interest or estate in or lien upon lands occupied by or used in connection with any state institution under exclusive or partial control of the person, or of any claim by a person for damages to any such land, or the improvements thereon, the commissioner, with the approval of the governor and the commissioner of finance, may compromise and settle such claim; and in so doing may make any necessary conveyance of land. All moneys received by the commissioner upon any such settlement shall be paid into the state treasury to the credit of the general fund.

History: (4449) *RL s 1900; 1969 c 399 s 49; 1973 c 492 s 14; 1984 c 654 art 5 s 58; 1986 c 444*

246.25 [Repealed, 1967 c 885 s 6]

246.26 [Renumbered 241.05]

246.27 PHYSICAL EXAMINATIONS FOR EMPLOYMENT IN CERTAIN STATE INSTITUTIONS.

No new employee shall be given employment in any state institution under the direction of the department of human services, whether certified for such employment by the state department of employee relations, or otherwise selected, unless such person presents to the appointing officer of such institution a certificate showing that the employee has undergone the physical examination hereinafter provided for and has been found to be free of tuberculosis.

History: 1941 c 479 s 1; 1953 c 593 s 2; 1973 c 507 s 45; 1980 c 617 s 47; 1984 c 654 art 5 s 58; 1986 c 444

246.28 DIAGNOSTIC TESTS AND X-RAY EXAMINATIONS; REPORT.

The physical examination shall include a standard intradermal tuberculin test, a chest X-ray when the test is positive and additional special diagnostic tests for the detection of the presence of tuberculosis as shall be set up in rules of the state commissioner of health in cooperation with the commissioner of human services. The examination shall be made by a licensed physician and surgeon, who shall report in writing to the superintendent of the institution in which the employment is contemplated on a form set up by the department of human services in cooperation with the state commissioner of health showing the presence or absence of tuberculosis infection and disease based upon the examination.

History: 1941 c 479 s 2; 1977 c 305 s 45; 1980 c 357 s 17; 1984 c 654 art 5 s 58; 1985 c 248 s 70.

246.29 [Repealed, 1947 c 616 s 5; 1949 c 558 s 1; 1953 c 593 s 2]

246.30 [Repealed, 1965 c 45 s 73]

246.31 Subdivision 1. [Repealed, 1965 c 45 s 73]

Subd. 2. [Repealed, 1965 c 45 s 73]

Subd. 3. [Repealed, 1965 c 45 s 73]

Subd. 4. [Repealed, 1953 c 732 s 5; 1959 c 578 s 7]

246.32 Subdivision 1. [Repealed, 1975 c 204 s 106]

Subd. 2. [Repealed, 1975 c 204 s 106]

Subd. 3. [Repealed, 1969 c 52 s 5]

Subd. 4. [Repealed, 1975 c 204 s 106]

Subd. 5. [Repealed, 1975 c 204 s 106]

246.33 CEMETERY.

Subdivision 1. The commissioner of human services may establish and maintain a cemetery for the burial of any patient, inmate or person admitted to any state institution under control of the commissioner upon the public grounds of such institution in the manner set forth in the following subdivisions.

Subd. 2. The land shall be surveyed and a plat thereof made.

Subd. 3. A stone or other monument shall be established to mark each corner of such cemetery, and its location shown on the plat.

Subd. 4. The cemetery shall be platted into lots, which shall be numbered; it shall have streets and walks, and the same shall be shown on the plat. All containing graves shall be indicated by an appropriate marker of permanent nature for identification purposes.

Subd. 5. The surveyor shall certify as to the correctness of the plat by endorsement.

Subd. 6. The plat with the surveyor's endorsement thereon shall be filed for record with the county recorder in the county wherein the cemetery is located. A copy of the plat shall be kept in the office of the superintendent of the institution, together with a register showing the name of the persons buried in the cemetery and the lot in which they are buried.

History: 1949 c 155 s 1; 1976 c 181 s 2; 1984 c 654 art 5 s 58; 1986 c 444

246.34 REBURIAL.

Subdivision 1. The commissioner of human services may remove the body of any person now buried in a cemetery situated upon the land belonging to the state for public institution purposes and rebury it in a cemetery created under the provisions of section 246.33, by complying with the provisions set forth in the following subdivisions of this section.

Subd. 2. The commissioner shall petition the district court of the county wherein the present cemetery is situated setting forth the reasons for such removal, the place to which the body is to be removed, and praying for an order of the court authorizing such removal. Upon the presentation of such petition, the court shall make its order setting the time, which shall not be less than 60 days from the date of the order, and the place for hearing the same. The commissioner shall serve the nearest relative or, if the commissioner cannot locate any relative, some friend of the person whose body is to be removed by mailing a copy of the petition and court's order 30 days before the date of hearing and file the affidavit of mailing with the court administrator of district court. If the commissioner is unable to locate a relative or friend, the commissioner shall make an affidavit to that effect and file the same with the court administrator of district court.

Subd. 3. Upon the hearing of such petition, if the court determines that it is for the best interests of the public, the relatives and friends that such body be removed and that the same will be conducted in a manner commensurate with the methods commonly employed for the reburial of the dead in the community, the court shall make its order authorizing such removal, setting forth the time within which such removal shall be accomplished and the place to which the body is to be removed. Upon completion of such removal, the director shall cause the name of the person so removed to be entered in the register, together with the number of the lot in the cemetery and file an affidavit thereof with the court administrator of district court.

History: 1949 c 155 s 2; 1984 c 654 art 5 s 58; 1986 c 444; 1Sp1986 c 3 art 1 s 82

246.35 ABANDONMENT OF CEMETERY; COURT ORDER.

If the court makes its order under the provisions of section 246.34 authorizing the removal of bodies from a cemetery and the same is accomplished in accordance with such order and the commissioner files affidavits of such removal as hereinbefore provided, together with an affidavit that the commissioner has caused a thorough

search to be made, and there are no more dead bodies remaining in such cemetery to the best of the commissioner's knowledge, information and belief, the court may make its order authorizing the abandonment of such cemetery and thereby discontinue its use as such.

History: 1949 c 155 s 3; 1986 c 444

246.36 ACCEPTANCE OF VOLUNTARY, UNCOMPENSATED SERVICES.

For the purpose of carrying out a duty, the commissioner of human services shall have authority to accept uncompensated and voluntary services and to enter into contracts or agreements with private or public agencies, or persons, for uncompensated and voluntary services, as the commissioner may deem practicable. The volunteer agencies, organizations or persons who provide services to residents of state hospitals shall not be subject to the procurement requirements of chapters 16A and 16B. The agencies, organizations or persons may purchase supplies, services and equipment to be used in providing services to residents of state hospitals through the department of administration.

History: 1949 c 638 s 1; 1978 c 560 s 2; 1984 c 654 art 5 s 58; 1985 c 248 s 68; 1986 c 444

246.37 [Renumbered 243.84]

246.38 [Renumbered 243.85]

246.39 [Renumbered 243.86]

246.40 [Renumbered 243.87]

246.41 CONTRIBUTIONS FOR BENEFIT OF PERSONS WITH MENTAL RETARDATION.

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

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

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

History: 1953 c 519 s 1; 1959 c 158 s 17; 1983 c 10 s 1; 1984 c 654 art 5 s 58; 1985 c 21 s 13

246.42 FOOD PRODUCTS, PRODUCTION AND PRESERVATION.

The commissioner of human services may contract with corporations or individuals engaged in the commercial canning or freezing of food products, under such terms as the commissioner believes are for the best interests of the state, for the seeding, fertilizing, harvesting, and preserving of food products for consumption by institution inmates. The contract may provide for the payment of the processor's services by a fractional share of the food processed. The commissioner shall not be required to advertise for or secure bids.

History: 1953 c 581 s 1; 1984 c 654 art 5 s 58; 1986 c 444

246.43 [Repealed, 1978 c 723 art 1 s 20; 1979 c 258 s 25]

246.44 PIPESTONE INDIAN SCHOOL, LEASE BY STATE.

The commissioner of human services is empowered to enter into a lease with the United States of America, or any authorized department or agency thereof or to acquire by gift, for use by the state for the purposes hereinafter set forth the institution owned by the federal government and known as the Pipestone Indian School of the Bureau of Indian Affairs located in Pipestone county. The lease or instrument of acquisition by gift, referred to above, shall not be effective until approved by the executive council.

History: 1953 c 727 s 1; 1984 c 654 art 5 s 58

246.45 PUBLIC INSTITUTION.

The institution referred to in section 246.44, if leased to or acquired by the state, shall be, for such period of time as it may be operated by the state, a state institution within the department of human services and subject to the control and supervision of the commissioner of human services.

History: 1953 c 727 s 2; 1984 c 654 art 5 s 58

246.46 NAME; CARE AND TREATMENT OF MENTALLY DEFICIENT PERSONS OR OF ALCOHOLICS.

The institution referred to in section 246.44, if leased to or acquired by the state, shall be used for the care and treatment of mentally deficient persons or of persons afflicted with alcoholism, as may be determined by the commissioner of human services with approval of the governor. Said institution shall be known by such name, prefixed by the word "Pipestone" as the commissioner of human services, with approval of the governor, may determine.

History: 1953 c 727 s 3; 1984 c 654 art 5 s 58

246.47 [Repealed, 1959 c 578 s 7]

246.48 [Repealed, 1959 c 578 s 7]

246.49 [Repealed, 1959 c 578 s 7]

246.50 CARE OF PATIENTS AND RESIDENTS AT REGIONAL TREATMENT CENTERS AND STATE NURSING HOMES; DEFINITIONS.

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

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

Subd. 3. **Regional treatment center.** "Regional treatment center" means a state facility for treating persons with mental illness, mental retardation, or chemical dependency now existing or hereafter established.

Subd. 3a. **State nursing home.** "State nursing home" means Ah-Gwah-Ching and Oak Terrace facilities.

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

Subd. 4a. **Resident.** "Resident" means any mentally retarded person receiving care or treatment at a regional treatment center, whether the person entered such hospital voluntarily or under commitment, and any person residing at or receiving care in a state nursing home.

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

establish separate charges for each facility. "Cost of care" for outpatient or day care patients or residents shall be on a cost for service basis under a schedule the commissioner shall establish.

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

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

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

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

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

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

Subd. 9. "Chemical dependency programs" means all planned services for chemically dependent persons provided by the commissioner in a specific regional treatment center, the chemical dependency unit operated by the Ah-Gwah-Ching nursing home, and diagnostic evaluation, prevention, referral, outpatient, or aftercare services developed as part of licensed residential or nonresidential chemical dependency treatment programs.

History: 1959 c 578 s 1; 1967 c 386 s 1; 1969 c 205 s 1; 1971 c 637 s 1-4; 1973 c 235 s 1; 1982 c 641 art 1 s 4, 5; 1984 c 534 s 12; 1984 c 654 art 5 s 58; 1985 c 21 s 14; 1986 c 394 s 4; 1986 c 444; 1987 c 403 art 2 s 46-50

246.51 PAYMENT FOR CARE AND TREATMENT; DETERMINATION.

Subdivision 1. **Procedures.** The commissioner shall make investigation as necessary to determine, and as circumstances require redetermine, what part of the cost of care, if any, the patient or resident is able to pay. If the patient or resident is unable to pay the full cost of care the commissioner shall make a determination as to the ability of the relatives to pay. The patient, resident, and relatives shall provide the commissioner documents and proofs necessary to determine their ability to pay. Failure to provide the commissioner with sufficient information to determine ability to pay may make the patient, resident, or relatives liable for the full cost of care until the time when sufficient information is provided. No parent shall be liable for the cost of care given a patient at a regional treatment center after the patient has reached the age of 18 years. The commissioner's determination shall be conclusive in any action to enforce payment of the cost of care unless appealed from as provided in section 246.55. All money received, except for chemical dependency receipts, shall be paid to the state treasurer and placed in the general fund of the state and a separate account kept of it. Except for services provided under chapter 254B, responsibility under this section shall not apply to those relatives having gross earnings of less than \$11,000 per year.

Subd. 2. **Rules.** The commissioner shall adopt, pursuant to the administrative procedure act, rules establishing uniform standards for determination of patient liability.

ty and relative, guardian or conservator responsibility for care provided at state facilities. The standards may differ for mental illness, chemical dependency, or mental retardation. The standards established in rules adopted under chapter 254B shall determine the amount of patient and relative responsibility when a portion of the patient's cost of care has been paid under chapter 254B. These rules shall have the force and effect of law.

History: 1959 c 578 s 2; 1969 c 399 s 1; 1971 c 637 s 5; 1973 c 35 s 46; 1973 c 138 s 1; 1973 c 235 s 2; 1973 c 725 s 45; 1977 c 331 s 1; 1982 c 641 art 1 s 6; 1986 c 394 s 5; 1987 c 299 s 1; 1987 c 384 art 1 s 20; 1987 c 403 art 2 s 51

246.511 RELATIVE RESPONSIBILITY.

Except for chemical dependency services paid for with funds provided under chapter 254B, a patient's or resident's relatives shall not, pursuant to the commissioner's authority under section 246.51, be ordered to pay more than ten percent of the cost of care, unless they reside outside the state. Parents of children in state facilities shall have their responsibility to pay determined according to section 252.27, subdivision 2, or in rules adopted under chapter 254B if the cost of care is paid under chapter 254B. The commissioner may accept voluntary payments in excess of ten percent. The commissioner may require full payment of the full per capita cost of care in state facilities for patients or residents whose parent, parents, spouse, guardian, or conservator do not reside in Minnesota.

History: 1Sp1981 c 2 s 17; 1982 c 641 art 1 s 7; 1984 c 530 s 1; 1985 c 21 s 15; 1987 c 299 s 2; 1987 c 403 art 2 s 52

246.52 PAYMENT FOR CARE; ORDER; ACTION.

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

History: 1959 c 578 s 3; 1985 c 21 s 16; 1986 c 444

246.53 CLAIM AGAINST ESTATE OF DECEASED PATIENT OR RESIDENT.

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

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

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

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

History: 1959 c 578 s 4; 1969 c 205 s 2; 1981 c 31 s 5; 1982 c 641 art 1 s 8; 1984 c 654 art 5 s 58; 1985 c 21 s 17

246.531 SUBROGATION OF INSURANCE SETTLEMENTS.

Subdivision 1. **Subrogation to patient's rights.** The department of human services shall be subrogated, to the extent of the cost of care for services given, to the rights a patient or resident who receives treatment or care at a state facility may have under private health care coverage. The right of subrogation does not attach to benefits paid or provided under private health care coverage before the carrier issuing the health care coverage receives written notice of the exercise of subrogation rights.

Subd. 2. **Civil action.** To recover under this section, the department of human services, with counsel of the attorney general, may institute or join in a civil action against the carrier issuing the private health care coverage.

History: 1987 c 403 art 2 s 53

246.54 LIABILITY OF COUNTY; REIMBURSEMENT.

Except for chemical dependency services provided under sections 254B.01 to 254B.09, the patient's or resident's county shall pay to the state of Minnesota a portion of the cost of care provided in a regional treatment center to a patient or resident legally settled in that county. A county's payment shall be made from the county's own sources of revenue and payments shall be paid as follows: payments to the state from the county shall equal ten percent of the per capita rate, as determined by the commissioner, for each day, or the portion thereof, that the patient or resident spends at a regional treatment center. If payments received by the state under sections 246.50 to 246.53 exceed 90 percent of the per capita rate, the county shall be responsible for paying the state only the remaining amount. The county shall not be entitled to reimbursement from the patient or resident, the patient's or resident's estate, or from the patient's or resident's relatives, except as provided in section 246.53. No such payments shall be made for any patient or resident who was last committed prior to July 1, 1947.

History: 1959 c 578 s 5; 1971 c 637 s 6; 1981 c 360 art 2 s 17; 1985 c 21 s 18; 1986 c 394 s 6

246.55 APPEAL FROM ORDER OF COMMISSIONER.

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

History: 1959 c 578 s 6; 1983 c 247 s 104; 1985 c 21 s 19; 1986 c 444; 1Sp1986 c 3 art 1 s 82

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

Subdivision 1. The commissioner of human services is hereby authorized to establish, subject to the approval of the commissioner of jobs and training, work activity programs for the purpose of providing therapeutic work activities for regional treatment center patients with mental illness and regional treatment center residents with mental retardation. Work activity programs may be established for the provision of services and for the manufacture, processing and repairing of goods, wares, and merchandise. Work activity programs may be located on the grounds of the regional treatment center or at work sites in the community. In establishing services the

commissioner shall cooperate with existing agencies to avoid duplication of available services to the extent feasible.

Subd. 2. Powers of commissioner. The work activity programs authorized herein shall be planned and designed exclusively to provide therapeutic activities for handicapped workers whose physical or mental impairment is so severe as to make productive capacity inconsequential. Notwithstanding section 177.24, the activities within this program shall conform to the rules and regulations relating to work activity centers promulgated by the United States Department of Labor. To accomplish the foregoing purpose the commissioner of human services shall have the power and authority to:

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

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

(c) contract with public or private entities for the provision of custodial, domestic, maintenance, and other services carried out by patients or residents. To the extent that a qualified direct care employee of a regional treatment center is available, staff services required by the contract shall be provided by that direct care employee.

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

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

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

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

(d) establish an advisory task force consisting of representatives from the departments of health, jobs and training, and human services, labor and business groups, interested community agencies, including but not limited to the Minnesota association of rehabilitation facilities, the Minnesota association for retarded children, and the Minnesota association for mental health, and the general public. This task force will act in an advisory capacity with respect to the scope of work activity programs, the nature of the goods to be produced and services to be performed in such programs. The task force expires as provided in section 15.059, subdivision 5;

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

History: 1969 c 34 s 1; 1984 c 654 art 5 s 58; 1985 c 21 s 20; 1Sp1985 c 14 art 9 s 75; 1987 c 22 s 1; 1988 c 532 s 1; 1988 c 629 s 47

246.57 SHARED SERVICE AGREEMENTS.

Subdivision 1. Authorized. The commissioner of human services may authorize any regional center or state operated nursing home to enter into agreement with other governmental entities and both nonprofit and profit health service organizations for participation in shared service agreements that would be of mutual benefit to the state, other governmental entities and health service organizations involved, and the public. Notwithstanding section 16B.06, subdivision 2, the commissioner of human services may delegate the execution of shared services contracts to the chief executive officers of the regional centers or state operated nursing homes. No additional employees shall be added to the legislatively approved complement for any regional center or state nursing home as a result of entering into any shared service agreement. However, positions funded by a shared service agreement may be authorized by the commissioner

of finance for the duration of the shared service agreement. The charges for the services shall be on an actual cost basis and all receipts shall be deposited in the general fund. The receipts are appropriated to the commissioner of human services for the duration of the shared service agreement to make expenditures under the agreement that are not covered by other appropriations.

Subd. 2. **Reports.** The commissioner of human services shall report biennially to the legislature about the number of agreements approved for each regional center and state operated nursing home, the types of services provided, and the amounts collected.

Subd. 3. [Repealed, 1987 c 234 s 4]

Subd. 4. **Shared staff or services.** The commissioner of human services may authorize a regional treatment center to provide staff or services to Camp Confidence in return for services to, or use of the camp's facilities by, residents of the treatment center who have mental retardation or a related condition.

Subd. 5. **Laundry equipment.** The commissioner of human services may provide for the replacement of laundry equipment by including a charge for depreciation as part of the service costs charged by a regional treatment center operating a laundry service. Receipts for laundry services attributable to depreciation of laundry equipment must be deposited in a laundry equipment depreciation account within the general fund. All money deposited in the account is appropriated to the commissioner of human services for the replacement of laundry equipment. Any balance remaining in the account at the end of a fiscal year does not cancel and is available until expended.

History: 1976 c 163 s 47; 1982 c 530 s 1; 1983 c 312 art 1 s 20; 1984 c 654 art 5 s 58; 1985 c 213 s 1; 1987 c 234 s 1-3; 1987 c 403 art 2 s 54

246.58 LABOR ACCOUNTS; USE OF PROFITS.

Profits accrued by reason of operation of diversified labor accounts at any public institution under the control of the commissioner of human services may be used at the direction of the superintendent of the institution for the purchase of occupational therapy equipment.

History: 1976 c 163 s 48; 1984 c 654 art 5 s 58

246.59 LODGING; FOOD; DOMESTIC SERVICE.

Subdivision 1. The commissioner of administration shall establish a fair rental rate including utility costs to any person who resides on state welfare or correctional institution grounds.

Subd. 2. Quarters and a stipend allowance of not to exceed \$150 per month may be authorized by the commissioner of human services for medical students and physician fellows.

Subd. 3. Neither the commissioner of corrections nor the commissioner of human services shall furnish commissary privileges including food, laundry service, and household supplies to any person in staff residences or apartments.

Subd. 4. Neither the commissioner of corrections, the commissioner of human services, nor any other state officer or employee shall use state money to employ personnel with domestic duties to work in the residence of any officer or employee of any institution, department, or agency of the state.

History: 1976 c 163 s 49; 1984 c 654 art 5 s 58; 1986 c 444

246.60 CONSOLIDATION; EMPLOYEES.

When institutions under the control of the commissioner of human services or the commissioner of corrections are consolidated, the commissioner of employee relations and the commissioner of administration shall direct the department incorporating the consolidation and any other state department or agency, as necessary, to employ the affected employees at no loss in salary. The commissioner of employee relations shall temporarily suspend any rules or laws to accommodate these provisions. Any depart-

ment or agency that employs an affected employee is authorized to temporarily exceed its approved complement. The commissioner of employee relations shall develop procedures to insure that moving expenses are reimbursed for those employees who relocate pursuant to the consolidation.

History: 1976 c 163 s 50; 1980 c 617 s 47; 1984 c 654 art 5 s 58

246.61 [Repealed, 1987 c 234 s 4]

246.62 [Repealed, 1987 c 234 s 4]

246.63 [Repealed, 1987 c 234 s 4]

246.64 CHEMICAL DEPENDENCY SERVICE AGREEMENTS.

Subdivision 1. Chemical dependency rates. Notwithstanding sections 246.50, subdivision 5; 246.511; and 251.011, the commissioner shall establish separate rates for each chemical dependency service operated by the commissioner and may establish separate rates for each service component within the program by establishing fees for services or different per diem rates for each separate chemical dependency unit within the program based on actual costs attributable to the service or unit. The rate must allocate the cost of all anticipated maintenance, treatment, and expenses including depreciation of buildings and equipment, interest paid on bonds issued for capital improvements for chemical dependency programs, reimbursement and other indirect costs related to the operation of chemical dependency programs other than that paid from the Minnesota state building fund, and losses due to bad debt. The rate must not include allocations of chaplaincy, patient advocacy, or quality assurance costs that are not required for chemical dependency licensure by the commissioner or certification for chemical dependency by the Joint Commission on Accreditation of Hospitals. Notwithstanding any other law, the commissioner shall treat these costs as nonhospital department expenses.

Subd. 2. Depreciation collections. Beginning July 1, 1987, depreciation collected under subdivision 1 must be credited to the general fund and principal and interest on the bonded debt collected under subdivision 1 must be deposited in the state bond fund.

Subd. 3. Responsibilities of commissioner. The commissioner shall credit all receipts from billings for rates set in subdivision 1, except those credited according to subdivision 2, to the chemical dependency fund. This money must not be used for a regional treatment center activity that is not a chemical dependency service or an allocation of expenditures that are included in the base for computation of the rates under subdivision 1. The commissioner may expand chemical dependency services so long as expenditures are recovered by patient fees, transfer of funds, or supplementary appropriations. The commissioner may expand or reduce chemical dependency staff complement as long as expenditures are recovered by patient fees, transfer of funds, or supplementary appropriations. An increase or decrease in chemical dependency staff shall not result in an increase or decrease in staff in any facility or unit not providing chemical dependency services. Notwithstanding chapters 176 and 268, the commissioner shall provide for the self-insurance of regional treatment center chemical dependency programs for the costs of unemployment compensation and workers' compensation claims. The commissioner shall provide a biennial report to the chairs of the senate finance subcommittee on health and human services, the house of representatives human services division of appropriations, and the senate and house of representatives health and human services committees.

Subd. 4. Trade secret information. Notwithstanding any law to the contrary, data concerning matters affecting the competitive position of the chemical dependency programs is "trade secret information" for purposes of classification under section 13.37, subdivision 2.

History: 1986 c 394 s 7