

241.021 LICENSING AND SUPERVISION OF FACILITIES.

Subdivision 1. **Correctional facilities; inspection; licensing.** (a) Except as provided in paragraph (b), the commissioner of corrections shall inspect and license all correctional facilities throughout the state, whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to law except to the extent that they are inspected or licensed by other state regulating agencies. The commissioner shall promulgate pursuant to chapter 14, rules establishing minimum standards for these facilities with respect to their management, operation, physical condition, and the security, safety, health, treatment, and discipline of persons detained or confined therein. Commencing September 1, 1980, no individual, corporation, partnership, voluntary association, or other private organization legally responsible for the operation of a correctional facility may operate the facility unless licensed by the commissioner of corrections. Private adult correctional facilities shall have the authority of section 624.714, subdivision 13, if the Department of Corrections licenses the facility with such authority and the facility meets requirements of section 243.52. The commissioner shall review the correctional facilities described in this subdivision at least once every biennium, except as otherwise provided herein, to determine compliance with the minimum standards established pursuant to this subdivision. The commissioner shall grant a license to any facility found to conform to minimum standards or to any facility which, in the commissioner's judgment, is making satisfactory progress toward substantial conformity and the interests and well-being of the persons detained or confined therein are protected. The commissioner may grant licensure up to two years. The commissioner shall have access to the buildings, grounds, books, records, staff, and to persons detained or confined in these facilities. The commissioner may require the officers in charge of these facilities to furnish all information and statistics the commissioner deems necessary, at a time and place designated by the commissioner. The commissioner may require that any or all such information be provided through the Department of Corrections detention information system. The education program offered in a correctional facility for the detention or confinement of juvenile offenders must be approved by the commissioner of education before the commissioner of corrections may grant a license to the facility.

(b) For juvenile facilities licensed by the commissioner of human services, the commissioner may inspect and certify programs based on certification standards set forth in Minnesota Rules. For the purpose of this paragraph, "certification" has the meaning given it in section 245A.02.

(c) Any state agency which regulates, inspects, or licenses certain aspects of correctional facilities shall, insofar as is possible, ensure that the minimum standards it requires are substantially the same as those required by other state agencies which regulate, inspect, or license

the same aspects of similar types of correctional facilities, although at different correctional facilities.

(d) Nothing in this section shall be construed to limit the commissioner of corrections' authority to promulgate rules establishing standards of eligibility for counties to receive funds under sections 401.01 to 401.16, or to require counties to comply with operating standards the commissioner establishes as a condition precedent for counties to receive that funding.

(e) When the commissioner finds that any facility described in paragraph (a), except foster care facilities for delinquent children and youth as provided in subdivision 2, does not substantially conform to the minimum standards established by the commissioner and is not making satisfactory progress toward substantial conformance, the commissioner shall promptly notify the chief executive officer and the governing board of the facility of the deficiencies and order that they be remedied within a reasonable period of time. The commissioner may by written order restrict the use of any facility which does not substantially conform to minimum standards to prohibit the detention of any person therein for more than 72 hours at one time. When, after due notice and hearing, the commissioner finds that any facility described in this subdivision, except county jails and lockups as provided in sections 641.26, 642.10, and 642.11, does not conform to minimum standards, or is not making satisfactory progress toward substantial compliance therewith, the commissioner may issue an order revoking the license of that facility. After revocation of its license, that facility shall not be used until its license is renewed. When the commissioner is satisfied that satisfactory progress towards substantial compliance with minimum standard is being made, the commissioner may, at the request of the appropriate officials of the affected facility supported by a written schedule for compliance, grant an extension of time for a period not to exceed one year.

(f) As used in this subdivision, "correctional facility" means any facility, including a group home, having a residential component, the primary purpose of which is to serve persons placed therein by a court, court services department, parole authority, or other correctional agency having dispositional power over persons charged with, convicted, or adjudicated to be guilty or delinquent.

Subd. 2. Facilities for delinquent children and youth; licenses; supervision.

Notwithstanding any provisions in sections 256.01, subdivision 2, clause (2), 245A.03, and 245A.04, and chapter 245C, to the contrary, but subject to the municipality notification requirements of subdivision 2a, the commissioner of corrections shall review all county, municipal or other publicly established and operated facilities for the detention, care and training of delinquent children and youth at least once every biennium, and if such facility conforms to reasonable standards established by the commissioner or in the commissioner's judgment is

making satisfactory progress toward substantial conformity therewith, and the commissioner is satisfied that the interests and well-being of children and youth received therein are protected, the commissioner shall grant a license to the county, municipality or agency thereof operating such facility. The commissioner may grant licensure up to two years. Each such facility shall cooperate with the commissioner to make available all facts regarding its operation and services as the commissioner requires to determine its conformance to standards and its competence to give the services needed and which it purports to give. Every such facility as herein described is subject to visitation and supervision by the commissioner and shall receive from the commissioner consultation as needed to strengthen services to the children and youth received therein.

Subd. 2a. **Affected municipality; notice.** The commissioner must not issue a license without giving 30 calendar days' written notice to any affected municipality or other political subdivision unless the facility has a licensed capacity of six or fewer persons and is occupied by either the licensee or the group foster home parents. The notification must be given before the first issuance of a license and annually after that time if annual notification is requested in writing by any affected municipality or other political subdivision. State funds must not be made available to or be spent by an agency or department of state, county, or municipal government for payment to a foster care facility licensed under subdivision 2 until the provisions of this subdivision have been complied with in full.

Subd. 2b. **Licensing; facilities; juveniles from outside state.** The commissioner may not:

(1) issue a license under this section to operate a correctional facility for the detention or confinement of juvenile offenders if the facility accepts juveniles who reside outside of Minnesota without an agreement with the entity placing the juvenile at the facility that obligates the entity to pay the educational expenses of the juvenile; or

(2) renew a license under this section to operate a correctional facility for the detention or confinement of juvenile offenders if the facility accepts juveniles who reside outside of Minnesota without an agreement with the entity placing the juvenile at the facility that obligates the entity to pay the educational expenses of the juvenile.

Subd. 3. **Revocation of license.** When after due notice and hearing the commissioner of corrections determines that any facility described in subdivision 2 does not substantially conform to the reasonable standards therein provided or is not making satisfactory progress toward substantial compliance therewith, the commissioner may, with the consent of the judge of the district court, issue an order revoking the license of that facility. After revocation of its license, that facility shall not be used for the care and training of delinquent children, or for their detention until its license is renewed.

Subd. 4. **Health care.** The commissioner of corrections shall provide professional health care to persons confined in institutions under the control of the commissioner of corrections and pay the costs of their care in hospitals and other medical facilities not under the control of the commissioner of corrections. All reimbursements for these health care services shall be deposited in the general fund. The commissioner of corrections is authorized to contract with or reimburse entities, including health care management companies, to provide health care to inmates, at reimbursement rates equal to medical assistance unless otherwise negotiated. With respect to these contracts, these entities shall not be regulated as, or otherwise considered to be, health plan companies as defined in section 62Q.01, subdivision 4.

Subd. 4a. **Chemical dependency treatment programs.** All residential chemical dependency treatment programs operated by the commissioner of corrections to treat adults committed to the commissioner's custody shall comply with the standards mandated in Minnesota Rules, parts 9530.4100 to 9530.6500, or successor rule parts, for treatment programs operated by community-based treatment facilities. When the commissioners of corrections and human services agree that these established standards for community-based programs cannot reasonably apply to correctional facilities, alternative equivalent standards shall be developed by the commissioners and established through an interagency agreement.

Subd. 4b. **Health care peer review committee.** The commissioner of corrections shall establish a health care peer review committee. Sections 145.61 to 145.67 apply to the committee. The committee shall gather, review, and evaluate information relating to the on-site and off-site quality of care and treatment of offenders. The committee shall consist of:

- (1) the director of health services;
- (2) the department medical director;
- (3) the regional medical director of the contracted health care vendor;
- (4) the department director of nursing;
- (5) a physician from the contracting hospital provider; and
- (6) another physician who provides health care to offenders on site at a correctional facility.

Subd. 4c. **Duration of peer review committee.** The peer review committee under subdivision 4b does not expire and the expiration date provided in section 15.059, subdivision 5, does not apply to this section.

Subd. 5. [Repealed, 2007 c 54 art 6 s 20]

Subd. 6. **Background studies.** (a) The commissioner of corrections is authorized to do background studies on personnel employed by any facility serving children or youth that is licensed under this section. The commissioner of corrections shall contract with the commissioner of human services to conduct background studies of individuals providing services in secure and nonsecure residential facilities and detention facilities who have direct contact, as defined under section 245C.02, subdivision 11, with persons served in the facilities. A disqualification of an individual in this section shall disqualify the individual as provided in chapter 245C.

(b) A clerk or administrator of any court, the Bureau of Criminal Apprehension, a prosecuting attorney, a county sheriff, or a chief of a local police department, shall assist in these studies by providing to the commissioner of human services, or the commissioner's representative, all criminal conviction data available from local, state, and national criminal history record repositories, including the criminal justice data communications network, pertaining to the following individuals: applicants, operators, all persons living in the household, and all staff of any facility subject to background studies under this subdivision.

(c) The Department of Human Services shall conduct the background studies required by paragraph (a) in compliance with the provisions of chapter 245C. For the purpose of this subdivision, the term "secure and nonsecure residential facility and detention facility" shall include programs licensed or certified under subdivision 2. The Department of Human Services shall provide necessary forms and instructions, shall conduct the necessary background studies of individuals, and shall provide notification of the results of the studies to the facilities, individuals, and the commissioner of corrections. Individuals shall be disqualified under the provisions of chapter 245C.

If an individual is disqualified, the Department of Human Services shall notify the facility and the individual and shall inform the individual of the right to request a reconsideration of the disqualification by submitting the request to the Department of Corrections.

(d) The commissioner of corrections shall review and decide reconsideration requests, including the granting of variances, in accordance with the procedures and criteria contained in chapter 245C. The commissioner's decision shall be provided to the individual and to the Department of Human Services. The commissioner's decision to grant or deny a reconsideration of disqualification is the final administrative agency action.

(e) Facilities described in paragraph (a) shall be responsible for cooperating with the departments in implementing the provisions of this subdivision. The responsibilities imposed on applicants and licensees under chapters 245A and 245C shall apply to these facilities.

History: 1961 c 750 s 27 subd 2; 1969 c 493 s 1; 1976 c 299 s 1,2; 1978 c 778 s 1; 1980 c 417 s 1; 1980 c 580 s 1; 1980 c 618 s 18; 1981 c 360 art 1 s 16; 1Sp1981 c 4 art 1 s 99; 1982 c 424 s 130; 1985 c 262 s 1; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 252 s 1; 1987 c 333 s 22; 1992 c 571 art 11 s 1; 1993 c 266 s 29; 1994 c 636 art 6 s 1,2; 1995 c 12 s 1,2; 1998 c 367 art 10 s 1; 1999 c 241 art 2 s 52; 2000 c 299 s 1; 2001 c 197 s 2; 2001 c 210 s 4-8; 2002 c 374 art 10 s 2; 2003 c 15 art 1 s 33; 2003 c 130 s 12; 2004 c 288 art 2 s 1; 2007 c 133 art 2 s 13; 2008 c 252 s 2-4