

## Public Welfare and Related Activities

### CHAPTER 245

#### DEPARTMENT OF HUMAN SERVICES

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**245.001** MS 2006 [Renumbered 15.001]

**245.01** [Repealed, 1953 c 593 s 6]

**245.02** [Repealed, 1953 c 593 s 6]

**245.03 DEPARTMENT OF HUMAN SERVICES ESTABLISHED; COMMISSIONER.**

Subdivision 1. **Establishment.** There is created a Department of Human Services. A commissioner of human services shall be appointed by the governor under the provisions of section 15.06. The commissioner shall be selected on the basis of ability and experience in welfare and without regard to political affiliations. The commissioner shall appoint a deputy commissioner.

Subd. 2. **Mission; efficiency.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

- (1) prevent the waste or unnecessary spending of public money;
- (2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible, including the authority to consolidate different nonentitlement grant programs, having similar functions or serving similar populations, as may be determined by the commissioner, while protecting the original purposes of the programs. Nonentitlement grant funds consolidated by the commissioner shall be reflected in the department's biennial budget. With approval of the commissioner, vendors who are eligible for funding from any of the commissioner's granting authority under section 256.01, subdivision 2, paragraph (1), clause (f), may submit a single application for a grant agreement including multiple awards;
- (3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;
- (4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;
- (5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;
- (6) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and
- (7) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department.

**History:** 1953 c 593 s 1; 1965 c 45 s 17; 1969 c 1129 art 8 s 6; 1977 c 305 s 30; 1984 c 654 art 5 s 58; 1995 c 248 art 11 s 18; 1997 c 203 art 9 s 2; 1998 c 366 s 64

**245.031** [Obsolete]

**245.0311 TRANSFER OF PERSONNEL.**

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

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

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

**245.0312 DESIGNATING SPECIAL CARE UNITS.**

Notwithstanding any provision of law to the contrary, during the biennium, the commissioner of human services, upon the approval of the governor after consulting with the Legislative Advisory Commission, may designate portions of state-operated services facilities under the commissioner's control as special care units.

**History:** 1971 c 961 s 19; 1975 c 271 s 6; 1984 c 654 art 5 s 58; 1986 c 444; 1Sp2003 c 14 art 6 s 2

**245.0313 AID TO PERSONS WITH DISABILITIES.**

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

**History:** 1969 c 1136 s 23 subd 2; 1971 c 961 s 20; 1973 c 717 s 10; 1981 c 360 art 2 s 13; 1984 c 654 art 5 s 58; 2005 c 56 s 1

**245.032** [Obsolete]

**245.033** [Repealed, 1973 c 717 s 33]

**245.035 INTERVIEW EXPENSES.**

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

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

**245.036 LEASES FOR STATE-OPERATED, COMMUNITY-BASED PROGRAMS.**

(a) Notwithstanding section 16B.24, subdivision 6, paragraph (a), or any other law to the contrary, the commissioner of administration may lease land or other premises to provide state-operated, community-based programs authorized by sections 246.014, paragraph (a), 252.50, 253.018, and 253.28 for a term of 20 years or less, with a ten-year or less option to renew, subject to cancellation upon 30 days' notice by the state for any reason, except rental of other land or premises for the same use.

(b) The commissioner of administration may also lease land or premises from political subdivisions of the state to provide state-operated, community-based programs authorized by

sections 246.014, paragraph (a), 252.50, 253.018, and 253.28 for a term of 20 years or less, with a ten-year or less option to renew. A lease under this paragraph may be canceled only due to the lack of a legislative appropriation for the program.

**History:** *1990 c 568 art 2 s 37; 2005 c 20 art 1 s 37; 2006 c 258 s 38*

#### **245.037 MONEY COLLECTED AS RENT; STATE PROPERTY.**

Notwithstanding any law to the contrary, money collected as rent under section 16B.24, subdivision 5, for state property at any of the regional treatment centers or state nursing home facilities administered by the commissioner of human services is dedicated to the regional treatment center or state nursing home from which it is generated. Any balance remaining at the end of the fiscal year shall not cancel and is available until expended.

**History:** *1Sp1993 c 1 art 7 s 1*

**245.04** [Repealed, 1981 c 253 s 48]

#### **245.041 PROVISION OF FIREARMS BACKGROUND CHECK INFORMATION.**

Notwithstanding section 253B.23, subdivision 9, the commissioner of human services shall provide commitment information to local law enforcement agencies on an individual request basis by means of electronic data transfer from the Department of Human Services through the Minnesota Crime Information System for the sole purpose of facilitating a firearms background check under section 624.7131, 624.7132, or 624.714. The information to be provided is limited to whether the person has been committed under chapter 253B and, if so, the type of commitment.

**History:** *1994 c 618 art 1 s 26; 1994 c 636 art 3 s 2; 1995 c 207 art 8 s 1*

**245.05** [Repealed, 1981 c 253 s 48]

**245.06** [Repealed, 1981 c 253 s 48]

**245.07** [Repealed, 1981 c 253 s 48]

**245.071** [Repealed, 1969 c 334 s 2]

#### **245.072 DIVISION FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.**

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

**History:** *1971 c 486 s 1; 1984 c 654 art 5 s 58; 1985 c 21 s 3; 1987 c 44 s 1; 1992 c 464 art 1 s 55; 2005 c 56 s 1*

**245.073 TECHNICAL TRAINING; COMMUNITY-BASED PROGRAMS.**

In conjunction with the discharge of persons from regional treatment centers and their admission to state-operated and privately operated community-based programs, the commissioner may provide technical training assistance to the community-based programs. The commissioner may apply for and accept money from any source including reimbursement charges from the community-based programs for reasonable costs of training. Money received must be deposited in the general fund and is appropriated annually to the commissioner of human services for training under this section.

**History:** 1989 c 282 art 6 s 2

**245.08** [Obsolete]

**245.09** [Unnecessary]

**245.10** [Unnecessary]

**245.11** [Unnecessary]

**245.12** [Unnecessary]

**245.21** [Renumbered 256.451]

**245.22** [Renumbered 256.452]

**245.23** [Renumbered 256.453]

**245.24** [Renumbered 256.454]

**245.25** [Renumbered 256.455]

**245.26** [Renumbered 256.456]

**245.27** [Renumbered 256.457]

**245.28** [Renumbered 256.458]

**245.29** [Renumbered 256.459]

**245.30** [Renumbered 256.461]

**245.31** [Renumbered 256.462]

**245.32** [Renumbered 256.463]

**245.33** [Renumbered 256.464]

**245.34** [Renumbered 256.465]

**245.35** [Renumbered 256.466]

**245.36** [Renumbered 256.467]

**245.37** [Renumbered 256.468]

**245.38** [Renumbered 256.469]

**245.39** [Renumbered 256.471]

**245.40** [Renumbered 256.472]

**245.41** [Renumbered 256.473]

**245.42** [Renumbered 256.474]

**245.43** [Renumbered 256.475]

**245.46** [Repealed, 1973 c 650 art 21 s 33]

## ADULT MENTAL HEALTH ACT

### 245.461 POLICY AND CITATION.

Subdivision 1. **Citation.** Sections 245.461 to 245.486 may be cited as the "Minnesota Comprehensive Adult Mental Health Act."

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

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

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

(3) reduces chronicity of mental illness;

(4) eliminates abuse of adults with mental illness;

(5) provides services designed to:

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

(ii) stabilize adults with mental illness;

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

(iv) support and assist adults in resolving mental health problems that impede their functioning;

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

(vi) promote sound mental health; and

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

Subd. 3. **Report.** By February 15, 1988, and annually after that until February 15, 1994, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.461 to 245.486 and on additional resources needed to further implement those sections.

Subd. 4. **Housing mission statement.** The commissioner shall ensure that the housing services provided as part of a comprehensive mental health service system:

(1) allow all persons with mental illness to live in stable, affordable housing, in settings that maximize community integration and opportunities for acceptance;



(2) allow persons with mental illness to actively participate in the selection of their housing from those living environments available to the general public; and

(3) provide necessary support regardless of where persons with mental illness choose to live.

Subd. 5. **Funding from the federal government and other sources.** The commissioner shall seek and apply for federal and other nonstate, nonlocal government funding for the mental health services specified in sections 245.461 to 245.486, in order to maximize nonstate, nonlocal dollars for these services.

**History:** 1987 c 403 art 2 s 16; 1989 c 282 art 4 s 1; 1991 c 292 art 6 s 1,2

## 245.462 DEFINITIONS.

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

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

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

Subd. 4. **Case management service provider.** (a) "Case management service provider" means a case manager or case manager associate employed by the county or other entity authorized by the county board to provide case management services specified in section 245.4711.

(b) A case manager must:

(1) be skilled in the process of identifying and assessing a wide range of client needs;

(2) be knowledgeable about local community resources and how to use those resources for the benefit of the client;

(3) have a bachelor's degree in one of the behavioral sciences or related fields including, but not limited to, social work, psychology, or nursing from an accredited college or university or meet the requirements of paragraph (c); and

(4) meet the supervision and continuing education requirements described in paragraphs (d), (e), and (f), as applicable.

(c) Case managers without a bachelor's degree must meet one of the requirements in clauses (1) to (3):

(1) have three or four years of experience as a case manager associate as defined in this section;

(2) be a registered nurse without a bachelor's degree and have a combination of specialized training in psychiatry and work experience consisting of community interaction and involvement or community discharge planning in a mental health setting totaling three years; or

(3) be a person who qualified as a case manager under the 1998 Department of Human Service waiver provision and meet the continuing education and mentoring requirements in this section.

(d) A case manager with at least 2,000 hours of supervised experience in the delivery of services to adults with mental illness must receive regular ongoing supervision and clinical supervision totaling 38 hours per year of which at least one hour per month must be clinical supervision regarding individual service delivery with a case management supervisor. The remaining 26 hours of supervision may be provided by a case manager with two years of experience. Group supervision may not constitute more than one-half of the required supervision hours. Clinical supervision must be documented in the client record.

(e) A case manager without 2,000 hours of supervised experience in the delivery of services to adults with mental illness must:

(1) receive clinical supervision regarding individual service delivery from a mental health professional at least one hour per week until the requirement of 2,000 hours of experience is met; and

(2) complete 40 hours of training approved by the commissioner in case management skills and the characteristics and needs of adults with serious and persistent mental illness.

(f) A case manager who is not licensed, registered, or certified by a health-related licensing board must receive 30 hours of continuing education and training in mental illness and mental health services every two years.

(g) A case manager associate (CMA) must:

(1) work under the direction of a case manager or case management supervisor;

(2) be at least 21 years of age;

(3) have at least a high school diploma or its equivalent; and

(4) meet one of the following criteria:

(i) have an associate of arts degree in one of the behavioral sciences or human services;

(ii) be a registered nurse without a bachelor's degree;

(iii) within the previous ten years, have three years of life experience with serious and persistent mental illness as defined in section 245.462, subdivision 20; or as a child had severe emotional disturbance as defined in section 245.4871, subdivision 6; or have three years life experience as a primary caregiver to an adult with serious and persistent mental illness within the previous ten years;

(iv) have 6,000 hours work experience as a nondegreed state hospital technician; or

(v) be a mental health practitioner as defined in section 245.462, subdivision 17, clause (2).

Individuals meeting one of the criteria in items (i) to (iv), may qualify as a case manager after four years of supervised work experience as a case manager associate. Individuals meeting the criteria in item (v), may qualify as a case manager after three years of supervised experience as a case manager associate.

(h) A case management associate must meet the following supervision, mentoring, and continuing education requirements:

(1) have 40 hours of preservice training described under paragraph (e), clause (2);

(2) receive at least 40 hours of continuing education in mental illness and mental health services annually; and

(3) receive at least five hours of mentoring per week from a case management mentor.

A "case management mentor" means a qualified, practicing case manager or case management supervisor who teaches or advises and provides intensive training and clinical supervision to one or more case manager associates. Mentoring may occur while providing direct services to consumers in the office or in the field and may be provided to individuals or groups of case manager associates. At least two mentoring hours per week must be individual and face-to-face.

(i) A case management supervisor must meet the criteria for mental health professionals, as specified in section 245.462, subdivision 18.

(j) An immigrant who does not have the qualifications specified in this subdivision may provide case management services to adult immigrants with serious and persistent mental illness who are members of the same ethnic group as the case manager if the person:

(1) is currently enrolled in and is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or a related field including, but not limited to, social work, psychology, or nursing from an accredited college or university;

(2) completes 40 hours of training as specified in this subdivision; and

(3) receives clinical supervision at least once a week until the requirements of this subdivision are met.

Subd. 4a. **Clinical supervision.** "Clinical supervision" means the oversight responsibility for individual treatment plans and individual mental health service delivery, including that provided by the case manager. Clinical supervision must be accomplished by full or part-time employment of or contracts with mental health professionals. Clinical supervision must be documented by the mental health professional cosigning individual treatment plans and by entries in the client's record regarding supervisory activities.

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

Subd. 6. **Community support services program.** "Community support services program" means services, other than inpatient or residential treatment services, provided or coordinated by an identified program and staff under the clinical supervision of a mental health professional designed to help adults with serious and persistent mental illness to function and remain in the community. A community support services program includes:

(1) client outreach,

(2) medication monitoring,

(3) assistance in independent living skills,

(4) development of employability and work-related opportunities,

(5) crisis assistance,

(6) psychosocial rehabilitation,

(7) help in applying for government benefits, and

(8) housing support services.

The community support services program must be coordinated with the case management services specified in section 245.4711.

Subd. 7. **County board.** "County board" means the county board of commissioners or board established pursuant to the Joint Powers Act, section 471.59, or the Human Services Act, sections 402.01 to 402.10.

Subd. 8. **Day treatment services.** "Day treatment," "day treatment services," or "day treatment program" means a structured program of treatment and care provided to an adult in or by: (1) a hospital accredited by the joint commission on accreditation of health organizations and licensed under sections 144.50 to 144.55; (2) a community mental health center under section 245.62; or (3) an entity that is under contract with the county board to operate a program that meets the requirements of section 245.4712, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475. Day treatment consists of group psychotherapy and other intensive therapeutic services that are provided at least one day a week by a multidisciplinary staff under the clinical supervision of a mental health professional. Day treatment may include education and consultation provided to families and other individuals as part of the treatment process. The services are aimed at stabilizing the adult's mental health status, providing mental health services, and developing and improving the adult's independent living and socialization skills. The goal of day treatment is to reduce or relieve mental illness and to enable the adult to live in the community. Day treatment services are not a part of inpatient or residential treatment services. Day treatment services are distinguished from day care by their structured therapeutic program of psychotherapy services. The commissioner may limit medical assistance reimbursement for day treatment to 15 hours per week per person instead of the three hours per day per person specified in Minnesota Rules, part 9505.0323, subpart 15.

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

Subd. 10. **Education and prevention services.** "Education and prevention services" means services designed to educate the general public or special high-risk target populations about mental illness, to increase the understanding and acceptance of problems associated with mental illness, to increase people's awareness of the availability of resources and services, and to improve people's skills in dealing with high-risk situations known to affect people's mental health and functioning. The services include the distribution of information to individuals and agencies identified by the county board and the local mental health advisory council, on predictors and symptoms of mental disorders, where mental health services are available in the county, and how to access the services.

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

Subd. 11a. **Functional assessment.** "Functional assessment" means an assessment by the case manager of the adult's:

- (1) mental health symptoms as presented in the adult's diagnostic assessment;
- (2) mental health needs as presented in the adult's diagnostic assessment;
- (3) use of drugs and alcohol;
- (4) vocational and educational functioning;

- (5) social functioning, including the use of leisure time;
- (6) interpersonal functioning, including relationships with the adult's family;
- (7) self-care and independent living capacity;
- (8) medical and dental health;
- (9) financial assistance needs;
- (10) housing and transportation needs; and
- (11) other needs and problems.

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

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

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

Subd. 14c. **Mental health crisis services.** "Mental health crisis services" means crisis assessment, crisis intervention, and crisis stabilization services.

Subd. 15. [Repealed, 1991 c 94 s 25]

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

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

(1) holds a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and:

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

(ii) is fluent in the non-English language of the ethnic group to which at least 50 percent of the practitioner's clients belong, completes 40 hours of training in the delivery of services to persons with mental illness, and receives clinical supervision from a mental health professional at least once a week until the requirement of 2,000 hours of supervised experience is met;

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

(3) is a graduate student in one of the behavioral sciences or related fields and is formally assigned by an accredited college or university to an agency or facility for clinical training; or

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

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

(1) in psychiatric nursing: a registered nurse who is licensed under sections 148.171 to 148.285; and:

(i) who is certified as a clinical specialist or as a nurse practitioner in adult or family psychiatric and mental health nursing by a national nurse certification organization; or

(ii) who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) in clinical social work: a person licensed as an independent clinical social worker under chapter 148D, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in psychology: an individual licensed by the Board of Psychology under sections 148.88 to 148.98 who has stated to the Board of Psychology competencies in the diagnosis and treatment of mental illness;

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

(5) in marriage and family therapy: the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39 with at least two years of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(6) in licensed professional clinical counseling, the mental health professional shall be a licensed professional clinical counselor under section 148B.5301 with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness; or

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

Subd. 19. **Mental health services.** "Mental health services" means at least all of the treatment services and case management activities that are provided to adults with mental illness and are described in sections 245.461 to 245.486.

Subd. 20. **Mental illness.** (a) "Mental illness" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD),

current edition, Axes I, II, or III, and that seriously limits a person's capacity to function in primary aspects of daily living such as personal relations, living arrangements, work, and recreation.

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

(c) For purposes of case management and community support services, a "person with serious and persistent mental illness" means an adult who has a mental illness and meets at least one of the following criteria:

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

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

(3) the adult has been treated by a crisis team two or more times within the preceding 24 months;

(4) the adult:

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

(ii) indicates a significant impairment in functioning; and

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

(5) the adult has, in the last three years, been committed by a court as a person who is mentally ill under chapter 253B, or the adult's commitment has been stayed or continued; or

(6) the adult (i) was eligible under clauses (1) to (5), but the specified time period has expired or the adult was eligible as a child under section 245.4871, subdivision 6; and (ii) has a written opinion from a mental health professional, in the last three years, stating that the adult is reasonably likely to have future episodes requiring inpatient or residential treatment, of a frequency described in clause (1) or (2), unless ongoing case management or community support services are provided.

**Subd. 21. Outpatient services.** "Outpatient services" means mental health services, excluding day treatment and community support services programs, provided by or under the clinical supervision of a mental health professional to adults with mental illness who live outside a hospital. Outpatient services include clinical activities such as individual, group, and family therapy; individual treatment planning; diagnostic assessments; medication management; and psychological testing.

**Subd. 22. Regional treatment center inpatient services.** "Regional treatment center inpatient services" means the 24-hour-a-day comprehensive medical, nursing, or psychosocial services provided in a regional treatment center operated by the state.

**Subd. 23. Residential treatment.** "Residential treatment" means a 24-hour-a-day program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital or regional treatment center inpatient unit, that must be licensed as a residential treatment program for adults with mental illness under Minnesota Rules, parts

9520.0500 to 9520.0690 or other rules adopted by the commissioner.

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

Subd. 25. [Repealed, 1989 c 282 art 4 s 64]

Subd. 26. **Significant impairment in functioning.** "Significant impairment in functioning" means a condition, including significant suicidal ideation or thoughts of harming self or others, which harmfully affects, recurrently or consistently, a person's activities of daily living in employment, housing, family and social relationships, or education.

**History:** 1987 c 403 art 2 s 17; 1988 c 689 art 2 s 64-73; 1989 c 282 art 4 s 2; 1990 c 426 art 2 s 6; 1990 c 568 art 5 s 34; 1991 c 292 art 6 s 3,4; 1992 c 526 s 1; 1Sp1993 c 1 art 7 s 2,3; 1996 c 451 art 5 s 4; 1997 c 7 art 1 s 94; 1998 c 407 art 4 s 2,3; 1999 c 86 art 1 s 55; 1999 c 172 s 15; 1999 c 245 art 5 s 2,3; 2000 c 474 s 3; 1Sp2001 c 9 art 9 s 5-8; 2002 c 221 s 15; 2002 c 375 art 2 s 5; 2002 c 379 art 1 s 113; 2004 c 288 art 3 s 7; 2005 c 147 art 1 s 65; 2007 c 147 art 8 s 3; 2009 c 79 art 7 s 1

#### **245.463 PLANNING FOR A MENTAL HEALTH SYSTEM.**

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

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

Subd. 3. **Report on increase in community-based residential programs.** The commissioner of human services shall, in cooperation with the commissioner of health, study and submit to the legislature by February 15, 1991, a report and recommendations regarding (1) plans and fiscal projections for increasing the number of community-based beds, small community-based residential programs, and support services for persons with mental illness, including persons for whom nursing home services are inappropriate, to serve all persons in need of those programs; and (2) the projected fiscal impact of maximizing the availability of medical assistance coverage for persons with mental illness.

Subd. 4. **Review of funding.** The commissioner shall complete a review of funding for mental health services and make recommendations for any changes needed. The commissioner shall submit a report on the review and recommendations to the legislature by January 31, 1991.

**History:** 1987 c 403 art 2 s 18; 1989 c 282 art 4 s 3,4; art 6 s 3; 1991 c 94 s 24; 1Sp2003 c 14 art 11 s 11; 2005 c 98 art 3 s 1

#### **245.464 COORDINATION OF MENTAL HEALTH SYSTEM.**

Subdivision 1. **Coordination.** The commissioner shall supervise the development and coordination of locally available adult mental health services by the county boards in a manner



consistent with sections 245.461 to 245.486. The commissioner shall coordinate locally available services with those services available from the regional treatment center serving the area including state-operated services offered at sites outside of the regional treatment centers. The commissioner shall provide technical assistance to county boards in developing and maintaining locally available mental health services. The commissioner shall monitor the county board's progress in developing its full system capacity and quality through ongoing review of the county board's adult mental health component of the community social services plan and other information as required by sections 245.461 to 245.486.

Subd. 2. **Priorities.** By January 1, 1990, the commissioner shall require that each of the treatment services and management activities described in sections 245.469 to 245.477 are developed for adults with mental illness within available resources based on the following ranked priorities:

- (1) the provision of locally available emergency services;
- (2) the provision of locally available services to all adults with serious and persistent mental illness and all adults with acute mental illness;
- (3) the provision of specialized services regionally available to meet the special needs of all adults with serious and persistent mental illness and all adults with acute mental illness;
- (4) the provision of locally available services to adults with other mental illness; and
- (5) the provision of education and preventive mental health services targeted at high-risk populations.

Subd. 3. **Public-private partnerships.** The commissioner may establish a mechanism by which counties, the Department of Human Services, hospitals, health plans, consumers, providers, and others may enter into agreements that allow for capacity building and oversight of any agreed-upon entity that is developed through these partnerships. The purpose of these partnerships is the development and provision of mental health services which would be more effective, efficient, and accessible than services that might be provided separately by each partner.

**History:** 1987 c 403 art 2 s 19; 1989 c 282 art 4 s 5; 1991 c 94 s 24; 1Sp1993 c 1 art 7 s 4; 2004 c 288 art 3 s 8; 2005 c 98 art 3 s 2

#### **245.465 DUTIES OF COUNTY BOARD.**

Subdivision 1. **Use of mental health funds.** The county board in each county shall use its share of mental health funds allocated by the commissioner according to the mental health plan approved by the commissioner. The county board must:

- (1) develop and coordinate a system of affordable and locally available adult mental health services in accordance with sections 245.461 to 245.486;
- (2) with the involvement of the local adult mental health advisory council or the adult mental health subcommittee of an existing advisory council, develop a biennial adult mental health plan which considers the assessment of unmet needs in the county as reported by the local adult mental health advisory council under section 245.466, subdivision 5, clause (3). The county shall provide, upon request of the local adult mental health advisory council, readily available data to assist in the determination of unmet needs;
- (3) provide for case management services to adults with serious and persistent mental illness in accordance with sections 245.462, subdivisions 3 and 4; 245.4711; and 245.486;

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

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

(6) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract with the county to provide mental health services have experience and training in working with adults with mental illness.

Subd. 2. [Repealed, 2006 c 282 art 16 s 17]

Subd. 3. **Responsibility not duplicated.** For individuals who have health care coverage, the county board is not responsible for providing mental health services which are within the limits of the individual's health care coverage.

**History:** 1987 c 403 art 2 s 20; 1988 c 689 art 2 s 74; 1989 c 282 art 4 s 6; 1991 c 94 s 1; 1991 c 292 art 4 s 4; 1Sp2003 c 14 art 11 s 11; 2005 c 98 art 3 s 3; 2007 c 147 art 8 s 4

### 245.466 LOCAL SERVICE DELIVERY SYSTEM.

Subdivision 1. **Development of services.** The county board in each county is responsible for using all available resources to develop and coordinate a system of locally available and affordable adult mental health services. The county board may provide some or all of the mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center under section 246.57 or with any state facility or program as defined in section 246.50, subdivision 3, to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers.

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

- (1) education and prevention services in accordance with section 245.468;
- (2) emergency services in accordance with section 245.469;
- (3) outpatient services in accordance with section 245.470;
- (4) community support program services in accordance with section 245.4711;
- (5) residential treatment services in accordance with section 245.472;
- (6) acute care hospital inpatient treatment services in accordance with section 245.473;
- (7) regional treatment center inpatient services in accordance with section 245.474;
- (8) screening in accordance with section 245.476; and
- (9) case management in accordance with sections 245.462, subdivision 3; and 245.4711.

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

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

(2) identify monitoring and evaluation procedures not in violation of the Minnesota Government Data Practices Act, chapter 13, which are necessary to ensure effective delivery of quality services;

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

(4) require financial controls and auditing procedures.

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

**Subd. 5. Local advisory council.** The county board, individually or in conjunction with other county boards, shall establish a local adult mental health advisory council or mental health subcommittee of an existing advisory council. The council's members must reflect a broad range of community interests. They must include at least one consumer, one family member of an adult with mental illness, one mental health professional, and one community support services program representative. The local adult mental health advisory council or mental health subcommittee of an existing advisory council shall meet at least quarterly to review, evaluate, and make recommendations regarding the local mental health system. Annually, the local adult mental health advisory council or mental health subcommittee of an existing advisory council shall:

(1) arrange for input from the regional treatment center's mental illness program unit regarding coordination of care between the regional treatment center and community-based services;

(2) identify for the county board the individuals, providers, agencies, and associations as specified in section 245.462, subdivision 10;

(3) provide to the county board a report of unmet mental health needs of adults residing in the county to be included in the county's mental health plan, and participate in developing the mental health plan; and

(4) coordinate its review, evaluation, and recommendations regarding the local mental health system with the state advisory council on mental health.

The county board shall consider the advice of its local mental health advisory council or mental health subcommittee of an existing advisory council in carrying out its authorities and responsibilities.

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

**Subd. 7. IMD downsizing flexibility.** (a) If a county presents a budget-neutral plan for a net reduction in the number of institution for mental disease (IMD) beds funded under group residential housing, the commissioner may transfer the net savings from group residential housing

and general assistance medical care to medical assistance and mental health grants to provide appropriate services in non-IMD settings. For the purposes of this subdivision, "a budget neutral plan" means a plan that does not increase the state share of costs.

(b) The provisions of paragraph (a) do not apply to a facility that has its reimbursement rate established under section 256B.431, subdivision 4, paragraph (c).

**History:** 1987 c 403 art 2 s 21; 1988 c 689 art 2 s 75-77; 1989 c 282 art 4 s 7-10; 1991 c 94 s 2,24; 1Sp1993 c 1 art 7 s 5; 1997 c 107 s 2; 1999 c 86 art 1 s 56; 1Sp2003 c 14 art 11 s 11; 2005 c 10 art 1 s 42; 2005 c 98 art 3 s 4,5

## **245.4661 PILOT PROJECTS; ADULT MENTAL HEALTH SERVICES.**

Subdivision 1. **Authorization for pilot projects.** The commissioner of human services may approve pilot projects to provide alternatives to or enhance coordination of the delivery of mental health services required under the Minnesota Comprehensive Adult Mental Health Act, Minnesota Statutes, sections 245.461 to 245.486.

Subd. 2. **Program design and implementation.** (a) The pilot projects shall be established to design, plan, and improve the mental health service delivery system for adults with serious and persistent mental illness that would:

(1) provide an expanded array of services from which clients can choose services appropriate to their needs;

(2) be based on purchasing strategies that improve access and coordinate services without cost shifting;

(3) incorporate existing state facilities and resources into the community mental health infrastructure through creative partnerships with local vendors; and

(4) utilize existing categorical funding streams and reimbursement sources in combined and creative ways, except appropriations to regional treatment centers and all funds that are attributable to the operation of state-operated services are excluded unless appropriated specifically by the legislature for a purpose consistent with this section or section 246.0136, subdivision 1.

(b) All projects funded by January 1, 1997, must complete the planning phase and be operational by June 30, 1997; all projects funded by January 1, 1998, must be operational by June 30, 1998.

Subd. 3. **Program evaluation.** Evaluation of each project will be based on outcome evaluation criteria negotiated with each project prior to implementation.

Subd. 4. **Notice of project discontinuation.** Each project may be discontinued for any reason by the project's managing entity or the commissioner of human services, after 90 days' written notice to the other party.

Subd. 5. **Planning for pilot projects.** Each local plan for a pilot project must be developed under the direction of the county board, or multiple county boards acting jointly, as the local mental health authority. The planning process for each pilot shall include, but not be limited to, mental health consumers, families, advocates, local mental health advisory councils, local and state providers, representatives of state and local public employee bargaining units, and the department of human services. As part of the planning process, the county board or boards shall designate a managing entity responsible for receipt of funds and management of the pilot project.

Subd. 6. **Duties of commissioner.** (a) For purposes of the pilot projects, the commissioner

shall facilitate integration of funds or other resources as needed and requested by each project. These resources may include:

(1) residential services funds administered under Minnesota Rules, parts 9535.2000 to 9535.3000, in an amount to be determined by mutual agreement between the project's managing entity and the commissioner of human services after an examination of the county's historical utilization of facilities located both within and outside of the county and licensed under Minnesota Rules, parts 9520.0500 to 9520.0690;

(2) community support services funds administered under Minnesota Rules, parts 9535.1700 to 9535.1760;

(3) other mental health special project funds;

(4) medical assistance, general assistance medical care, MinnesotaCare and group residential housing if requested by the project's managing entity, and if the commissioner determines this would be consistent with the state's overall health care reform efforts; and

(5) regional treatment center resources consistent with section 246.0136, subdivision 1.

(b) The commissioner shall consider the following criteria in awarding start-up and implementation grants for the pilot projects:

(1) the ability of the proposed projects to accomplish the objectives described in subdivision 2;

(2) the size of the target population to be served; and

(3) geographical distribution.

(c) The commissioner shall review overall status of the projects initiatives at least every two years and recommend any legislative changes needed by January 15 of each odd-numbered year.

(d) The commissioner may waive administrative rule requirements which are incompatible with the implementation of the pilot project.

(e) The commissioner may exempt the participating counties from fiscal sanctions for noncompliance with requirements in laws and rules which are incompatible with the implementation of the pilot project.

(f) The commissioner may award grants to an entity designated by a county board or group of county boards to pay for start-up and implementation costs of the pilot project.

**Subd. 7. Duties of county board.** The county board, or other entity which is approved to administer a pilot project, shall:

(1) administer the project in a manner which is consistent with the objectives described in subdivision 2 and the planning process described in subdivision 5;

(2) assure that no one is denied services for which they would otherwise be eligible; and

(3) provide the commissioner of human services with timely and pertinent information through the following methods:

(i) submission of mental health plans and plan amendments which are based on a format and timetable determined by the commissioner;

(ii) submission of social services expenditure and grant reconciliation reports, based on a coding format to be determined by mutual agreement between the project's managing entity and the commissioner; and

(iii) submission of data and participation in an evaluation of the pilot projects, to be designed cooperatively by the commissioner and the projects.

Subd. 8. **Budget flexibility.** The commissioner may make budget transfers that do not increase the state share of costs to effectively implement the restructuring of adult mental health services.

**History:** 1999 c 245 art 5 s 21; 2005 c 98 art 3 s 6; 1Sp2005 c 4 art 2 s 2; art 5 s 4,5

## 245.467 QUALITY OF SERVICES.

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

- (1) based, when feasible, on research findings;
- (2) based on individual clinical needs, cultural and ethnic needs, and other special needs of individuals being served;
- (3) provided in the most appropriate, least restrictive setting available to the county board;
- (4) accessible to all age groups;
- (5) delivered in a manner that provides accountability;
- (6) provided by qualified individuals as required in this chapter;
- (7) coordinated with mental health services offered by other providers; and
- (8) provided under conditions which protect the rights and dignity of the individuals being served.

Subd. 2. **Diagnostic assessment.** All providers of residential, acute care hospital inpatient, and regional treatment centers must complete a diagnostic assessment for each of their clients within five days of admission. Providers of outpatient and day treatment services must complete a diagnostic assessment within five days after the adult's second visit or within 30 days after intake, whichever occurs first. In cases where a diagnostic assessment is available and has been completed within 180 days preceding admission, only updating is necessary. "Updating" means a written summary by a mental health professional of the adult's current mental health status and service needs. If the adult's mental health status has changed markedly since the adult's most recent diagnostic assessment, a new diagnostic assessment is required. Compliance with the provisions of this subdivision does not ensure eligibility for medical assistance or general assistance medical care reimbursement under chapters 256B and 256D.

Subd. 3. **Individual treatment plans.** All providers of outpatient services, day treatment services, residential treatment, acute care hospital inpatient treatment, and all regional treatment centers must develop an individual treatment plan for each of their adult clients. The individual treatment plan must be based on a diagnostic assessment. To the extent possible, the adult client shall be involved in all phases of developing and implementing the individual treatment plan. Providers of residential treatment and acute care hospital inpatient treatment, and all regional treatment centers must develop the individual treatment plan within ten days of client intake and must review the individual treatment plan every 90 days after intake. Providers of day treatment services must develop the individual treatment plan before the completion of five working days in which service is provided or within 30 days after the diagnostic assessment is completed or obtained, whichever occurs first. Providers of outpatient services must develop the individual treatment plan within 30 days after the diagnostic assessment is completed or obtained or by the end of the second session of an outpatient service, not including the session in which the

diagnostic assessment was provided, whichever occurs first. Outpatient and day treatment services providers must review the individual treatment plan every 90 days after intake.

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

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

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

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

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

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

**History:** 1987 c 403 art 2 s 22; 1988 c 689 art 2 s 78-80; 1989 c 282 art 4 s 11-13; 1990 c 568 art 5 s 1,2

## **245.468 EDUCATION AND PREVENTION SERVICES.**

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

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

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

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

(4) prevent development or deepening of mental illness; and

(5) refer adults with additional mental health needs to appropriate mental health services.

**History:** 1987 c 403 art 2 s 23; 1989 c 282 art 4 s 14

**245.4682 MENTAL HEALTH SERVICE DELIVERY AND FINANCE REFORM.**

Subdivision 1. **Policy.** The commissioner of human services shall undertake a series of reforms to address the underlying structural, financial, and organizational problems in Minnesota's mental health system with the goal of improving the availability, quality, and accountability of mental health care within the state.

Subd. 2. **General provisions.** (a) In the design and implementation of reforms to the mental health system, the commissioner shall:

(1) consult with consumers, families, counties, tribes, advocates, providers, and other stakeholders;

(2) bring to the legislature, and the State Advisory Council on Mental Health, by January 15, 2008, recommendations for legislation to update the role of counties and to clarify the case management roles, functions, and decision-making authority of health plans and counties, and to clarify county retention of the responsibility for the delivery of social services as required under subdivision 3, paragraph (a);

(3) withhold implementation of any recommended changes in case management roles, functions, and decision-making authority until after the release of the report due January 15, 2008;

(4) ensure continuity of care for persons affected by these reforms including ensuring client choice of provider by requiring broad provider networks and developing mechanisms to facilitate a smooth transition of service responsibilities;

(5) provide accountability for the efficient and effective use of public and private resources in achieving positive outcomes for consumers;

(6) ensure client access to applicable protections and appeals; and

(7) make budget transfers necessary to implement the reallocation of services and client responsibilities between counties and health care programs that do not increase the state and county costs and efficiently allocate state funds.

(b) When making transfers under paragraph (a) necessary to implement movement of responsibility for clients and services between counties and health care programs, the commissioner, in consultation with counties, shall ensure that any transfer of state grants to health care programs, including the value of case management transfer grants under section 256B.0625, subdivision 20, does not exceed the value of the services being transferred for the latest 12-month period for which data is available. The commissioner may make quarterly adjustments based on the availability of additional data during the first four quarters after the transfers first occur. If case management transfer grants under section 256B.0625, subdivision 20, are repealed and the value, based on the last year prior to repeal, exceeds the value of the services being transferred, the difference becomes an ongoing part of each county's adult and children's mental health grants under sections 245.4661, 245.4889, and 256E.12.

(c) This appropriation is not authorized to be expended after December 31, 2010, unless approved by the legislature.

Subd. 3. **Projects for coordination of care.** (a) Consistent with section 256B.69 and chapters 256D and 256L, the commissioner is authorized to solicit, approve, and implement up to three projects to demonstrate the integration of physical and mental health services within prepaid health plans and their coordination with social services. The commissioner shall require that each project be based on locally defined partnerships that include at least one health maintenance



organization, community integrated service network, or accountable provider network authorized and operating under chapter 62D, 62N, or 62T, or county-based purchasing entity under section 256B.692 that is eligible to contract with the commissioner as a prepaid health plan, and the county or counties within the service area. Counties shall retain responsibility and authority for social services in these locally defined partnerships.

(b) The commissioner, in consultation with consumers, families, and their representatives, shall:

(1) determine criteria for approving the projects and use those criteria to solicit proposals for preferred integrated networks. The commissioner must develop criteria to evaluate the partnership proposed by the county and prepaid health plan to coordinate access and delivery of services. The proposal must at a minimum address how the partnership will coordinate the provision of:

(i) client outreach and identification of health and social service needs paired with expedited access to appropriate resources;

(ii) activities to maintain continuity of health care coverage;

(iii) children's residential mental health treatment and treatment foster care;

(iv) court-ordered assessments and treatments;

(v) prepetition screening and commitments under chapter 253B;

(vi) assessment and treatment of children identified through mental health screening of child welfare and juvenile corrections cases;

(vii) home and community-based waiver services;

(viii) assistance with finding and maintaining employment;

(ix) housing; and

(x) transportation;

(2) determine specifications for contracts with prepaid health plans to improve the plan's ability to serve persons with mental health conditions, including specifications addressing:

(i) early identification and intervention of physical and behavioral health problems;

(ii) communication between the enrollee and the health plan;

(iii) facilitation of enrollment for persons who are also eligible for a Medicare special needs plan offered by the health plan;

(iv) risk screening procedures;

(v) health care coordination;

(vi) member services and access to applicable protections and appeal processes;

(vii) specialty provider networks;

(viii) transportation services;

(ix) treatment planning; and

(x) administrative simplification for providers;

(3) begin implementation of the projects no earlier than January 1, 2009, with not more than 40 percent of the statewide population included during calendar year 2009 and additional counties included in subsequent years;

(4) waive any administrative rule not consistent with the implementation of the projects;

(5) allow potential bidders at least 90 days to respond to the request for proposals; and

(6) conduct an independent evaluation to determine if mental health outcomes have improved in that county or counties according to measurable standards designed in consultation with the advisory body established under this subdivision and reviewed by the State Advisory Council on Mental Health.

(c) Notwithstanding any statute or administrative rule to the contrary, the commissioner may enroll all persons eligible for medical assistance with serious mental illness or emotional disturbance in the prepaid plan of their choice within the project service area unless:

(1) the individual is eligible for home and community-based services for persons with developmental disabilities and related conditions under section 256B.092; or

(2) the individual has a basis for exclusion from the prepaid plan under section 256B.69, subdivision 4, other than disability, mental illness, or emotional disturbance.

(d) The commissioner shall involve organizations representing persons with mental illness and their families in the development and distribution of information used to educate potential enrollees regarding their options for health care and mental health service delivery under this subdivision.

(e) If the person described in paragraph (c) does not elect to remain in fee-for-service medical assistance, or declines to choose a plan, the commissioner may preferentially assign that person to the prepaid plan participating in the preferred integrated network. The commissioner shall implement the enrollment changes within a project's service area on the timeline specified in that project's approved application.

(f) A person enrolled in a prepaid health plan under paragraphs (c) and (d) may disenroll from the plan at any time.

(g) The commissioner, in consultation with consumers, families, and their representatives, shall evaluate the projects begun in 2009, and shall refine the design of the service integration projects before expanding the projects. The commissioner shall report to the chairs of the legislative committees with jurisdiction over mental health services by March 1, 2008, on plans for evaluation of preferred integrated networks established under this subdivision.

(h) The commissioner shall apply for any federal waivers necessary to implement these changes.

(i) Payment for Medicaid service providers under this subdivision for the months of May and June will be made no earlier than July 1 of the same calendar year.

**History:** 2007 c 147 art 8 s 5

## **245.469 EMERGENCY SERVICES.**

Subdivision 1. **Availability of emergency services.** By July 1, 1988, county boards must provide or contract for enough emergency services within the county to meet the needs of adults in the county who are experiencing an emotional crisis or mental illness. Clients may be required to pay a fee according to section 245.481. Emergency services must include assessment, crisis intervention, and appropriate case disposition. Emergency services must:

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

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

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

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

**Subd. 2. Specific requirements.** (a) The county board shall require that all service providers of emergency services to adults with mental illness provide immediate direct access to a mental health professional during regular business hours. For evenings, weekends, and holidays, the service may be by direct toll-free telephone access to a mental health professional, a mental health practitioner, or until January 1, 1991, a designated person with training in human services who receives clinical supervision from a mental health professional.

(b) The commissioner may waive the requirement in paragraph (a) that the evening, weekend, and holiday service be provided by a mental health professional or mental health practitioner after January 1, 1991, if the county documents that:

(1) mental health professionals or mental health practitioners are unavailable to provide this service;

(2) services are provided by a designated person with training in human services who receives clinical supervision from a mental health professional; and

(3) the service provider is not also the provider of fire and public safety emergency services.

(c) The commissioner may waive the requirement in paragraph (b), clause (3), that the evening, weekend, and holiday service not be provided by the provider of fire and public safety emergency services if:

(1) every person who will be providing the first telephone contact has received at least eight hours of training on emergency mental health services reviewed by the state advisory council on mental health and then approved by the commissioner;

(2) every person who will be providing the first telephone contact will annually receive at least four hours of continued training on emergency mental health services reviewed by the state advisory council on mental health and then approved by the commissioner;

(3) the local social service agency has provided public education about available emergency mental health services and can assure potential users of emergency services that their calls will be handled appropriately;

(4) the local social service agency agrees to provide the commissioner with accurate data on the number of emergency mental health service calls received;

(5) the local social service agency agrees to monitor the frequency and quality of emergency services; and

(6) the local social service agency describes how it will comply with paragraph (d).

(d) Whenever emergency service during nonbusiness hours is provided by anyone other than a mental health professional, a mental health professional must be available on call for an emergency assessment and crisis intervention services, and must be available for at least telephone consultation within 30 minutes.

**History:** 1987 c 403 art 2 s 24; 1988 c 689 art 2 s 81; 1989 c 282 art 4 s 15; 1990 c 568 art 5 s 3; 1991 c 312 s 1

**245.470 OUTPATIENT SERVICES.**

Subdivision 1. **Availability of outpatient services.** (a) County boards must provide or contract for enough outpatient services within the county to meet the needs of adults with mental illness residing in the county. Services may be provided directly by the county through county-operated mental health centers or mental health clinics approved by the commissioner under section 245.69, subdivision 2; by contract with privately operated mental health centers or mental health clinics approved by the commissioner under section 245.69, subdivision 2; by contract with hospital mental health outpatient programs certified by the Joint Commission on Accreditation of Hospital Organizations; or by contract with a licensed mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (6). Clients may be required to pay a fee according to section 245.481. Outpatient services include:

- (1) conducting diagnostic assessments;
- (2) conducting psychological testing;
- (3) developing or modifying individual treatment plans;
- (4) making referrals and recommending placements as appropriate;
- (5) treating an adult's mental health needs through therapy;
- (6) prescribing and managing medication and evaluating the effectiveness of prescribed medication; and
- (7) preventing placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs.

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

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

- (1) meet the professional qualifications contained in sections 245.461 to 245.486;
- (2) use a multidisciplinary mental health professional staff including at a minimum, arrangements for psychiatric consultation, licensed psychologist consultation, and other necessary multidisciplinary mental health professionals;
- (3) develop individual treatment plans;
- (4) provide initial appointments within three weeks, except in emergencies where there must be immediate access as described in section 245.469; and
- (5) establish fee schedules approved by the county board that are based on a client's ability to pay.

**History:** 1987 c 403 art 2 s 25; 1989 c 282 art 4 s 16; 1990 c 568 art 2 s 38; 1991 c 255 s 19; 1993 c 339 s 2; 2009 c 79 art 7 s 2

**245.4705 EMPLOYMENT SUPPORT SERVICES AND PROGRAMS.**

The commissioner of human services shall cooperate with the commissioner of employment and economic development in the operation of a statewide system, as provided in section 268A.14, to reimburse providers for employment support services for persons with mental illness.

**History:** 1999 c 223 art 2 s 36; 2004 c 206 s 52

**245.471** [Repealed, 1989 c 282 art 4 s 64]

**245.4711 CASE MANAGEMENT SERVICES.**

Subdivision 1. **Availability of case management services.** (a) By January 1, 1989, the county board shall provide case management services for all adults with serious and persistent mental illness who are residents of the county and who request or consent to the services and to each adult for whom the court appoints a case manager. Staffing ratios must be sufficient to serve the needs of the clients. The case manager must meet the requirements in section 245.462, subdivision 4.

(b) Case management services provided to adults with serious and persistent mental illness eligible for medical assistance must be billed to the medical assistance program under sections 256B.02, subdivision 8, and 256B.0625.

(c) Case management services are eligible for reimbursement under the medical assistance program. Costs associated with mentoring, supervision, and continuing education may be included in the reimbursement rate methodology used for case management services under the medical assistance program.

Subd. 2. **Notification and determination of case management eligibility.** (a) The county board shall notify the adult of the adult's potential eligibility for case management services within five working days after receiving a request from an individual or a referral from a provider under section 245.467, subdivision 4. The county board shall send a written notice to the adult and the adult's representative, if any, that identifies the designated case management providers.

(b) The county board must determine whether an adult who requests or is referred for case management services meets the criteria of section 245.462, subdivision 20, paragraph (c). If a diagnostic assessment is needed to make the determination, the county board shall offer to assist the adult in obtaining a diagnostic assessment. The county board shall notify, in writing, the adult and the adult's representative, if any, of the eligibility determination. If the adult is determined to be eligible for case management services, the county board shall refer the adult to the case management provider for case management services. If the adult is determined not to be eligible or refuses case management services, the local agency shall offer to refer the adult to a mental health provider or other appropriate service provider and to assist the adult in making an appointment with the provider of the adult's choice.

Subd. 3. **Duties of case manager.** Upon a determination of eligibility for case management services, and if the adult consents to the services, the case manager shall complete a written functional assessment according to section 245.462, subdivision 11a. The case manager shall develop an individual community support plan for the adult according to subdivision 4, paragraph (a), review the adult's progress, and monitor the provision of services. If services are to be provided in a host county that is not the county of financial responsibility, the case manager shall consult with the host county and obtain a letter demonstrating the concurrence of the host county regarding the provision of services.

Subd. 4. **Individual community support plan.** (a) The case manager must develop an individual community support plan for each adult that incorporates the client's individual treatment plan. The individual treatment plan may not be a substitute for the development of an individual community support plan. The individual community support plan must be developed within 30 days of client intake and reviewed at least every 180 days after it is developed, unless the case manager receives a written request from the client or the client's family for a review of the plan

every 90 days after it is developed. The case manager is responsible for developing the individual community support plan based on a diagnostic assessment and a functional assessment and for implementing and monitoring the delivery of services according to the individual community support plan. To the extent possible, the adult with serious and persistent mental illness, the person's family, advocates, service providers, and significant others must be involved in all phases of development and implementation of the individual or family community support plan.

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

- (1) the goals of each service;
- (2) the activities for accomplishing each goal;
- (3) a schedule for each activity; and

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

Subd. 5. **Coordination between case manager and community support services.** The county board must establish procedures that ensure ongoing contact and coordination between the case manager and the community support services program as well as other mental health services.

Subd. 6. [Repealed, 1990 c 568 art 5 s 35]

Subd. 7. [Repealed, 1990 c 568 art 5 s 35]

Subd. 8. [Repealed, 1990 c 568 art 5 s 35]

Subd. 9. [Repealed, 1997 c 93 s 4]

**History:** 1989 c 282 art 4 s 17; 1990 c 568 art 5 s 4-6; 1991 c 292 art 6 s 5; 1997 c 93 s 1; 1999 c 245 art 5 s 4

## COMMUNITY SUPPORT AND DAY TREATMENT SERVICES

### 245.4712 COMMUNITY SUPPORT AND DAY TREATMENT SERVICES.

Subdivision 1. **Availability of community support services.** (a) County boards must provide or contract for sufficient community support services within the county to meet the needs of adults with serious and persistent mental illness who are residents of the county. Adults may be required to pay a fee according to section 245.481. The community support services program must be designed to improve the ability of adults with serious and persistent mental illness to:

- (1) work in a regular or supported work environment;
- (2) handle basic activities of daily living;
- (3) participate in leisure time activities;
- (4) set goals and plans; and
- (5) obtain and maintain appropriate living arrangements.

The community support services program must also be designed to reduce the need for and use of more intensive, costly, or restrictive placements both in number of admissions and length of stay.

(b) Community support services are those services that are supportive in nature and not necessarily treatment oriented, and include:

(1) conducting outreach activities such as home visits, health and wellness checks, and problem solving;

(2) connecting people to resources to meet their basic needs;

(3) finding, securing, and supporting people in their housing;

(4) attaining and maintaining health insurance benefits;

(5) assisting with job applications, finding and maintaining employment, and securing a stable financial situation;

(6) fostering social support, including support groups, mentoring, peer support, and other efforts to prevent isolation and promote recovery; and

(7) educating about mental illness, treatment, and recovery.

(c) Community support services shall use all available funding streams. The county shall maintain the level of expenditures for this program, as required under section 245.4835. County boards must continue to provide funds for those services not covered by other funding streams and to maintain an infrastructure to carry out these services.

(d) The commissioner shall collect data on community support services programs, including, but not limited to, demographic information such as age, sex, race, the number of people served, and information related to housing, employment, hospitalization, symptoms, and satisfaction with services.

Subd. 2. **Day treatment services provided.** (a) Day treatment services must be developed as a part of the community support services available to adults with serious and persistent mental illness residing in the county. Adults may be required to pay a fee according to section 245.481. Day treatment services must be designed to:

(1) provide a structured environment for treatment;

(2) provide support for residing in the community;

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

(4) coordinate with or be offered in conjunction with a local education agency's special education program; and

(5) operate on a continuous basis throughout the year.

(b) For purposes of complying with medical assistance requirements, an adult day treatment program may choose among the methods of clinical supervision specified in:

(1) Minnesota Rules, part 9505.0323, subpart 1, item F;

(2) Minnesota Rules, part 9505.0324, subpart 6, item F; or

(3) Minnesota Rules, part 9520.0800, subparts 2 to 6.

A day treatment program may demonstrate compliance with these clinical supervision requirements by obtaining certification from the commissioner under Minnesota Rules, parts 9520.0750 to 9520.0870, or by documenting in its own records that it complies with one of the above methods.

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

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

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

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

Subd. 3. **Benefits assistance.** The county board must offer to help adults with serious and persistent mental illness in applying for state and federal benefits, including supplemental security income, medical assistance, Medicare, general assistance, general assistance medical care, and Minnesota supplemental aid. The help must be offered as part of the community support program available to adults with serious and persistent mental illness for whom the county is financially responsible and who may qualify for these benefits.

**History:** 1990 c 568 art 5 s 7; 1999 c 245 art 5 s 5; 2007 c 147 art 8 s 6

#### **245.472 RESIDENTIAL TREATMENT SERVICES.**

Subdivision 1. **Availability of residential treatment services.** By July 1, 1988, county boards must provide or contract for enough residential treatment services to meet the needs of all adults with mental illness residing in the county and needing this level of care. Residential treatment services include both intensive and structured residential treatment with length of stay based on client residential treatment need. Services must be as close to the county as possible. Residential treatment must be designed to:

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

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

(3) help clients gain the necessary skills to function in a less structured setting; and

(4) stabilize crisis admissions.

Subd. 2. **Specific requirements.** Providers of residential services must be licensed under applicable rules adopted by the commissioner and must be clinically supervised by a mental health professional. Persons employed in facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, in the capacity of program director as of July 1, 1987, in accordance with Minnesota Rules, parts 9520.0500 to 9520.0690, may be allowed to continue providing clinical supervision within a facility, provided they continue to be employed as a program director in a facility licensed under Minnesota Rules, parts 9520.0500 to 9520.0690.

Subd. 3. **Transition to community.** Residential treatment programs must plan for and assist clients in making a transition from residential treatment facilities to other community-based services. In coordination with the client's case manager, if any, residential treatment facilities must also arrange for appropriate follow-up care in the community during the transition period. Before a client is discharged, the residential treatment facility must notify the client's case manager, so that the case manager can monitor and coordinate the transition and arrangements for the client's appropriate follow-up care in the community.

Subd. 4. **Admission, continued stay, and discharge criteria.** No later than January 1, 1992, the county board shall ensure that placement decisions for residential services are based on the clinical needs of the adult. The county board shall ensure that each entity under contract



with the county to provide residential treatment services has admission, continued stay, discharge criteria and discharge planning criteria as part of the contract. Contracts shall specify specific responsibilities between the county and service providers to ensure comprehensive planning and continuity of care between needed services according to data privacy requirements. All contracts for the provision of residential services must include provisions guaranteeing clients the right to appeal under section 245.477 and to be advised of their appeal rights.

**History:** 1987 c 403 art 2 s 27; 1988 c 689 art 2 s 84; 1989 c 282 art 4 s 18,19; 1991 c 292 art 6 s 6,7

#### **245.473 ACUTE CARE HOSPITAL INPATIENT SERVICES.**

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

- (1) stabilize the medical and mental health condition for which admission is required;
- (2) improve functioning to the point where discharge to residential treatment or community-based mental health services is possible; and
- (3) facilitate appropriate referrals for follow-up mental health care in the community.

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

Subd. 3. **Admission, continued stay, and discharge criteria.** No later than January 1, 1992, the county board shall ensure that placement decisions for acute care inpatient services are based on the clinical needs of the adult. The county board shall ensure that each entity under contract with the county to provide acute care hospital treatment services has admission, continued stay, discharge criteria and discharge planning criteria as part of the contract. Contracts shall specify specific responsibilities between the county and service providers to ensure comprehensive planning and continuity of care between needed services according to data privacy requirements. All contracts for the provision of acute care hospital inpatient treatment services must include provisions guaranteeing clients the right to appeal under section 245.477 and to be advised of their appeal rights.

Subd. 4. **Individual placement agreement.** Except for services reimbursed under chapters 256B and 256D, the county board shall enter into an individual placement agreement with a provider of acute care hospital inpatient treatment services to an adult eligible for services under this section. The agreement must specify the payment rate and the terms and conditions of county payment for the placement.

**History:** 1987 c 403 art 2 s 28; 1989 c 282 art 4 s 20; 1991 c 292 art 6 s 8,9

#### **245.474 REGIONAL TREATMENT CENTER INPATIENT SERVICES.**

Subdivision 1. **Availability of regional treatment center inpatient services.** By July 1, 1987, the commissioner shall make sufficient regional treatment center inpatient services available to adults with mental illness throughout the state who need this level of care. Inpatient services may be provided either on the regional treatment center campus or at any state facility or program as defined in section 246.50, subdivision 3. Services must be as close to the patient's county of residence as possible. Regional treatment centers are responsible to:

- (1) provide acute care inpatient hospitalization;
- (2) stabilize the medical and mental health condition of the adult requiring the admission;
- (3) improve functioning to the point where discharge to community-based mental health services is possible;
- (4) strengthen family and community support; and
- (5) facilitate appropriate discharge and referrals for follow-up mental health care in the community.

Subd. 2. **Quality of service.** The commissioner shall biennially determine the needs of all adults with mental illness who are served by regional treatment centers or at any state facility or program as defined in section 246.50, subdivision 3, by administering a client-based evaluation system. The client-based evaluation system must include at least the following independent measurements: behavioral development assessment; habilitation program assessment; medical needs assessment; maladaptive behavioral assessment; and vocational behavior assessment. The commissioner shall propose staff ratios to the legislature for the mental health and support units in regional treatment centers as indicated by the results of the client-based evaluation system and the types of state-operated services needed. The proposed staffing ratios shall include professional, nursing, direct care, medical, clerical, and support staff based on the client-based evaluation system. The commissioner shall recompute staffing ratios and recommendations on a biennial basis.

Subd. 3. **Transition to community.** Regional treatment centers must plan for and assist clients in making a transition from regional treatment centers and other inpatient facilities or programs, as defined in section 246.50, subdivision 3, to other community-based services. In coordination with the client's case manager, if any, regional treatment centers must also arrange for appropriate follow-up care in the community during the transition period. Before a client is discharged, the regional treatment center must notify the client's case manager, so that the case manager can monitor and coordinate the transition and arrangements for the client's appropriate follow-up care in the community.

Subd. 4. **Staff safety training.** The commissioner shall require all staff in mental health and support units at regional treatment centers who have contact with persons with mental illness or severe emotional disturbance to be appropriately trained in violence reduction and violence prevention and shall establish criteria for such training. Training programs shall be developed with input from consumer advocacy organizations and shall employ violence prevention techniques as preferable to physical interaction.

**History:** 1987 c 403 art 2 s 29; 1989 c 282 art 4 s 21; 1990 c 568 art 5 s 8; 1Sp1993 c 1 art 7 s 6; 1Sp2001 c 9 art 9 s 9; 2002 c 277 s 2; 2002 c 379 art 1 s 113

**245.475** [Repealed, 1989 c 282 art 4 s 64]

## **245.476 SCREENING FOR INPATIENT AND RESIDENTIAL TREATMENT.**

Subdivision 1. [Repealed, 1991 c 292 art 6 s 59]

Subd. 2. [Repealed, 1991 c 292 art 6 s 59]

Subd. 3. [Repealed, 1991 c 292 art 6 s 59]

Subd. 4. [Repealed, 1993 c 337 s 20]

Subd. 5. **Report on preadmission screening.** The commissioner shall review the statutory preadmission screening requirements for psychiatric hospitalization, both in the regional treatment centers and other hospitals, to determine if changes in preadmission screening are needed. The commissioner shall deliver a report of the review to the legislature by January 31, 1990.

**History:** 1987 c 403 art 2 s 31; 1988 c 689 art 2 s 87; 1989 c 282 art 4 s 22-24; art 6 s 4

#### **245.477 APPEALS.**

Any adult who requests mental health services under sections 245.461 to 245.486 must be advised of services available and the right to appeal at the time of the request and each time the individual community support plan or individual treatment plan is reviewed. Any adult whose request for mental health services under sections 245.461 to 245.486 is denied, not acted upon with reasonable promptness, or whose services are suspended, reduced, or terminated by action or inaction for which the county board is responsible under sections 245.461 to 245.486 may contest that action or inaction before the state agency as specified in section 256.045. The commissioner shall monitor the nature and frequency of administrative appeals under this section.

**History:** 1987 c 403 art 2 s 32; 1988 c 689 art 2 s 88; 1989 c 282 art 4 s 25

**245.478** [Repealed, 1Sp2003 c 14 art 11 s 12]

#### **245.479 COUNTY OF FINANCIAL RESPONSIBILITY.**

For purposes of sections 245.461 to 245.486 and 245.487 to 245.4889, the county of financial responsibility is determined under section 256G.02, subdivision 4. Disputes between counties regarding financial responsibility must be resolved by the commissioner in accordance with section 256G.09.

**History:** 1987 c 403 art 2 s 35; 1988 c 689 art 2 s 92; 1989 c 282 art 4 s 28; 1991 c 292 art 6 s 58 subd 1; 1Sp2003 c 14 art 11 s 11; 2007 c 147 art 8 s 38

**245.48** [Repealed, 1995 c 264 art 3 s 51]

#### **245.481 FEES FOR MENTAL HEALTH SERVICES.**

A client or, in the case of a child, the child or the child's parent may be required to pay a fee for mental health services provided under sections 245.461 to 245.486 and 245.487 to 245.4889. The fee must be based on the person's ability to pay according to the fee schedule adopted by the county board. In adopting the fee schedule for mental health services, the county board may adopt the fee schedule provided by the commissioner or adopt a fee schedule recommended by the county board and approved by the commissioner. Agencies or individuals under contract with a county board to provide mental health services under sections 245.461 to 245.486 and 245.487 to 245.4889 must not charge clients whose mental health services are paid wholly or in part from public funds fees which exceed the county board's adopted fee schedule. This section does not apply to regional treatment center fees, which are governed by sections 246.50 to 246.55.

**History:** 1989 c 282 art 4 s 30; 1991 c 292 art 6 s 58 subd 1; 1Sp2003 c 14 art 11 s 11; 2007 c 147 art 8 s 38

#### **245.482 REPORTING AND EVALUATION.**

Subdivision 1. **Reports.** The commissioner shall specify requirements for reports, including quarterly fiscal reports, according to section 256.01, subdivision 2, paragraph (17).

Subd. 2. **Fiscal reports.** The commissioner shall develop a unified format for quarterly

fiscal reports that will include information that the commissioner determines necessary to carry out sections 245.461 to 245.486 and 245.487 to 245.4889. The county board shall submit a completed fiscal report in the required format no later than 30 days after the end of each quarter.

Subd. 3. **Program reports.** The commissioner shall develop unified formats for reporting, which will include information that the commissioner determines necessary to carry out sections 245.461 to 245.486 and 245.487 to 245.4889. The county board shall submit completed program reports in the required format according to the reporting schedule developed by the commissioner.

Subd. 4. **Provider reports.** The commissioner may develop formats and procedures for direct reporting from providers to the commissioner to include information that the commissioner determines necessary to carry out sections 245.461 to 245.486 and 245.487 to 245.4889. In particular, the provider reports must include aggregate information by county of residence about mental health services paid for by funding sources other than counties.

Subd. 5. **Commissioner's consolidated reporting recommendations.** The commissioner's reports of February 15, 1990, required under sections 245.461, subdivision 3, and 245.487, subdivision 4, shall include recommended measures to provide coordinated, interdepartmental efforts to ensure early identification and intervention for children with, or at risk of developing, emotional disturbance, to improve the efficiency of the mental health funding mechanisms, and to standardize and consolidate fiscal and program reporting. The recommended measures must provide that client needs are met in an effective and accountable manner and that state and county resources are used as efficiently as possible. The commissioner shall consider the advice of the state advisory council and the children's subcommittee in developing these recommendations.

Subd. 6. **Inaccurate or incomplete reports.** The commissioner shall promptly notify a county or provider if a required report is clearly inaccurate or incomplete. The commissioner may delay all or part of a mental health fund payment if an appropriately completed report is not received as required by this section.

Subd. 7. **Statewide evaluation.** The commissioner shall use the county and provider reports required by this section to complete the statewide report required in sections 245.461 and 245.487.

**History:** 1987 c 403 art 2 s 36; 1988 c 689 art 2 s 93; 1989 c 89 s 1; 1989 c 282 art 4 s 31; 1991 c 292 art 6 s 58 subd 1; 1994 c 465 art 3 s 17; 1Sp2003 c 14 art 11 s 11; 2007 c 147 art 8 s 38

## **245.483 TERMINATION OR RETURN OF AN ALLOCATION.**

Subdivision 1. **Funds not properly used.** If the commissioner determines that a county is not meeting the requirements of sections 245.461 to 245.486 and 245.487 to 245.4889, or that funds are not being used according to the approved mental health plan, all or part of the mental health funds may be terminated upon 30 days' notice to the county board. The commissioner may require repayment of any funds not used according to the approved mental health plan. If the commissioner receives a written appeal from the county board within the 30-day period, opportunity for a hearing under the Minnesota Administrative Procedure Act, chapter 14, must be provided before the allocation is terminated or is required to be repaid. The 30-day period begins when the county board receives the commissioner's notice by certified mail.

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

Subd. 3. **Delayed payments.** If the commissioner finds that a county board or its contractors are not in compliance with the approved mental health plan or sections 245.461 to 245.486 and 245.487 to 245.4889, the commissioner may delay payment of all or part of the quarterly mental

health funds until the county board and its contractors meet the requirements. The commissioner shall not delay a payment longer than three months without first issuing a notice under subdivision 2 that all or part of the allocation will be terminated or required to be repaid. After this notice is issued, the commissioner may continue to delay the payment until completion of the hearing in subdivision 2.

Subd. 4. **State assumption of responsibility.** If the commissioner determines that services required by sections 245.461 to 245.486 and 245.487 to 245.4889 will not be provided by the county board in the manner or to the extent required by sections 245.461 to 245.486 and 245.487 to 245.4889, the commissioner shall contract directly with providers to ensure that clients receive appropriate services. In this case, the commissioner shall use the county's mental health funds to the extent necessary to carry out the county's responsibilities under sections 245.461 to 245.486 and 245.487 to 245.4889. The commissioner shall work with the county board to allow for a return of authority and responsibility to the county board as soon as compliance with sections 245.461 to 245.486 and 245.487 to 245.4889 can be assured.

**History:** 1987 c 403 art 2 s 37; 1989 c 282 art 4 s 32; 1991 c 94 s 24; 1991 c 292 art 6 s 58 subd 1; 1Sp2003 c 14 art 11 s 11; 2005 c 98 art 3 s 7,8,24; 2007 c 147 art 8 s 38

#### **245.4835 COUNTY MAINTENANCE OF EFFORT.**

Subdivision 1. **Required expenditures.** (a) Counties must maintain a level of expenditures for mental health services under sections 245.461 to 245.484 and 245.487 to 245.4889 so that each year's county expenditures are at least equal to that county's average expenditures for those services for calendar years 2004 and 2005. The commissioner will adjust each county's base level for minimum expenditures in each year by the amount of any increase or decrease in that county's state grants or other noncounty revenues for mental health services under sections 245.461 to 245.484 and 245.487 to 245.4889.

(b) In order to simplify administration and improve budgeting predictability, the commissioner:

(1) shall use each county's actual prior year revenues to adjust the county's minimum required expenditures for the coming year;

(2) may use more current information regarding major changes in revenues if the change is known early enough to allow counties time to adjust their budgets;

(3) shall allocate each county's revenues proportionally across applicable expenditures;

(4) shall adjust each county's base to allow for major changes in state or federal block grants or other revenues that can be used for mental health services, but are not dedicated to mental health; in this case, the commissioner shall calculate the mental health share of total county expenditures that were eligible to be funded from that revenue source in the base year, and use that mental health share to allocate the change in those revenues to mental health. This clause applies to changes in revenues that are beyond the county's control; and

(5) may adjust a county's base if the county's population is substantially declining and the county's per capita mental health expenditures are substantially higher than the state average, and the commissioner has determined that mental health services in that county would not be negatively impacted.

(c) Paragraph (b), clause (4), expires December 31, 2011.

Subd. 2. **Failure to maintain expenditures.** (a) If a county does not comply with

subdivision 1, the commissioner shall require the county to develop a corrective action plan according to a format and timeline established by the commissioner. If the commissioner determines that a county has not developed an acceptable corrective action plan within the required timeline, or that the county is not in compliance with an approved corrective action plan, the protections provided to that county under section 245.485 do not apply.

(b) The commissioner shall consider the following factors to determine whether to approve a county's corrective action plan:

(1) the degree to which a county is maximizing revenues for mental health services from noncounty sources;

(2) the degree to which a county is expanding use of alternative services that meet mental health needs, but do not count as mental health services within existing reporting systems. If approved by the commissioner, the alternative services must be included in the county's base as well as subsequent years. The commissioner's approval for alternative services must be based on the following criteria:

(i) the service must be provided to children with emotional disturbance or adults with mental illness;

(ii) the services must be based on an individual treatment plan or individual community support plan as defined in the Comprehensive Mental Health Act; and

(iii) the services must be supervised by a mental health professional and provided by staff who meet the staff qualifications defined in sections 256B.0943, subdivision 7, and 256B.0622, subdivision 5.

(c) Additional county expenditures to make up for the prior year's underspending may be spread out over a two-year period.

**History:** 2006 c 282 art 16 s 4; 2007 c 147 art 8 s 38; 2009 c 167 s 2,3

#### **245.484 RULES.**

The commissioner shall adopt emergency rules to govern implementation of case management services for eligible children in section 245.4881 and professional home-based family treatment services for medical assistance eligible children, in section 245.4884, subdivision 3, by January 1, 1992, and must adopt permanent rules by January 1, 1993.

The commissioner shall adopt permanent rules as necessary to carry out sections 245.461 to 245.486 and 245.487 to 245.4889. The commissioner shall reassign agency staff as necessary to meet this deadline.

By January 1, 1994, the commissioner shall adopt permanent rules specifying program requirements for family community support services.

**History:** 1987 c 403 art 2 s 38; 1989 c 282 art 4 s 33; 1991 c 292 art 6 s 10,58 subd 1; 1992 c 571 art 10 s 10; 1Sp1993 c 1 art 7 s 7; 1Sp2003 c 14 art 11 s 11; 2007 c 147 art 8 s 38

#### **245.485 WHERE A CLAIM MUST BE BROUGHT.**

Sections 245.461 to 245.484 and 245.487 to 245.4889 do not independently establish a right of action on behalf of recipients of services or service providers against a county board or the commissioner. A claim for monetary damages must be brought under section 3.736 or 3.751.

**History:** 1987 c 403 art 2 s 39; 1989 c 282 art 4 s 34; 1991 c 292 art 6 s 58 subd 1; 1Sp2003 c 14 art 11 s 11; 2007 c 147 art 8 s 38

**245.486 LIMITED APPROPRIATIONS.**

Nothing in sections 245.461 to 245.485 and 245.487 to 245.4889 shall be construed to require the commissioner or county boards to fund services beyond the limits of legislative appropriations.

**History:** 1987 c 403 art 2 s 40; 1989 c 282 art 4 s 35; 1991 c 292 art 6 s 58 subd 1; 1Sp2003 c 14 art 11 s 11; 2007 c 147 art 8 s 38

**245.4861 PUBLIC/ACADEMIC LIAISON INITIATIVE.**

Subdivision 1. **Establishment of liaison initiative.** The commissioner of human services, in consultation with the appropriate postsecondary institutions, shall establish a public/academic liaison initiative to coordinate and develop brain research and education and training opportunities for mental health professionals in order to improve the quality of staffing and provide state-of-the-art services to residents in regional treatment centers and other state facilities.

Subd. 2. **Consultation.** The commissioner of human services shall consult with the Minnesota Department of Health, the regional treatment centers, the postsecondary educational system, mental health professionals, and citizen and advisory groups.

Subd. 3. **Liaison initiative programs.** The liaison initiative, within the extent of available funding, shall plan, implement, and administer programs which accomplish the objectives of subdivision 1. These shall include but are not limited to:

(1) encourage and coordinate joint research efforts between academic research institutions throughout the state and regional treatment centers, community mental health centers, and other organizations conducting research on mental illness or working with individuals who are mentally ill;

(2) sponsor and conduct basic research on mental illness and applied research on existing treatment models and community support programs;

(3) seek to obtain grants for research on mental illness from the National Institute of Mental Health and other funding sources;

(4) develop and provide grants for training, internship, scholarship, and fellowship programs for mental health professionals, in an effort to combine academic education with practical experience obtained at regional treatment centers and other state facilities, and to increase the number of mental health professionals working in the state.

Subd. 4. **Private and federal funding.** The liaison initiative shall seek private and federal funds to supplement the appropriation provided by the state. Individuals, businesses, and other organizations may contribute to the liaison initiative. All money received shall be administered by the commissioner of human services to implement and administer the programs listed in subdivision 3.

Subd. 5. **Report.** By February 15 of each year, the commissioner of human services shall submit to the legislature a liaison initiative report. The annual report shall be part of the commissioner's February 15 report to the legislature required by section 245.487, subdivision 4.

**History:** 1989 c 282 art 4 s 36

**245.4862 MENTAL HEALTH URGENT CARE AND PSYCHIATRIC CONSULTATION.**

Subdivision 1. **Mental health urgent care and psychiatric consultation.** The

commissioner shall include mental health urgent care and psychiatric consultation services as part of, but not limited to, the redesign of six community-based behavioral health hospitals and the Anoka-Metro Regional Treatment Center. These services must not duplicate existing services in the region, and must be implemented as specified in subdivisions 3 to 7.

Subd. 2. **Definitions.** For purposes of this section:

(a) Mental health urgent care includes:

- (1) initial mental health screening;
- (2) mobile crisis assessment and intervention;
- (3) rapid access to psychiatry, including psychiatric evaluation, initial treatment, and short-term psychiatry;
- (4) nonhospital crisis stabilization residential beds; and
- (5) health care navigator services that include, but are not limited to, assisting uninsured individuals in obtaining health care coverage.

(b) Psychiatric consultation services includes psychiatric consultation to primary care practitioners.

Subd. 3. **Rapid access to psychiatry.** The commissioner shall develop rapid access to psychiatric services based on the following criteria:

- (1) the individuals who receive the psychiatric services must be at risk of hospitalization and otherwise unable to receive timely services;
- (2) where clinically appropriate, the service may be provided via interactive video where the service is provided in conjunction with an emergency room, a local crisis service, or a primary care or behavioral care practitioner; and
- (3) the commissioner may integrate rapid access to psychiatry with the psychiatric consultation services in subdivision 4.

Subd. 4. **Collaborative psychiatric consultation.** (a) The commissioner shall establish a collaborative psychiatric consultation service based on the following criteria:

- (1) the service may be available via telephone, interactive video, e-mail, or other means of communication to emergency rooms, local crisis services, mental health professionals, and primary care practitioners, including pediatricians;
- (2) the service shall be provided by a multidisciplinary team including, at a minimum, a child and adolescent psychiatrist, an adult psychiatrist, and a licensed clinical social worker;
- (3) the service shall include a triage-level assessment to determine the most appropriate response to each request, including appropriate referrals to other mental health professionals, as well as provision of rapid psychiatric access when other appropriate services are not available;
- (4) the first priority for this service is to provide the consultations required under section 256B.0625, subdivision 13j; and
- (5) the service must encourage use of cognitive and behavioral therapies and other evidence-based treatments in addition to or in place of medication, where appropriate.

(b) The commissioner shall appoint an interdisciplinary work group to establish appropriate medication and psychotherapy protocols to guide the consultative process, including consultation with the Drug Utilization Review Board, as provided in section 256B.0625, subdivision 13j.



Subd. 5. **Phased availability.** (a) The commissioner may phase in the availability of mental health urgent care services based on the limits of appropriations and the commissioner's determination of level of need and cost-effectiveness.

(b) For subdivisions 3 and 4, the first phase must focus on adults in Hennepin and Ramsey Counties and children statewide who are affected by section 256B.0625, subdivision 13j, and must include tracking of costs for the services provided and associated impacts on utilization of inpatient, emergency room, and other services.

Subd. 6. **Limited appropriations.** The commissioner shall maximize use of available health care coverage for the services provided under this section. The commissioner's responsibility to provide these services for individuals without health care coverage must not exceed the appropriations for this section.

Subd. 7. **Flexible implementation.** To implement this section, the commissioner shall select the structure and funding method that is the most cost-effective for each county or group of counties. This may include grants, contracts, direct provision by state-operated services, and public-private partnerships. Where feasible, the commissioner shall make any grants under this section a part of the integrated adult mental health initiative grants under section 245.4661.

**History:** 2010 c 200 art 1 s 1

## CHILDREN'S MENTAL HEALTH ACT

### 245.487 CITATION; DECLARATION OF POLICY; MISSION.

Subdivision 1. **Citation.** Sections 245.487 to 245.4889 may be cited as the "Minnesota Comprehensive Children's Mental Health Act."

Subd. 2. **Findings.** The legislature finds there is a need for further development of existing clinical services for emotionally disturbed children and their families and the creation of new services for this population. Although the services specified in sections 245.487 to 245.4889 are mental health services, sections 245.487 to 245.4889 emphasize the need for a child-oriented and family-oriented approach of therapeutic programming and the need for continuity of care with other community agencies. At the same time, sections 245.487 to 245.4889 emphasize the importance of developing special mental health expertise in children's mental health services because of the unique needs of this population.

Nothing in sections 245.487 to 245.4889 shall be construed to abridge the authority of the court to make dispositions under chapter 260, but the mental health services due any child with serious and persistent mental illness, as defined in section 245.462, subdivision 20, or with severe emotional disturbance, as defined in section 245.4871, subdivision 6, shall be made a part of any disposition affecting that child.

Subd. 3. **Mission of children's mental health service system.** As part of the comprehensive children's mental health system established under sections 245.487 to 245.4889, the commissioner of human services shall create and ensure a unified, accountable, comprehensive children's mental health service system that is consistent with the provision of public social services for children and that:

- (1) identifies children who are eligible for mental health services;
- (2) makes preventive services available to all children;

- (3) assures access to a continuum of services that:
  - (i) educate the community about the mental health needs of children;
  - (ii) address the unique physical, emotional, social, and educational needs of children;
  - (iii) are coordinated with the range of social and human services provided to children and their families by the Departments of Education, Human Services, Health, and Corrections;
  - (iv) are appropriate to the developmental needs of children; and
  - (v) are sensitive to cultural differences and special needs;
- (4) includes early screening and prompt intervention to:
  - (i) identify and treat the mental health needs of children in the least restrictive setting appropriate to their needs; and
  - (ii) prevent further deterioration;
- (5) provides mental health services to children and their families in the context in which the children live and go to school;
- (6) addresses the unique problems of paying for mental health services for children, including:
  - (i) access to private insurance coverage; and
  - (ii) public funding;
- (7) includes the child and the child's family in planning the child's program of mental health services, unless clinically inappropriate to the child's needs; and
- (8) when necessary, assures a smooth transition from mental health services appropriate for a child to mental health services needed by a person who is at least 18 years of age.

Subd. 4. **Implementation.** (a) The commissioner shall begin implementing sections 245.487 to 245.4889 by February 15, 1990, and shall fully implement sections 245.487 to 245.4889 by July 1, 1993.

(b) Annually until February 15, 1994, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.487 to 245.4889 and on additional resources needed to further implement those sections. The report shall include information on county and state progress in identifying the needs of cultural and racial minorities and in using special mental health consultants to meet these needs.

Subd. 5. **Continuation of existing mental health services for children.** Counties shall make available case management, community support services, and day treatment to children eligible to receive these services under sections 245.4881 and 245.4884. No later than August 1, 1989, the county board shall notify providers in the local system of care of their obligations to refer children eligible for case management and community support services as of January 1, 1989. The county board shall forward a copy of this notice to the commissioner. The notice shall indicate which children are eligible, a description of the services, and the name of the county employee designated to coordinate case management activities and shall include a copy of the plain language notification described in section 245.4881, subdivision 2, paragraph (b). Providers shall distribute copies of this notification when making a referral for case management.

Subd. 6. **Funding from the federal government and other sources.** The commissioner shall seek and apply for federal and other nonstate, nonlocal government funding for mental

health services specified in sections 245.487 to 245.4889, in order to maximize nonstate, nonlocal dollars for these services.

**History:** 1989 c 282 art 4 s 37; 1990 c 568 art 5 s 9,10; 1991 c 199 art 2 s 1; 1991 c 292 art 6 s 11,12,58 subd 1; 1Sp1995 c 3 art 16 s 13; 2003 c 130 s 12; 1Sp2003 c 14 art 11 s 11; 2007 c 147 art 8 s 38

### 245.4871 DEFINITIONS.

Subdivision 1. **Definitions.** The definitions in this section apply to sections 245.487 to 245.4889.

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

Subd. 3. **Case management services.** "Case management services" means activities that are coordinated with the family community support services and are designed to help the child with severe emotional disturbance and the child's family obtain needed mental health services, social services, educational services, health services, vocational services, recreational services, and related services in the areas of volunteer services, advocacy, transportation, and legal services. Case management services include assisting in obtaining a comprehensive diagnostic assessment, if needed, developing a functional assessment, developing an individual family community support plan, and assisting the child and the child's family in obtaining needed services by coordination with other agencies and assuring continuity of care. Case managers must assess and reassess the delivery, appropriateness, and effectiveness of services over time.

Subd. 4. **Case management service provider.** (a) "Case management service provider" means a case manager or case manager associate employed by the county or other entity authorized by the county board to provide case management services specified in subdivision 3 for the child with severe emotional disturbance and the child's family.

(b) A case manager must:

(1) have experience and training in working with children;

(2) have at least a bachelor's degree in one of the behavioral sciences or a related field including, but not limited to, social work, psychology, or nursing from an accredited college or university or meet the requirements of paragraph (d);

(3) have experience and training in identifying and assessing a wide range of children's needs;

(4) be knowledgeable about local community resources and how to use those resources for the benefit of children and their families; and

(5) meet the supervision and continuing education requirements of paragraphs (e), (f), and (g), as applicable.

(c) A case manager may be a member of any professional discipline that is part of the local system of care for children established by the county board.

(d) A case manager without a bachelor's degree must meet one of the requirements in clauses (1) to (3):

(1) have three or four years of experience as a case manager associate;

(2) be a registered nurse without a bachelor's degree who has a combination of specialized training in psychiatry and work experience consisting of community interaction and involvement or community discharge planning in a mental health setting totaling three years; or

(3) be a person who qualified as a case manager under the 1998 Department of Human Services waiver provision and meets the continuing education, supervision, and mentoring requirements in this section.

(e) A case manager with at least 2,000 hours of supervised experience in the delivery of mental health services to children must receive regular ongoing supervision and clinical supervision totaling 38 hours per year, of which at least one hour per month must be clinical supervision regarding individual service delivery with a case management supervisor. The other 26 hours of supervision may be provided by a case manager with two years of experience. Group supervision may not constitute more than one-half of the required supervision hours.

(f) A case manager without 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbance must:

(1) begin 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of children with severe emotional disturbance before beginning to provide case management services; and

(2) receive clinical supervision regarding individual service delivery from a mental health professional at least one hour each week until the requirement of 2,000 hours of experience is met.

(g) A case manager who is not licensed, registered, or certified by a health-related licensing board must receive 30 hours of continuing education and training in severe emotional disturbance and mental health services every two years.

(h) Clinical supervision must be documented in the child's record. When the case manager is not a mental health professional, the county board must provide or contract for needed clinical supervision.

(i) The county board must ensure that the case manager has the freedom to access and coordinate the services within the local system of care that are needed by the child.

(j) A case manager associate (CMA) must:

(1) work under the direction of a case manager or case management supervisor;

(2) be at least 21 years of age;

(3) have at least a high school diploma or its equivalent; and

(4) meet one of the following criteria:

(i) have an associate of arts degree in one of the behavioral sciences or human services;

(ii) be a registered nurse without a bachelor's degree;

(iii) have three years of life experience as a primary caregiver to a child with serious emotional disturbance as defined in section 245.4871, subdivision 6, within the previous ten years;

(iv) have 6,000 hours work experience as a nondegreed state hospital technician; or

(v) be a mental health practitioner as defined in subdivision 26, clause (2).

Individuals meeting one of the criteria in items (i) to (iv) may qualify as a case manager after four years of supervised work experience as a case manager associate. Individuals meeting

the criteria in item (v) may qualify as a case manager after three years of supervised experience as a case manager associate.

(k) Case manager associates must meet the following supervision, mentoring, and continuing education requirements;

(1) have 40 hours of preservice training described under paragraph (f), clause (1);

(2) receive at least 40 hours of continuing education in severe emotional disturbance and mental health service annually; and

(3) receive at least five hours of mentoring per week from a case management mentor. A "case management mentor" means a qualified, practicing case manager or case management supervisor who teaches or advises and provides intensive training and clinical supervision to one or more case manager associates. Mentoring may occur while providing direct services to consumers in the office or in the field and may be provided to individuals or groups of case manager associates. At least two mentoring hours per week must be individual and face-to-face.

(l) A case management supervisor must meet the criteria for a mental health professional as specified in subdivision 27.

(m) An immigrant who does not have the qualifications specified in this subdivision may provide case management services to child immigrants with severe emotional disturbance of the same ethnic group as the immigrant if the person:

(1) is currently enrolled in and is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or related fields at an accredited college or university;

(2) completes 40 hours of training as specified in this subdivision; and

(3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.

Subd. 5. **Child.** "Child" means a person under 18 years of age.

Subd. 6. **Child with severe emotional disturbance.** For purposes of eligibility for case management and family community support services, "child with severe emotional disturbance" means a child who has an emotional disturbance and who meets one of the following criteria:

(1) the child has been admitted within the last three years or is at risk of being admitted to inpatient treatment or residential treatment for an emotional disturbance; or

(2) the child is a Minnesota resident and is receiving inpatient treatment or residential treatment for an emotional disturbance through the interstate compact; or

(3) the child has one of the following as determined by a mental health professional:

(i) psychosis or a clinical depression; or

(ii) risk of harming self or others as a result of an emotional disturbance; or

(iii) psychopathological symptoms as a result of being a victim of physical or sexual abuse or of psychic trauma within the past year; or

(4) the child, as a result of an emotional disturbance, has significantly impaired home, school, or community functioning that has lasted at least one year or that, in the written opinion of a mental health professional, presents substantial risk of lasting at least one year.

The term "child with severe emotional disturbance" shall be used only for purposes of county eligibility determinations. In all other written and oral communications, case managers, mental health professionals, mental health practitioners, and all other providers of mental health services shall use the term "child eligible for mental health case management" in place of "child with severe emotional disturbance."

Subd. 7. **Clinical supervision.** "Clinical supervision" means the oversight responsibility for individual treatment plans and individual mental health service delivery, including that provided by the case manager. Clinical supervision does not include authority to make or terminate court-ordered placements of the child. Clinical supervision must be accomplished by full-time or part-time employment of or contracts with mental health professionals. The mental health professional must document the clinical supervision by cosigning individual treatment plans and by making entries in the client's record on supervisory activities.

Subd. 8. **Commissioner.** "Commissioner" means the commissioner of human services.

Subd. 9. **County board.** "County board" means the county board of commissioners or board established under the Joint Powers Act, section 471.59, or the Human Services Act, sections 402.01 to 402.10.

Subd. 9a. **Crisis assistance.** "Crisis assistance" means assistance to the child, the child's family, and all providers of services to the child to: recognize factors precipitating a mental health crisis, identify behaviors related to the crisis, and be informed of available resources to resolve the crisis. Crisis assistance requires the development of a plan which addresses prevention and intervention strategies to be used in a potential crisis. Other interventions include: (1) arranging for admission to acute care hospital inpatient treatment; (2) crisis placement; (3) community resources for follow-up; and (4) emotional support to the family during crisis. Crisis assistance does not include services designed to secure the safety of a child who is at risk of abuse or neglect or necessary emergency services.

Subd. 10. **Day treatment services.** "Day treatment," "day treatment services," or "day treatment program" means a structured program of treatment and care provided to a child in:

(1) an outpatient hospital accredited by the Joint Commission on Accreditation of Health Organizations and licensed under sections 144.50 to 144.55;

(2) a community mental health center under section 245.62;

(3) an entity that is under contract with the county board to operate a program that meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475; or

(4) an entity that operates a program that meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475, that is under contract with an entity that is under contract with a county board.

Day treatment consists of group psychotherapy and other intensive therapeutic services that are provided for a minimum two-hour time block by a multidisciplinary staff under the clinical supervision of a mental health professional. Day treatment may include education and consultation provided to families and other individuals as an extension of the treatment process. The services are aimed at stabilizing the child's mental health status, and developing and improving the child's daily independent living and socialization skills. Day treatment services are

distinguished from day care by their structured therapeutic program of psychotherapy services. Day treatment services are not a part of inpatient hospital or residential treatment services.

A day treatment service must be available to a child up to 15 hours a week throughout the year and must be coordinated with, integrated with, or part of an education program offered by the child's school.

Subd. 11. **Diagnostic assessment.** "Diagnostic assessment" means a written evaluation by a mental health professional of:

- (1) a child's current life situation and sources of stress, including reasons for referral;
- (2) the history of the child's current mental health problem or problems, including important developmental incidents, strengths, and vulnerabilities;
- (3) the child's current functioning and symptoms;
- (4) the child's diagnosis including a determination of whether the child meets the criteria of severely emotionally disturbed as specified in subdivision 6; and
- (5) the mental health services needed by the child.

Subd. 12. **Mental health identification and intervention services.** "Mental health identification and intervention services" means services that are designed to identify children who are at risk of needing or who need mental health services and that arrange for intervention and treatment.

Subd. 13. **Education and prevention services.** (a) "Education and prevention services" means services designed to:

- (1) educate the general public and groups identified as at risk of developing emotional disturbance under section 245.4872, subdivision 3;
- (2) increase the understanding and acceptance of problems associated with emotional disturbances;
- (3) improve people's skills in dealing with high-risk situations known to affect children's mental health and functioning; and
- (4) refer specific children or their families with mental health needs to mental health services.

(b) The services include distribution to individuals and agencies identified by the county board and the local children's mental health advisory council of information on predictors and symptoms of emotional disturbances, where mental health services are available in the county, and how to access the services.

Subd. 14. **Emergency services.** "Emergency services" means an immediate response service available on a 24-hour, seven-day-a-week basis for each child having a psychiatric crisis, a mental health crisis, or a mental health emergency.

Subd. 15. **Emotional disturbance.** "Emotional disturbance" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that:

- (1) is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding

code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD), current edition, Axes I, II, or III; and

(2) seriously limits a child's capacity to function in primary aspects of daily living such as personal relations, living arrangements, work, school, and recreation.

"Emotional disturbance" is a generic term and is intended to reflect all categories of disorder described in DSM-MD, current edition as "usually first evident in childhood or adolescence."

Subd. 16. **Family.** "Family" means a child and one or more of the following persons whose participation is necessary to accomplish the child's treatment goals: (1) a person related to the child by blood, marriage, or adoption; (2) a person who is the child's foster parent or significant other; (3) a person who is the child's legal representative.

Subd. 17. **Family community support services.** "Family community support services" means services provided under the clinical supervision of a mental health professional and designed to help each child with severe emotional disturbance to function and remain with the child's family in the community. Family community support services do not include acute care hospital inpatient treatment, residential treatment services, or regional treatment center services. Family community support services include:

- (1) client outreach to each child with severe emotional disturbance and the child's family;
- (2) medication monitoring where necessary;
- (3) assistance in developing independent living skills;
- (4) assistance in developing parenting skills necessary to address the needs of the child with severe emotional disturbance;
- (5) assistance with leisure and recreational activities;
- (6) crisis assistance, including crisis placement and respite care;
- (7) professional home-based family treatment;
- (8) foster care with therapeutic supports;
- (9) day treatment;
- (10) assistance in locating respite care and special needs day care; and
- (11) assistance in obtaining potential financial resources, including those benefits listed in section 245.4884, subdivision 5.

Subd. 18. **Functional assessment.** "Functional assessment" means an assessment by the case manager of the child's:

- (1) mental health symptoms as presented in the child's diagnostic assessment;
- (2) mental health needs as presented in the child's diagnostic assessment;
- (3) use of drugs and alcohol;
- (4) vocational and educational functioning;
- (5) social functioning, including the use of leisure time;
- (6) interpersonal functioning, including relationships with the child's family;
- (7) self-care and independent living capacity;
- (8) medical and dental health;



- (9) financial assistance needs;
- (10) housing and transportation needs; and
- (11) other needs and problems.

Subd. 19. **Individual family community support plan.** "Individual family community support plan" means a written plan developed by a case manager in conjunction with the family and the child with severe emotional disturbance on the basis of a diagnostic assessment and a functional assessment. The plan identifies specific services needed by a child and the child's family to:

- (1) treat the symptoms and dysfunctions determined in the diagnostic assessment;
- (2) relieve conditions leading to emotional disturbance and improve the personal well-being of the child;
- (3) improve family functioning;
- (4) enhance daily living skills;
- (5) improve functioning in education and recreation settings;
- (6) improve interpersonal and family relationships;
- (7) enhance vocational development; and
- (8) assist in obtaining transportation, housing, health services, and employment.

Subd. 20. **Individual placement agreement.** "Individual placement agreement" means a written agreement or supplement to a service contract entered into between the county board and a service provider on behalf of a child to provide residential treatment services.

Subd. 21. **Individual treatment plan.** "Individual treatment plan" means a written plan of intervention, treatment, and services for a child with an emotional disturbance that is developed by a service provider under the clinical supervision of a mental health professional on the basis of a diagnostic assessment. An individual treatment plan for a child must be developed in conjunction with the family unless clinically inappropriate. The plan identifies goals and objectives of treatment, treatment strategy, a schedule for accomplishing treatment goals and objectives, and the individuals responsible for providing treatment to the child with an emotional disturbance.

Subd. 22. **Legal representative.** "Legal representative" means a guardian, conservator, or guardian ad litem of a child with an emotional disturbance authorized by the court to make decisions about mental health services for the child.

Subd. 23. [Repealed, 1991 c 94 s 25]

Subd. 24. **Local system of care.** "Local system of care" means services that are locally available to the child and the child's family. The services are mental health, social services, correctional services, education services, health services, and vocational services.

Subd. 24a. **Mental health crisis services.** "Mental health crisis services" means crisis assessment, crisis intervention, and crisis stabilization services.

Subd. 25. **Mental health funds.** "Mental health funds" are funds expended under sections 245.73 and 256E.12, federal mental health block grant funds, and funds expended under section 256D.06 to facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690.

Subd. 26. **Mental health practitioner.** "Mental health practitioner" means a person

providing services to children with emotional disturbances. A mental health practitioner must have training and experience in working with children. A mental health practitioner must be qualified in at least one of the following ways:

(1) holds a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and:

(i) has at least 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbances; or

(ii) is fluent in the non-English language of the ethnic group to which at least 50 percent of the practitioner's clients belong, completes 40 hours of training in the delivery of services to children with emotional disturbances, and receives clinical supervision from a mental health professional at least once a week until the requirement of 2,000 hours of supervised experience is met;

(2) has at least 6,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbances; hours worked as a mental health behavioral aide I or II under section 256B.0943, subdivision 7, may be included in the 6,000 hours of experience;

(3) is a graduate student in one of the behavioral sciences or related fields and is formally assigned by an accredited college or university to an agency or facility for clinical training; or

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

Subd. 27. **Mental health professional.** "Mental health professional" means a person providing clinical services in the diagnosis and treatment of children's emotional disorders. A mental health professional must have training and experience in working with children consistent with the age group to which the mental health professional is assigned. A mental health professional must be qualified in at least one of the following ways:

(1) in psychiatric nursing, the mental health professional must be a registered nurse who is licensed under sections 148.171 to 148.285 and who is certified as a clinical specialist in child and adolescent psychiatric or mental health nursing by a national nurse certification organization or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) in clinical social work, the mental health professional must be a person licensed as an independent clinical social worker under chapter 148D, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental disorders;

(3) in psychology, the mental health professional must be an individual licensed by the board of psychology under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental disorders;

(4) in psychiatry, the mental health professional must be a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry;

(5) in marriage and family therapy, the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39 with at least two years of

post-master's supervised experience in the delivery of clinical services in the treatment of mental disorders or emotional disturbances;

(6) in licensed professional clinical counseling, the mental health professional shall be a licensed professional clinical counselor under section 148B.5301 with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental disorders or emotional disturbances; or

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

Subd. 28. **Mental health services.** "Mental health services" means at least all of the treatment services and case management activities that are provided to children with emotional disturbances and are described in sections 245.487 to 245.4889.

Subd. 29. **Outpatient services.** "Outpatient services" means mental health services, excluding day treatment and community support services programs, provided by or under the clinical supervision of a mental health professional to children with emotional disturbances who live outside a hospital. Outpatient services include clinical activities such as individual, group, and family therapy; individual treatment planning; diagnostic assessments; medication management; and psychological testing.

Subd. 30. **Parent.** "Parent" means the birth or adoptive mother or father of a child. This definition does not apply to a person whose parental rights have been terminated in relation to the child.

Subd. 31. **Professional home-based family treatment.** "Professional home-based family treatment" means intensive mental health services provided to children because of an emotional disturbance (1) who are at risk of out-of-home placement; (2) who are in out-of-home placement; or (3) who are returning from out-of-home placement. Services are provided to the child and the child's family primarily in the child's home environment. Services may also be provided in the child's school, child care setting, or other community setting appropriate to the child. Services must be provided on an individual family basis, must be child-oriented and family-oriented, and must be designed using information from diagnostic and functional assessments to meet the specific mental health needs of the child and the child's family. Examples of services are: (1) individual therapy; (2) family therapy; (3) client outreach; (4) assistance in developing individual living skills; (5) assistance in developing parenting skills necessary to address the needs of the child; (6) assistance with leisure and recreational services; (7) crisis assistance, including crisis respite care and arranging for crisis placement; and (8) assistance in locating respite and child care. Services must be coordinated with other services provided to the child and family.

Subd. 32. **Residential treatment.** "Residential treatment" means a 24-hour-a-day program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital or regional treatment center inpatient unit, that must be licensed as a residential treatment program for children with emotional disturbances under Minnesota Rules, parts 9545.0900 to 9545.1090, or other rules adopted by the commissioner.

Subd. 33. **Service provider.** "Service provider" means either a county board or an individual or agency including a regional treatment center under contract with the county board that provides children's mental health services funded under sections 245.487 to 245.4889.

Subd. 33a. **Culturally informed mental health consultant.** "Culturally informed mental health consultant" is a person who is recognized by the culture as one who has knowledge of a particular culture and its definition of health and mental health; and who is used as necessary to assist the county board and its mental health providers in assessing and providing appropriate mental health services for children from that particular cultural, linguistic, or racial heritage and their families.

Subd. 34. **Therapeutic support of foster care.** "Therapeutic support of foster care" means the mental health training and mental health support services and clinical supervision provided by a mental health professional to foster families caring for children with severe emotional disturbance to provide a therapeutic family environment and support for the child's improved functioning.

Subd. 35. **Transition services.** "Transition services" means mental health services, designed within an outcome oriented process that promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment including supported employment, continuing and adult education, adult mental health and social services, other adult services, independent living, or community participation.

**History:** 1989 c 282 art 4 s 38; 1990 c 568 art 5 s 11,34; 1991 c 292 art 6 s 13-15,58 subd 1; 1992 c 526 s 2; 1992 c 571 art 10 s 11; 1993 c 339 s 3; 1Sp1993 c 1 art 7 s 8; 1995 c 207 art 8 s 2-4; 1996 c 451 art 5 s 5; 1998 c 407 art 4 s 4; 1999 c 86 art 1 s 57; 1999 c 159 s 30; 1999 c 172 s 16; 1999 c 245 art 5 s 6,7; 2000 c 474 s 4; 2000 c 499 s 33; 1Sp2001 c 9 art 9 s 10-12; 2002 c 375 art 2 s 6; 2002 c 379 art 1 s 113; 1Sp2003 c 14 art 11 s 11; 2005 c 147 art 1 s 66; 2007 c 147 art 8 s 38; 2009 c 79 art 7 s 3; 2009 c 142 art 2 s 11; 2009 c 167 s 4

## 245.4872 PLANNING FOR A CHILDREN'S MENTAL HEALTH SYSTEM.

Subdivision 1. **Planning effort.** Starting on the effective date of sections 245.487 to 245.4889 and ending January 1, 1992, the commissioner and the county agencies shall plan for the development of a unified, accountable, and comprehensive statewide children's mental health system. The system must be planned and developed by stages until it is operating at full capacity.

Subd. 2. **Technical assistance.** The commissioner shall provide ongoing technical assistance to county boards to improve system capacity and quality. The commissioner and county boards shall exchange information as needed about the numbers of children with emotional disturbances residing in the county and the extent of existing treatment components locally available to serve the needs of those persons. County boards shall cooperate with the commissioner in obtaining necessary planning information upon request.

Subd. 3. **Information to counties.** By January 1, 1990, the commissioner shall provide each county with information about the predictors and symptoms of children's emotional disturbances and information about groups identified as at risk of developing emotional disturbance.

**History:** 1989 c 282 art 4 s 39; 1991 c 94 s 24; 1991 c 292 art 6 s 58 subd 1; 1Sp2003 c 14 art 11 s 11; 2005 c 98 art 3 s 9; 2007 c 147 art 8 s 38

## 245.4873 COORDINATION OF CHILDREN'S MENTAL HEALTH SYSTEM.

Subdivision 1. **State and local coordination.** Coordination of the development and delivery of mental health services for children shall occur on the state and local levels to assure the availability of services to meet the mental health needs of children in a cost-effective manner.

Subd. 2. **State level; coordination.** The Children's Cabinet, under section 4.045, in consultation with a representative of the Minnesota District Judges Association Juvenile Committee, shall:

(1) educate each agency about the policies, procedures, funding, and services for children with emotional disturbances of all agencies represented;

(2) develop mechanisms for interagency coordination on behalf of children with emotional disturbances;

(3) identify barriers including policies and procedures within all agencies represented that interfere with delivery of mental health services for children;

(4) recommend policy and procedural changes needed to improve development and delivery of mental health services for children in the agency or agencies they represent;

(5) identify mechanisms for better use of federal and state funding in the delivery of mental health services for children; and

(6) perform the duties required under sections 245.494 to 245.495.

Subd. 3. **Local level coordination.** (a) Each agency represented in the local system of care coordinating council, including mental health, social services, education, health, corrections, and vocational services as specified in section 245.4875, subdivision 6, is responsible for local coordination and delivery of mental health services for children. The county board shall establish a coordinating council that provides at least:

(1) written interagency agreements with the providers of the local system of care to coordinate the delivery of services to children; and

(2) an annual report of the council to the local county board and the children's mental health advisory council about the unmet children's needs and service priorities.

(b) Each coordinating council shall collect information about the local system of care and report annually to the commissioner of human services on forms and in the manner provided by the commissioner. The report must include a description of the services provided through each of the service systems represented on the council, the various sources of funding for services and the amounts actually expended, a description of the numbers and characteristics of the children and families served during the previous year, and an estimate of unmet needs. Each service system represented on the council shall provide information to the council as necessary to compile the report.

Subd. 4. **Individual case coordination.** The case manager designated under section 245.4881 is responsible for ongoing coordination with any other person responsible for planning, development, and delivery of social services, education, corrections, health, or vocational services for the individual child. The family community support plan developed by the case manager shall reflect the coordination among the local service system providers.

Subd. 5. **Duties of the commissioner.** The commissioner shall supervise the development and coordination of locally available children's mental health services by the county boards in a manner consistent with sections 245.487 to 245.4889. The commissioner shall provide technical assistance to county boards in developing and maintaining locally available and coordinated children's mental health services. The commissioner shall monitor the county board's progress in developing its full system capacity and quality through ongoing review of the county board's children's mental health proposals and other information as required by sections 245.487 to

245.4889.

Subd. 6. **Priorities.** By January 1, 1992, the commissioner shall require that each of the treatment services and management activities described in sections 245.487 to 245.4889 be developed for children with emotional disturbances within available resources based on the following ranked priorities. The commissioner shall reassign agency staff and use consultants as necessary to meet this deadline:

- (1) the provision of locally available mental health emergency services;
- (2) the provision of locally available mental health services to all children with severe emotional disturbance;
- (3) the provision of mental health identification and intervention services to children who are at risk of needing or who need mental health services;
- (4) the provision of specialized mental health services regionally available to meet the special needs of all children with severe emotional disturbance, and all children with emotional disturbances;
- (5) the provision of locally available services to children with emotional disturbances; and
- (6) the provision of education and preventive mental health services.

**History:** 1989 c 282 art 4 s 40; 1990 c 568 art 5 s 12; 1991 c 94 s 24; 1991 c 292 art 6 s 16,58 subd 1; 1Sp1993 c 1 art 7 s 9; 1995 c 207 art 8 s 5; art 11 s 2; 1Sp2003 c 14 art 11 s 11; 2005 c 98 art 3 s 10; 2007 c 147 art 8 s 38

#### **245.4874 DUTIES OF COUNTY BOARD.**

Subdivision 1. **Duties of county board.** (a) The county board must:

- (1) develop a system of affordable and locally available children's mental health services according to sections 245.487 to 245.4889;
- (2) establish a mechanism providing for interagency coordination as specified in section 245.4875, subdivision 6;
- (3) consider the assessment of unmet needs in the county as reported by the local children's mental health advisory council under section 245.4875, subdivision 5, paragraph (b), clause (3). The county shall provide, upon request of the local children's mental health advisory council, readily available data to assist in the determination of unmet needs;
- (4) assure that parents and providers in the county receive information about how to gain access to services provided according to sections 245.487 to 245.4889;
- (5) coordinate the delivery of children's mental health services with services provided by social services, education, corrections, health, and vocational agencies to improve the availability of mental health services to children and the cost-effectiveness of their delivery;
- (6) assure that mental health services delivered according to sections 245.487 to 245.4889 are delivered expeditiously and are appropriate to the child's diagnostic assessment and individual treatment plan;
- (7) provide the community with information about predictors and symptoms of emotional disturbances and how to access children's mental health services according to sections 245.4877 and 245.4878;

(8) provide for case management services to each child with severe emotional disturbance according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881, subdivisions 1, 3, and 5;

(9) provide for screening of each child under section 245.4885 upon admission to a residential treatment facility, acute care hospital inpatient treatment, or informal admission to a regional treatment center;

(10) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.487 to 245.4889;

(11) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract to the county to provide mental health services are qualified under section 245.4871;

(12) assure that children's mental health services are coordinated with adult mental health services specified in sections 245.461 to 245.486 so that a continuum of mental health services is available to serve persons with mental illness, regardless of the person's age;

(13) assure that culturally competent mental health consultants are used as necessary to assist the county board in assessing and providing appropriate treatment for children of cultural or racial minority heritage; and

(14) consistent with section 245.486, arrange for or provide a children's mental health screening to a child receiving child protective services or a child in out-of-home placement, a child for whom parental rights have been terminated, a child found to be delinquent, and a child found to have committed a juvenile petty offense for the third or subsequent time, unless a screening or diagnostic assessment has been performed within the previous 180 days, or the child is currently under the care of a mental health professional. The court or county agency must notify a parent or guardian whose parental rights have not been terminated of the potential mental health screening and the option to prevent the screening by notifying the court or county agency in writing. The screening shall be conducted with a screening instrument approved by the commissioner of human services according to criteria that are updated and issued annually to ensure that approved screening instruments are valid and useful for child welfare and juvenile justice populations, and shall be conducted by a mental health practitioner as defined in section 245.4871, subdivision 26, or a probation officer or local social services agency staff person who is trained in the use of the screening instrument. Training in the use of the instrument shall include training in the administration of the instrument, the interpretation of its validity given the child's current circumstances, the state and federal data practices laws and confidentiality standards, the parental consent requirement, and providing respect for families and cultural values. If the screen indicates a need for assessment, the child's family, or if the family lacks mental health insurance, the local social services agency, in consultation with the child's family, shall have conducted a diagnostic assessment, including a functional assessment, as defined in section 245.4871. The administration of the screening shall safeguard the privacy of children receiving the screening and their families and shall comply with the Minnesota Government Data Practices Act, chapter 13, and the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. Screening results shall be considered private data and the commissioner shall not collect individual screening results.

(b) When the county board refers clients to providers of children's therapeutic services and supports under section 256B.0943, the county board must clearly identify the desired services

components not covered under section 256B.0943 and identify the reimbursement source for those requested services, the method of payment, and the payment rate to the provider.

Subd. 2. **Responsibility not duplicated.** For individuals who have health care coverage, the county board is not responsible for providing mental health services which are within the limits of the individual's health care coverage.

**History:** 1989 c 282 art 4 s 41; 1990 c 568 art 5 s 13; 1991 c 94 s 6; 1991 c 292 art 6 s 17,58 subd 1; 1995 c 207 art 8 s 6; 1Sp2003 c 14 art 4 s 2; art 11 s 11; 2004 c 288 art 3 s 9; 2005 c 98 art 3 s 11; 1Sp2005 c 4 art 2 s 3; 2007 c 147 art 8 s 7,38; art 11 s 8

#### **245.4875 LOCAL SERVICE DELIVERY SYSTEM.**

Subdivision 1. **Development of children's services.** The county board in each county is responsible for using all available resources to develop and coordinate a system of locally available and affordable children's mental health services. The county board may provide some or all of the children's mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center under section 246.57 to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers.

Subd. 2. **Children's mental health services.** The children's mental health service system developed by each county board must include the following services:

- (1) education and prevention services according to section 245.4877;
- (2) mental health identification and intervention services according to section 245.4878;
- (3) emergency services according to section 245.4879;
- (4) outpatient services according to section 245.488;
- (5) family community support services according to section 245.4881;
- (6) day treatment services according to section 245.4884, subdivision 2;
- (7) residential treatment services according to section 245.4882;
- (8) acute care hospital inpatient treatment services according to section 245.4883;
- (9) screening according to section 245.4885;
- (10) case management according to section 245.4881;
- (11) therapeutic support of foster care according to section 245.4884, subdivision 4;
- (12) professional home-based family treatment according to section 245.4884, subdivision 4; and
- (13) mental health crisis services according to section 245.488, subdivision 3.

Subd. 3. **Local contracts.** The county board shall review all proposed county agreements, grants, or other contracts related to children's mental health services from any local, state, or federal governmental sources. Contracts with service providers must:

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



(2) identify monitoring and evaluation procedures not in violation of the Minnesota Government Data Practices Act, chapter 13, which are necessary to ensure effective delivery of quality services;

(3) include a provision that makes payments conditional on compliance by the contractor and all subcontractors with sections 245.487 to 245.4889 and all other applicable laws, rules, and standards; and

(4) require financial controls and auditing procedures.

**Subd. 4. Joint county mental health agreements.** To efficiently provide the children's mental health services required by sections 245.487 to 245.4889, counties are encouraged to join with one or more county boards to establish a multicounty local children's mental health authority under the Joint Powers Act, section 471.59, the Human Services Act, sections 402.01 to 402.10, community mental health center provisions, section 245.62, or enter into multicounty mental health agreements. Participating county boards shall establish acceptable ways of apportioning the cost of the services.

**Subd. 5. Local children's advisory council.** (a) By October 1, 1989, the county board, individually or in conjunction with other county boards, shall establish a local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council or shall include persons on its existing mental health advisory council who are representatives of children's mental health interests. The following individuals must serve on the local children's mental health advisory council, the children's mental health subcommittee of an existing local mental health advisory council, or be included on an existing mental health advisory council: (1) at least one person who was in a mental health program as a child or adolescent; (2) at least one parent of a child or adolescent with severe emotional disturbance; (3) one children's mental health professional; (4) representatives of minority populations of significant size residing in the county; (5) a representative of the children's mental health local coordinating council; and (6) one family community support services program representative.

(b) The local children's mental health advisory council or children's mental health subcommittee of an existing advisory council shall seek input from parents, former consumers, providers, and others about the needs of children with emotional disturbance in the local area and services needed by families of these children, and shall meet monthly, unless otherwise determined by the council or subcommittee, but not less than quarterly, to review, evaluate, and make recommendations regarding the local children's mental health system. Annually, the local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council shall:

(1) arrange for input from the local system of care providers regarding coordination of care between the services;

(2) identify for the county board the individuals, providers, agencies, and associations as specified in section 245.4877, clause (2); and

(3) provide to the county board a report of unmet mental health needs of children residing in the county.

(c) The county board shall consider the advice of its local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council in carrying out its authorities and responsibilities.

**Subd. 6. Local system of care; coordinating council.** The county board shall establish, by

January 1, 1990, a council representing all members of the local system of care including mental health services, social services, correctional services, education services, health services, and vocational services. The council shall include a representative of an Indian reservation authority where a reservation exists within the county. When possible, the council must also include a representative of juvenile court or the court responsible for juvenile issues and law enforcement. The members of the coordinating council shall meet at least quarterly to develop recommendations to improve coordination and funding of services to children with severe emotional disturbances. A county may use an existing child-focused interagency task force to fulfill the requirements of this subdivision if the representatives and duties of the existing task force are expanded to include those specified in this subdivision and section 245.4873, subdivision 3.

**Subd. 7. Other local authority.** The county board may establish procedures and policies that are not contrary to those of the commissioner or sections 245.487 to 245.4889 regarding local children's mental health services and facilities. The county board shall perform other acts necessary to carry out sections 245.487 to 245.4889.

**Subd. 8. Transition services.** The county board may continue to provide mental health services as defined in sections 245.487 to 245.4889 to persons over 18 years of age, but under 21 years of age, if the person was receiving case management or family community support services prior to age 18, and if one of the following conditions is met:

- (1) the person is receiving special education services through the local school district; or
- (2) it is in the best interest of the person to continue services defined in sections 245.487 to 245.4889.

**History:** 1989 c 282 art 4 s 42; 1990 c 568 art 5 s 14,34; 1991 c 94 s 7,24; 1991 c 292 art 6 s 58 subd 1; 1995 c 207 art 8 s 7,8; 1999 c 86 art 1 s 58; 1Sp2001 c 9 art 9 s 13; 2002 c 379 art 1 s 113; 1Sp2003 c 14 art 11 s 11; 2005 c 10 art 1 s 43; 2005 c 98 art 3 s 12,13; 2007 c 147 art 8 s 38

## **245.4876 QUALITY OF SERVICES.**

Subdivision 1. **Criteria.** Children's mental health services required by sections 245.487 to 245.4889 must be:

- (1) based, when feasible, on research findings;
- (2) based on individual clinical, cultural, and ethnic needs, and other special needs of the children being served;
- (3) delivered in a manner that improves family functioning when clinically appropriate;
- (4) provided in the most appropriate, least restrictive setting that meets the requirements in subdivision 1a, and that is available to the county board to meet the child's treatment needs;
- (5) accessible to all age groups of children;
- (6) appropriate to the developmental age of the child being served;
- (7) delivered in a manner that provides accountability to the child for the quality of service delivered and continuity of services to the child during the years the child needs services from the local system of care;
- (8) provided by qualified individuals as required in sections 245.487 to 245.4889;
- (9) coordinated with children's mental health services offered by other providers;

(10) provided under conditions that protect the rights and dignity of the individuals being served; and

(11) provided in a manner and setting most likely to facilitate progress toward treatment goals.

Subd. 1a. **Appropriate setting to receive services.** A child must be provided with mental health services in the least restrictive setting that is appropriate to the needs and current condition of the individual child. For a child to receive mental health services in a residential treatment or acute care hospital inpatient setting, the family may not be required to demonstrate that services were first provided in a less restrictive setting and that the child failed to make progress toward or meet treatment goals in the less restrictive setting.

Subd. 2. **Diagnostic assessment.** All residential treatment facilities and acute care hospital inpatient treatment facilities that provide mental health services for children must complete a diagnostic assessment for each of their child clients within five working days of admission. Providers of outpatient and day treatment services for children must complete a diagnostic assessment within five days after the child's second visit or 30 days after intake, whichever occurs first. In cases where a diagnostic assessment is available and has been completed within 180 days preceding admission, only updating is necessary. "Updating" means a written summary by a mental health professional of the child's current mental health status and service needs. If the child's mental health status has changed markedly since the child's most recent diagnostic assessment, a new diagnostic assessment is required. Compliance with the provisions of this subdivision does not ensure eligibility for medical assistance or general assistance medical care reimbursement under chapters 256B and 256D.

Subd. 3. **Individual treatment plans.** All providers of outpatient services, day treatment services, professional home-based family treatment, residential treatment, and acute care hospital inpatient treatment, and all regional treatment centers that provide mental health services for children must develop an individual treatment plan for each child client. The individual treatment plan must be based on a diagnostic assessment. To the extent appropriate, the child and the child's family shall be involved in all phases of developing and implementing the individual treatment plan. Providers of residential treatment, professional home-based family treatment, and acute care hospital inpatient treatment, and regional treatment centers must develop the individual treatment plan within ten working days of client intake or admission and must review the individual treatment plan every 90 days after intake, except that the administrative review of the treatment plan of a child placed in a residential facility shall be as specified in section 260C.212, subdivisions 7 and 9. Providers of day treatment services must develop the individual treatment plan before the completion of five working days in which service is provided or within 30 days after the diagnostic assessment is completed or obtained, whichever occurs first. Providers of outpatient services must develop the individual treatment plan within 30 days after the diagnostic assessment is completed or obtained or by the end of the second session of an outpatient service, not including the session in which the diagnostic assessment was provided, whichever occurs first. Providers of outpatient and day treatment services must review the individual treatment plan every 90 days after intake.

Subd. 4. **Referral for case management.** Each provider of emergency services, outpatient treatment, community support services, family community support services, day treatment services, screening under section 245.4885, professional home-based family treatment services, residential treatment facilities, acute care hospital inpatient treatment facilities, or regional

treatment center services must inform each child with severe emotional disturbance, and the child's parent or legal representative, of the availability and potential benefits to the child of case management. The information shall be provided as specified in subdivision 5. If consent is obtained according to subdivision 5, the provider must refer the child by notifying the county employee designated by the county board to coordinate case management activities of the child's name and address and by informing the child's family of whom to contact to request case management. The provider must document compliance with this subdivision in the child's record. The parent or child may directly request case management even if there has been no referral.

**Subd. 5. Consent for services or for release of information.** (a) Although sections 245.487 to 245.4889 require each county board, within the limits of available resources, to make the mental health services listed in those sections available to each child residing in the county who needs them, the county board shall not provide any services, either directly or by contract, unless consent to the services is obtained under this subdivision. The case manager assigned to a child with a severe emotional disturbance shall not disclose to any person other than the case manager's immediate supervisor and the mental health professional providing clinical supervision of the case manager information on the child, the child's family, or services provided to the child or the child's family without informed written consent unless required to do so by statute or under the Minnesota Government Data Practices Act. Informed written consent must comply with section 13.05, subdivision 4, paragraph (d), and specify the purpose and use for which the case manager may disclose the information.

(b) The consent or authorization must be obtained from the child's parent unless: (1) the parental rights are terminated; or (2) consent is otherwise provided under sections 144.341 to 144.347; 253B.04, subdivision 1; 260C.148; 260C.151; and 260C.201, subdivision 1, the terms of appointment of a court-appointed guardian or conservator, or federal regulations governing chemical dependency services.

**Subd. 6. Information for billing.** Each provider of outpatient treatment, family community support services, day treatment services, emergency services, professional home-based family treatment services, residential treatment, or acute care hospital inpatient treatment must include the name and home address of each child for whom services are included on a bill submitted to a county, if the release of that information under subdivision 5 has been obtained and if the county requests the information. Each provider must try to obtain the consent of the child's family. Each provider must explain to the child's family that the information can only be released with the consent of the child's family and may be used only for purposes of payment and maintaining provider accountability. The provider shall document the attempt in the child's record.

**Subd. 7. Restricted access to data.** The county board shall establish procedures to ensure that the names and addresses of children receiving mental health services and their families are disclosed only to:

- (1) county employees who are specifically responsible for determining county of financial responsibility or making payments to providers; and
- (2) staff who provide treatment services or case management and their clinical supervisors.

Release of mental health data on individuals submitted under subdivisions 5 and 6, to persons other than those specified in this subdivision, or use of this data for purposes other than

those stated in subdivisions 5 and 6, results in civil or criminal liability under section 13.08 or 13.09.

**History:** 1989 c 282 art 4 s 43; 1990 c 568 art 5 s 15-17; 1991 c 292 art 6 s 58 subd 1; 1999 c 139 art 4 s 2; 1Sp2001 c 9 art 9 s 14,15; 2002 c 379 art 1 s 113; 1Sp2003 c 14 art 11 s 11; 2007 c 147 art 8 s 38

#### **245.4877 EDUCATION AND PREVENTION SERVICES.**

Education and prevention services must be available to all children residing in the county. Education and prevention services must be designed to:

(1) convey information regarding emotional disturbances, mental health needs, and treatment resources to the general public and groups identified as at high risk of developing emotional disturbance under section 245.4872, subdivision 3;

(2) at least annually, distribute to individuals and agencies identified by the county board and the local children's mental health advisory council information on predictors and symptoms of emotional disturbances, where mental health services are available in the county, and how to access the services;

(3) increase understanding and acceptance of problems associated with emotional disturbances;

(4) improve people's skills in dealing with high-risk situations known to affect children's mental health and functioning;

(5) prevent development or deepening of emotional disturbances; and

(6) refer each child with emotional disturbance or the child's family with additional mental health needs to appropriate mental health services.

**History:** 1989 c 282 art 4 s 44

#### **245.4878 MENTAL HEALTH IDENTIFICATION AND INTERVENTION.**

By January 1, 1991, mental health identification and intervention services must be available to meet the needs of all children and their families residing in the county, consistent with section 245.4873. Mental health identification and intervention services must be designed to identify children who are at risk of needing or who need mental health services. The county board must provide intervention and offer treatment services to each child who is identified as needing mental health services. The county board must offer intervention services to each child who is identified as being at risk of needing mental health services.

**History:** 1989 c 282 art 4 s 45; 1995 c 207 art 8 s 9

#### **245.4879 EMERGENCY SERVICES.**

Subdivision 1. **Availability of emergency services.** County boards must provide or contract for enough mental health emergency services within the county to meet the needs of children, and children's families when clinically appropriate, in the county who are experiencing an emotional crisis or emotional disturbance. The county board shall ensure that parents, providers, and county residents are informed about when and how to access emergency mental health services for children. A child or the child's parent may be required to pay a fee according to section 245.481. Emergency service providers shall not delay the timely provision of emergency service because of delays in determining this fee or because of the unwillingness or inability of the parent to pay the fee. Emergency services must include assessment, crisis intervention, and appropriate

case disposition. Emergency services must:

- (1) promote the safety and emotional stability of children with emotional disturbances or emotional crises;
- (2) minimize further deterioration of the child with emotional disturbance or emotional crisis;
- (3) help each child with an emotional disturbance or emotional crisis to obtain ongoing care and treatment; and
- (4) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet the child's needs.

Subd. 2. **Specific requirements.** (a) The county board shall require that all service providers of emergency services to the child with an emotional disturbance provide immediate direct access to a mental health professional during regular business hours. For evenings, weekends, and holidays, the service may be by direct toll-free telephone access to a mental health professional, a mental health practitioner, or until January 1, 1991, a designated person with training in human services who receives clinical supervision from a mental health professional.

(b) The commissioner may waive the requirement in paragraph (a) that the evening, weekend, and holiday service be provided by a mental health professional or mental health practitioner after January 1, 1991, if the county documents that:

- (1) mental health professionals or mental health practitioners are unavailable to provide this service;
- (2) services are provided by a designated person with training in human services who receives clinical supervision from a mental health professional; and
- (3) the service provider is not also the provider of fire and public safety emergency services.

(c) The commissioner may waive the requirement in paragraph (b), clause (3), that the evening, weekend, and holiday service not be provided by the provider of fire and public safety emergency services if:

- (1) every person who will be providing the first telephone contact has received at least eight hours of training on emergency mental health services reviewed by the state advisory council on mental health and then approved by the commissioner;
- (2) every person who will be providing the first telephone contact will annually receive at least four hours of continued training on emergency mental health services reviewed by the state advisory council on mental health and then approved by the commissioner;
- (3) the local social service agency has provided public education about available emergency mental health services and can assure potential users of emergency services that their calls will be handled appropriately;
- (4) the local social service agency agrees to provide the commissioner with accurate data on the number of emergency mental health service calls received;
- (5) the local social service agency agrees to monitor the frequency and quality of emergency services; and
- (6) the local social service agency describes how it will comply with paragraph (d).

(d) When emergency service during nonbusiness hours is provided by anyone other than a mental health professional, a mental health professional must be available on call for

an emergency assessment and crisis intervention services, and must be available for at least telephone consultation within 30 minutes.

**History:** 1989 c 282 art 4 s 46; 1990 c 568 art 5 s 18; 1991 c 312 s 2

### **245.488 OUTPATIENT SERVICES.**

Subdivision 1. **Availability of outpatient services.** (a) County boards must provide or contract for enough outpatient services within the county to meet the needs of each child with emotional disturbance residing in the county and the child's family. Services may be provided directly by the county through county-operated mental health centers or mental health clinics approved by the commissioner under section 245.69, subdivision 2; by contract with privately operated mental health centers or mental health clinics approved by the commissioner under section 245.69, subdivision 2; by contract with hospital mental health outpatient programs certified by the Joint Commission on Accreditation of Hospital Organizations; or by contract with a licensed mental health professional as defined in section 245.4871, subdivision 27, clauses (1) to (6). A child or a child's parent may be required to pay a fee based in accordance with section 245.481. Outpatient services include:

- (1) conducting diagnostic assessments;
- (2) conducting psychological testing;
- (3) developing or modifying individual treatment plans;
- (4) making referrals and recommending placements as appropriate;
- (5) treating the child's mental health needs through therapy; and
- (6) prescribing and managing medication and evaluating the effectiveness of prescribed medication.

(b) County boards may request a waiver allowing outpatient services to be provided in a nearby trade area if it is determined that the child requires necessary and appropriate services that are only available outside the county.

(c) Outpatient services offered by the county board to prevent placement must be at the level of treatment appropriate to the child's diagnostic assessment.

Subd. 2. **Specific requirements.** The county board shall require that a service provider of outpatient services to children:

- (1) meets the professional qualifications contained in sections 245.487 to 245.4889;
- (2) uses a multidisciplinary mental health professional staff including, at a minimum, arrangements for psychiatric consultation, licensed psychologist consultation, and other necessary multidisciplinary mental health professionals;
- (3) develops individual treatment plans; and
- (4) provides initial appointments within three weeks, except in emergencies where there must be immediate access as described in section 245.4879.

Subd. 3. **Mental health crisis services.** County boards must provide or contract for mental health crisis services within the county to meet the needs of children with emotional disturbance residing in the county who are determined, through an assessment by a mental health professional, to be experiencing a mental health crisis or mental health emergency. The mental health crisis services provided must be medically necessary, as defined in section 62Q.53, subdivision 2, and

necessary for the safety of the child or others regardless of the setting.

**History:** 1989 c 282 art 4 s 47; 1990 c 568 art 2 s 39; 1991 c 255 s 19; 1991 c 292 art 6 s 58 subd 1; 1993 c 339 s 4; 1Sp2001 c 9 art 9 s 16; 2002 c 379 art 1 s 113; 1Sp2003 c 14 art 11 s 11; 2007 c 147 art 8 s 38; 2009 c 79 art 7 s 4

## **245.4881 CASE MANAGEMENT AND FAMILY COMMUNITY SUPPORT SERVICES.**

**Subdivision 1. Availability of case management services.** (a) The county board shall provide case management services for each child with severe emotional disturbance who is a resident of the county and the child's family who request or consent to the services. Case management services may be continued to be provided for a child with a serious emotional disturbance who is over the age of 18 consistent with section 245.4875, subdivision 8. Staffing ratios must be sufficient to serve the needs of the clients. The case manager must meet the requirements in section 245.4871, subdivision 4.

(b) Except as permitted by law and the commissioner under demonstration projects, case management services provided to children with severe emotional disturbance eligible for medical assistance must be billed to the medical assistance program under sections 256B.02, subdivision 8, and 256B.0625.

(c) Case management services are eligible for reimbursement under the medical assistance program. Costs of mentoring, supervision, and continuing education may be included in the reimbursement rate methodology used for case management services under the medical assistance program.

**Subd. 2. Notification and determination of case management eligibility.** (a) The county board shall notify, as appropriate, the child, child's parent, or child's legal representative of the child's potential eligibility for case management services within five working days after receiving a request from an individual or a referral from a provider under section 245.4876, subdivision 4.

(b) The county board shall send a notification written in plain language of potential eligibility for case management and family community support services. The notification shall identify the designated case management providers and shall contain:

- (1) a brief description of case management and family community support services;
- (2) the potential benefits of these services;
- (3) the identity and current phone number of the county employee designated to coordinate case management activities;
- (4) an explanation of how to obtain county assistance in obtaining a diagnostic assessment, if needed; and
- (5) an explanation of the appeal process.

The county board shall send the notice, as appropriate, to the child, the child's parent, or the child's legal representative, if any.

(c) The county board must promptly determine whether a child who requests or is referred for case management services meets the criteria of section 245.4871, subdivision 6. If a diagnostic assessment is needed to make the determination, the county board must offer to assist the child and the child's family in obtaining one. The county board shall notify, in writing, the child and the child's representative, if any, of the eligibility determination. If the child is determined to be eligible for case management services, and if the child and the child's family consent to



the services, the county board shall refer the child to the case management provider for case management services. If the child is determined not to be eligible or refuses case management services, the county board shall notify the child of the appeal process and shall offer to refer the child to a mental health provider or other appropriate service provider and to assist the child in making an appointment with the provider of the child's choice.

**Subd. 3. Duties of case manager.** (a) Upon a determination of eligibility for case management services, the case manager shall complete a written functional assessment according to section 245.4871, subdivision 18. The case manager shall develop an individual family community support plan for a child as specified in subdivision 4, review the child's progress, and monitor the provision of services. If services are to be provided in a host county that is not the county of financial responsibility, the case manager shall consult with the host county and obtain a letter demonstrating the concurrence of the host county regarding the provision of services.

(b) The case manager shall note in the child's record the services needed by the child and the child's family, the services requested by the family, services that are not available, and the unmet needs of the child and child's family. The case manager shall note this provision in the child's record.

**Subd. 4. Individual family community support plan.** (a) For each child, the case manager must develop an individual family community support plan that incorporates the child's individual treatment plan. The individual treatment plan may not be a substitute for the development of an individual family community support plan. The case manager is responsible for developing the individual family community support plan within 30 days of intake based on a diagnostic assessment and a functional assessment and for implementing and monitoring the delivery of services according to the individual family community support plan. The case manager must review the plan at least every 180 calendar days after it is developed, unless the case manager has received a written request from the child's family or an advocate for the child for a review of the plan every 90 days after it is developed. To the extent appropriate, the child with severe emotional disturbance, the child's family, advocates, service providers, and significant others must be involved in all phases of development and implementation of the individual family community support plan. Notwithstanding the lack of an individual family community support plan, the case manager shall assist the child and child's family in accessing the needed services listed in section 245.4884, subdivision 1.

(b) The child's individual family community support plan must state:

(1) the goals and expected outcomes of each service and criteria for evaluating the effectiveness and appropriateness of the service;

(2) the activities for accomplishing each goal;

(3) a schedule for each activity; and

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

**Subd. 5. Coordination between case manager and family community support services.** The county board must establish procedures that ensure ongoing contact and coordination between the case manager and the family community support services as well as other mental health services for each child.

**Subd. 6.** [Repealed, 1990 c 568 art 5 s 35]

Subd. 7. [Repealed, 1990 c 568 art 5 s 35]

Subd. 8. [Repealed, 1990 c 568 art 5 s 35]

Subd. 9. [Repealed, 1990 c 568 art 5 s 35]

Subd. 10. [Repealed, 1990 c 568 art 5 s 35]

**History:** 1989 c 282 art 4 s 48; 1990 c 568 art 5 s 19-22,34; 1991 c 292 art 6 s 18; 1997 c 7 art 1 s 95; 1997 c 93 s 2; 1999 c 245 art 5 s 8; 1Sp2003 c 14 art 11 s 11; 2004 c 288 art 3 s 10

#### **245.4882 RESIDENTIAL TREATMENT SERVICES.**

Subdivision 1. **Availability of residential treatment services.** County boards must provide or contract for enough residential treatment services to meet the needs of each child with severe emotional disturbance residing in the county and needing this level of care. Length of stay is based on the child's residential treatment need and shall be subject to the six-month review process established in section 260C.212, subdivision 7, and for children in voluntary placement for treatment, the court review process in section 260D.06. Services must be appropriate to the child's age and treatment needs and must be made available as close to the county as possible. Residential treatment must be designed to:

- (1) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet the child's needs;
- (2) help the child improve family living and social interaction skills;
- (3) help the child gain the necessary skills to return to the community;
- (4) stabilize crisis admissions; and
- (5) work with families throughout the placement to improve the ability of the families to care for children with severe emotional disturbance in the home.

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

Subd. 3. **Transition to community.** Residential treatment facilities and regional treatment centers serving children must plan for and assist those children and their families in making a transition to less restrictive community-based services. Residential treatment facilities must also arrange for appropriate follow-up care in the community. Before a child is discharged, the residential treatment facility or regional treatment center shall provide notification to the child's case manager, if any, so that the case manager can monitor and coordinate the transition and make timely arrangements for the child's appropriate follow-up care in the community.

Subd. 4. **Admission, continued stay, and discharge criteria.** No later than January 1, 1992, the county board shall ensure that placement decisions for residential treatment services are based on the clinical needs of the child. The county board shall ensure that each entity under contract to provide residential treatment services has admission, continued stay, discharge criteria and discharge planning criteria as part of the contract. Contracts shall specify specific responsibilities between the county and service providers to ensure comprehensive planning and continuity of care between needed services according to data privacy requirements. The county board shall ensure that, at least ten days prior to discharge, the operator of the residential treatment facility shall provide written notification of the discharge to the child's parent or caretaker, the local education agency in which the child is enrolled, and the receiving education agency to which

the child will be transferred upon discharge. When the child has an individual education plan, the notice shall include a copy of the individual education plan. All contracts for the provision of residential services must include provisions guaranteeing clients the right to appeal under section 245.4887 and to be advised of their appeal rights.

**Subd. 5. Specialized residential treatment services.** The commissioner of human services shall continue efforts to further interagency collaboration to develop a comprehensive system of services, including family community support and specialized residential treatment services for children. The services shall be designed for children with emotional disturbance who exhibit violent or destructive behavior and for whom local treatment services are not feasible due to the small number of children statewide who need the services and the specialized nature of the services required. The services shall be located in community settings.

**History:** 1989 c 282 art 4 s 49; 1990 c 568 art 5 s 23; 1991 c 292 art 6 s 19,20,58 subd 1; 1Sp1993 c 1 art 7 s 10; 1995 c 207 art 8 s 10; 1997 c 203 art 5 s 1; 1999 c 139 art 4 s 2; 2009 c 174 art 1 s 1

### **245.4883 ACUTE CARE HOSPITAL INPATIENT SERVICES.**

**Subdivision 1. Availability of acute care hospital inpatient services.** County boards must make available through contract or direct provision enough acute care hospital inpatient treatment services as close to the county as possible for children with severe emotional disturbances residing in the county needing this level of care. Acute care hospital inpatient treatment services must be designed to:

- (1) stabilize the medical and mental health condition for which admission is required;
- (2) improve functioning to the point where discharge to residential treatment or community-based mental health services is possible;
- (3) facilitate appropriate referrals for follow-up mental health care in the community;
- (4) work with families to improve the ability of the families to care for those children with severe emotional disturbances at home; and
- (5) assist families and children in the transition from inpatient services to community-based services or home setting, and provide notification to the child's case manager, if any, so that the case manager can monitor the transition and make timely arrangements for the child's appropriate follow-up care in the community.

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

**Subd. 3. Admission, continued stay, and discharge criteria.** No later than January 1, 1992, the county board shall ensure that placement decisions for acute care hospital inpatient treatment services are based on the clinical needs of the child and, if appropriate, the child's family. The county board shall ensure that each entity under contract with the county to provide acute care hospital treatment services has admission, continued stay, discharge criteria and discharge planning criteria as part of the contract. Contracts should specify the specific responsibilities between the county and service providers to ensure comprehensive planning and continuity of care between needed services according to data privacy requirements. All contracts for the provision of acute care hospital inpatient treatment services must include provisions guaranteeing

clients the right to appeal under section 245.4887 and to be advised of their appeal rights.

**History:** 1989 c 282 art 4 s 50; 1990 c 568 art 5 s 24; 1991 c 292 art 6 s 21,58 subd 1

### **245.4884 FAMILY COMMUNITY SUPPORT SERVICES.**

Subdivision 1. **Availability of family community support services.** By July 1, 1991, county boards must provide or contract for sufficient family community support services within the county to meet the needs of each child with severe emotional disturbance who resides in the county and the child's family. Children or their parents may be required to pay a fee in accordance with section 245.481.

Family community support services must be designed to improve the ability of children with severe emotional disturbance to:

- (1) manage basic activities of daily living;
- (2) function appropriately in home, school, and community settings;
- (3) participate in leisure time or community youth activities;
- (4) set goals and plans;
- (5) reside with the family in the community;
- (6) participate in after-school and summer activities;
- (7) make a smooth transition among mental health and education services provided to children; and
- (8) make a smooth transition into the adult mental health system as appropriate.

In addition, family community support services must be designed to improve overall family functioning if clinically appropriate to the child's needs, and to reduce the need for and use of placements more intensive, costly, or restrictive both in the number of admissions and lengths of stay than indicated by the child's diagnostic assessment.

The commissioner of human services shall work with mental health professionals to develop standards for clinical supervision of family community support services. These standards shall be incorporated in rule and in guidelines for grants for family community support services.

Subd. 2. **Day treatment services provided.** (a) Day treatment services must be part of the family community support services available to each child with severe emotional disturbance residing in the county. A child or the child's parent may be required to pay a fee according to section 245.481. Day treatment services must be designed to:

- (1) provide a structured environment for treatment;
- (2) provide support for residing in the community;
- (3) prevent placements that are more intensive, costly, or restrictive than necessary to meet the child's need;
- (4) coordinate with or be offered in conjunction with the child's education program;
- (5) provide therapy and family intervention for children that are coordinated with education services provided and funded by schools; and
- (6) operate during all 12 months of the year.

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

(1) alternative services exist through the county's family community support services for each child who would otherwise need day treatment services; and

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

Subd. 3. **Professional home-based family treatment provided.** (a) By January 1, 1991, county boards must provide or contract for sufficient professional home-based family treatment within the county to meet the needs of each child with severe emotional disturbance who is at risk of out-of-home placement due to the child's emotional disturbance or who is returning to the home from out-of-home placement. The child or the child's parent may be required to pay a fee according to section 245.481. The county board shall require that all service providers of professional home-based family treatment set fee schedules approved by the county board that are based on the child's or family's ability to pay. The professional home-based family treatment must be designed to assist each child with severe emotional disturbance who is at risk of or who is returning from out-of-home placement and the child's family to:

(1) improve overall family functioning in all areas of life;

(2) treat the child's symptoms of emotional disturbance that contribute to a risk of out-of-home placement;

(3) provide a positive change in the emotional, behavioral, and mental well-being of children and their families; and

(4) reduce risk of out-of-home placement for the identified child with severe emotional disturbance and other siblings or successfully reunify and reintegrate into the family a child returning from out-of-home placement due to emotional disturbance.

(b) Professional home-based family treatment must be provided by a team consisting of a mental health professional and others who are skilled in the delivery of mental health services to children and families in conjunction with other human service providers. The professional home-based family treatment team must maintain flexible hours of service availability and must provide or arrange for crisis services for each family, 24 hours a day, seven days a week. Case loads for each professional home-based family treatment team must be small enough to permit the delivery of intensive services and to meet the needs of the family. Professional home-based family treatment providers shall coordinate services and service needs with case managers assigned to children and their families. The treatment team must develop an individual treatment plan that identifies the specific treatment objectives for both the child and the family.

Subd. 4. **Therapeutic support of foster care.** By January 1, 1992, county boards must provide or contract for foster care with therapeutic support as defined in section 245.4871, subdivision 34. Foster families caring for children with severe emotional disturbance must receive training and supportive services, as necessary, at no cost to the foster families within the limits of available resources.

Subd. 5. **Benefits assistance.** The county board must offer help to a child with severe emotional disturbance and the child's family in applying for federal benefits, including supplemental security income, medical assistance, and Medicare.

**History:** 1990 c 568 art 5 s 25; 1991 c 292 art 6 s 22; 1992 c 571 art 10 s 12

## **245.4885 SCREENING FOR INPATIENT AND RESIDENTIAL TREATMENT.**

Subdivision 1. **Admission criteria.** (a) Prior to admission, except in the case of emergency

admission, all children referred for treatment of severe emotional disturbance in a treatment foster care setting, residential treatment facility, or informally admitted to a regional treatment center shall undergo an assessment to determine the appropriate level of care if public funds are used to pay for the services.

(b) The county board shall determine the appropriate level of care when county-controlled funds are used to pay for the services. When the child is enrolled in a prepaid health program under section 256B.69, the enrolled child's contracted health plan must determine the appropriate level of care. When Indian Health Services funds or funds of a tribally owned facility funded under the Indian Self-Determination and Education Assistance Act, Public Law 93-638, are to be used, the Indian Health Services or 638 tribal health facility must determine the appropriate level of care. When more than one entity bears responsibility for coverage, the entities shall coordinate level of care determination activities to the extent possible.

(c) The level of care determination shall determine whether the proposed treatment:

- (1) is necessary;
- (2) is appropriate to the child's individual treatment needs;
- (3) cannot be effectively provided in the child's home; and
- (4) provides a length of stay as short as possible consistent with the individual child's need.

(d) When a level of care determination is conducted, the responsible entity may not determine that referral or admission to a treatment foster care setting or residential treatment facility is not appropriate solely because services were not first provided to the child in a less restrictive setting and the child failed to make progress toward or meet treatment goals in the less restrictive setting. The level of care determination must be based on a diagnostic assessment that includes a functional assessment which evaluates family, school, and community living situations; and an assessment of the child's need for care out of the home using a validated tool which assesses a child's functional status and assigns an appropriate level of care. The validated tool must be approved by the commissioner of human services. If a diagnostic assessment including a functional assessment has been completed by a mental health professional within the past 180 days, a new diagnostic assessment need not be completed unless in the opinion of the current treating mental health professional the child's mental health status has changed markedly since the assessment was completed. The child's parent shall be notified if an assessment will not be completed and of the reasons. A copy of the notice shall be placed in the child's file. Recommendations developed as part of the level of care determination process shall include specific community services needed by the child and, if appropriate, the child's family, and shall indicate whether or not these services are available and accessible to the child and family.

(e) During the level of care determination process, the child, child's family, or child's legal representative, as appropriate, must be informed of the child's eligibility for case management services and family community support services and that an individual family community support plan is being developed by the case manager, if assigned.

(f) The level of care determination shall comply with section 260C.212. The parent shall be consulted in the process, unless clinically detrimental to the child.

(g) The level of care determination, and placement decision, and recommendations for mental health services must be documented in the child's record.

Subd. 1a. **Emergency admission.** Effective July 1, 2006, if a child is admitted to a treatment foster care setting, residential treatment facility, or held for emergency care by a

regional treatment center under section 253B.05, subdivision 1, the level of care determination must occur within five working days of admission.

Subd. 2. **Qualifications.** Level of care determination of children for treatment foster care, residential, and inpatient services must be conducted by a mental health professional. Where appropriate and available, culturally informed mental health consultants must participate in the level of care determination. Mental health professionals providing level of care determination for treatment foster care, inpatient, and residential services must not be financially affiliated with any nongovernment entity which may be providing those services.

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

Subd. 4. [Repealed, 1993 c 337 s 20]

Subd. 5. **Summary data collection.** The county board shall annually collect summary information on the number of children screened, the age and racial or ethnic background of the children, the presenting problem, and the screening recommendations. The county shall include information on the degree to which these recommendations are followed and the reasons for not following recommendations. Summary data shall be available to the public and shall be used by the county board and local children's advisory council to identify needed service development.

**History:** 1989 c 282 art 4 s 51; 1990 c 568 art 5 s 26,27; 1991 c 292 art 6 s 23-25; 1995 c 207 art 8 s 11; 1999 c 139 art 4 s 2; 1Sp2001 c 9 art 9 s 17; 2002 c 379 art 1 s 113; 1Sp2003 c 14 art 11 s 11; 1Sp2005 c 4 art 2 s 4-6; 2009 c 167 s 5; 2009 c 174 art 1 s 2,3; 2010 c 303 s 1,2

**245.4886** MS 1990 [Renumbered 245.4887]

**245.4886** MS 2002 [Repealed, 1Sp2003 c 14 art 11 s 12]

**245.4887** MS 1990 [Renumbered 245.4888]

#### **245.4887 APPEALS.**

A child or a child's family, as appropriate, who requests mental health services under sections 245.487 to 245.4889 must be advised of services available and the right to appeal as described in this section at the time of the request and each time the individual family community support plan or individual treatment plan is reviewed. A child whose request for mental health services under sections 245.487 to 245.4889 is denied, not acted upon with reasonable promptness, or whose services are suspended, reduced, or terminated by action or inaction for which the county board is responsible under sections 245.487 to 245.4889 may contest that action or inaction before the state agency according to section 256.045. The commissioner shall monitor the nature and frequency of administrative appeals under this section.

**History:** 1989 c 282 art 4 s 52; 1991 c 292 art 6 s 58 subd 1; 1Sp2003 c 14 art 11 s 11; 2007 c 147 art 8 s 38

**245.4888** [Repealed, 1Sp2003 c 14 art 11 s 12]

**CHILDREN'S MENTAL HEALTH GRANTS****245.4889 CHILDREN'S MENTAL HEALTH GRANTS.**

Subdivision 1. **Establishment and authority.** (a) The commissioner is authorized to make grants from available appropriations to assist:

- (1) counties;
- (2) Indian tribes;
- (3) children's collaboratives under section 124D.23 or 245.493; or
- (4) mental health service providers

for providing services to children with emotional disturbances as defined in section 245.4871, subdivision 15, and their families. The commissioner may also authorize grants to young adults meeting the criteria for transition services in section 245.4875, subdivision 8, and their families.

(b) Services under paragraph (a) must be designed to help each child to function and remain with the child's family in the community and delivered consistent with the child's treatment plan. Transition services to eligible young adults under paragraph (a) must be designed to foster independent living in the community.

Subd. 2. **Grant application and reporting requirements.** To apply for a grant, an applicant organization shall submit an application and budget for the use of the money in the form specified by the commissioner. The commissioner shall make grants only to entities whose applications and budgets are approved by the commissioner. In awarding grants, the commissioner shall give priority to applications that indicate plans to collaborate in the development, funding, and delivery of services with other agencies in the local system of care. The commissioner shall specify requirements for reports, including quarterly fiscal reports under section 256.01, subdivision 2, paragraph (q). The commissioner shall require collection of data and periodic reports that the commissioner deems necessary to demonstrate the effectiveness of each service.

**History:** 2007 c 147 art 8 s 8

**245.490 REGIONAL TREATMENT CENTERS: MISSION STATEMENT.**

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

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

(2) provide active treatment;

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

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

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

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

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



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

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

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

**History:** 1988 c 464 s 1

## **CHILDREN'S MENTAL HEALTH INTEGRATED FUND**

### **245.491 CITATION; DECLARATION OF PURPOSE.**

Subdivision 1. **Citation.** Sections 245.491 to 245.495 may be cited as "the children's mental health integrated fund."

Subd. 2. **Purpose.** The legislature finds that children with emotional or behavioral disturbances or who are at risk of suffering such disturbances often require services from multiple service systems including mental health, social services, education, corrections, juvenile court, health, and employment and economic development. In order to better meet the needs of these children, it is the intent of the legislature to establish an integrated children's mental health service system that:

(1) allows local service decision makers to draw funding from a single local source so that funds follow clients and eliminates the need to match clients, funds, services, and provider eligibilities;

(2) creates a local pool of state, local, and private funds to procure a greater medical assistance federal financial participation;

(3) improves the efficiency of use of existing resources;

(4) minimizes or eliminates the incentives for cost and risk shifting; and

(5) increases the incentives for earlier identification and intervention.

The children's mental health integrated fund established under sections 245.491 to 245.495 must be used to develop and support this integrated mental health service system. In developing this integrated service system, it is not the intent of the legislature to limit any rights available to children and their families through existing federal and state laws.

**History:** 1Sp1993 c 1 art 7 s 11; 1994 c 483 s 1; 1Sp2003 c 14 art 11 s 11; 2009 c 86 art 1 s 89

### **245.492 DEFINITIONS.**

Subdivision 1. **Definitions.** The definitions in this section apply to sections 245.491 to 245.495.

Subd. 2. **Base level funding.** "Base level funding" means funding received from state, federal, or local sources and expended across the local system of care in fiscal year 1995 for children's mental health services, for special education services, and for other services for children with emotional or behavioral disturbances and their families.

In subsequent years, base level funding may be adjusted to reflect decreases in the numbers of children in the target population.

Subd. 3. **Children with emotional or behavioral disturbances.** "Children with emotional or behavioral disturbances" includes children with emotional disturbances as defined in section 245.4871, subdivision 15, and children with emotional or behavioral disorders as defined in Minnesota Rules, part 3525.1329, subpart 1.

Subd. 4. **Family.** "Family" has the definition provided in section 245.4871, subdivision 16.

Subd. 5. **Family community support services.** "Family community support services" has the definition provided in section 245.4871, subdivision 17.

Subd. 6. **Operational target population.** "Operational target population" means a population of children that the local children's mental health collaborative agrees to serve and who fall within the criteria for the target population. The operational target population may be less than the target population.

Subd. 7. **Integrated fund.** "Integrated fund" is a pool of both public and private local, state, and federal resources, consolidated at the local level, to accomplish locally agreed-upon service goals for the target population. The fund is used to help the local children's mental health collaborative to serve the mental health needs of children in the target population by allowing the local children's mental health collaboratives to develop and implement an integrated service system.

Subd. 8. **Integrated fund task force.** The "integrated fund task force" means the statewide task force established in Laws 1991, chapter 292, article 6, section 57.

Subd. 9. **Integrated service system.** "Integrated service system" means a coordinated set of procedures established by the local children's mental health collaborative for coordinating services and actions across categorical systems and agencies that results in:

- (1) integrated funding;
- (2) improved outreach, early identification, and intervention across systems;
- (3) strong collaboration between parents and professionals in identifying children in the target population facilitating access to the integrated system, and coordinating care and services for these children;
- (4) a coordinated assessment process across systems that determines which children need multiagency care coordination and wraparound services;
- (5) multiagency plan of care; and
- (6) individualized rehabilitation services.

Services provided by the integrated service system must meet the requirements set out in sections 245.487 to 245.4889. Children served by the integrated service system must be economically and culturally representative of children in the service delivery area.

Subd. 10. **Interagency early intervention committee.** "Interagency early intervention committee" refers to the committee established under section 125A.30.

Subd. 11. **Local children's advisory council.** "Local children's advisory council" refers to the council established under section 245.4875, subdivision 5.

Subd. 12. **Local children's mental health collaborative.** "Local children's mental health

collaborative" or "collaborative" means an entity formed by the agreement of representatives of the local system of care including mental health services, social services, correctional services, education services, health services, and vocational services for the purpose of developing and governing an integrated service system. A local coordinating council, a community transition interagency committee as defined in section 125A.22, or an interagency early intervention committee may serve as a local children's mental health collaborative if its representatives are capable of carrying out the duties of the local children's mental health collaborative set out in sections 245.491 to 245.495. Where a local coordinating council is not the local children's mental health collaborative, the local children's mental health collaborative must work closely with the local coordinating council in designing the integrated service system.

Subd. 13. **Local coordinating council.** "Local coordinating council" refers to the council established under section 245.4875, subdivision 6.

Subd. 14. **Local system of care.** "Local system of care" has the definition provided in section 245.4871, subdivision 24.

Subd. 15. **Mental health services.** "Mental health services" has the definition provided in section 245.4871, subdivision 28.

Subd. 16. **Multiagency plan of care.** "Multiagency plan of care" means a written plan of intervention and integrated services developed by a multiagency team in conjunction with the child and family based on their unique strengths and needs as determined by a multiagency assessment. The plan must outline measurable client outcomes and specific services needed to attain these outcomes, the agencies responsible for providing the specified services, funding responsibilities, timelines, the judicial or administrative procedures needed to implement the plan of care, the agencies responsible for initiating these procedures and designate one person with lead responsibility for overseeing implementation of the plan.

Subd. 17. **Respite care.** "Respite care" is planned routine care to support the continued residence of a child with emotional or behavioral disturbance with the child's family or long-term primary caretaker.

Subd. 18. **Service delivery area.** "Service delivery area" means the geographic area to be served by the local children's mental health collaborative and must include at a minimum a part of a county and school district or a special education cooperative.

Subd. 19. **Start-up funds.** "Start-up funds" means the funds available to assist a local children's mental health collaborative in planning and implementing the integrated service system for children in the target population, in setting up a local integrated fund, and in developing procedures for enhancing federal financial participation.

Subd. 20. [Repealed, 1995 c 207 art 11 s 12]

Subd. 21. **Target population.** "Target population" means children up to age 18 with an emotional or behavioral disturbance or who are at risk of suffering an emotional or behavioral disturbance as evidenced by a behavior or condition that affects the child's ability to function in a primary aspect of daily living including personal relations, living arrangements, work, school, and recreation, and a child who can benefit from:

- (1) multiagency service coordination and wraparound services; or

(2) informal coordination of traditional mental health services provided on a temporary basis.

Children between the ages of 18 and 21 who meet these criteria may be included in the target population at the option of the local children's mental health collaborative.

Subd. 22. **Therapeutic support of foster care.** "Therapeutic support of foster care" has the definition provided in section 245.4871, subdivision 34.

Subd. 23. **Individualized rehabilitation services.** "Individualized rehabilitation services" are alternative, flexible, coordinated, and highly individualized services that are based on a multiagency plan of care. These services are designed to build on the strengths and respond to the needs identified in the child's multiagency assessment and to improve the child's ability to function in the home, school, and community. Individualized rehabilitation services may include, but are not limited to, residential services, respite services, services that assist the child or family in enrolling in or participating in recreational activities, assistance in purchasing otherwise unavailable items or services important to maintain a specific child in the family, and services that assist the child to participate in more traditional services and programs.

**History:** *1Sp1993 c 1 art 7 s 12; 1994 c 647 art 13 s 18; 1995 c 207 art 8 s 13-16; 1998 c 397 art 11 s 3; 1Sp2003 c 14 art 11 s 11; 2007 c 147 art 8 s 38*

#### **245.493 LOCAL CHILDREN'S MENTAL HEALTH COLLABORATIVE.**

Subdivision 1. **Qualification requirements.** In order to qualify as a local children's mental health collaborative and be eligible to receive start-up funds, the representatives of the local system of care, including entities provided under section 245.4875, subdivision 6, and nongovernmental entities such as parents of children in the target population; parent and consumer organizations; community, civic, and religious organizations; private and nonprofit mental and physical health care providers; culturally specific organizations; local foundations; and businesses, or at a minimum one county, one school district or special education cooperative, one mental health entity, and, by July 1, 1998, one juvenile justice or corrections entity, must agree to the following:

(1) to establish a local children's mental health collaborative and develop an integrated service system;

(2) to commit resources to providing services through the local children's mental health collaborative; and

(3) develop a plan to contribute funds to the children's mental health collaborative.

Subd. 1a. **Duties of certain coordinating bodies.** (a) By mutual agreement of the collaborative and a coordinating body listed in this subdivision, a children's mental health collaborative or a collaborative established by the merger of a children's mental health collaborative and a family services collaborative under section 124D.23, may assume the duties of a community transition interagency committee established under section 125A.22; an interagency early intervention committee established under section 125A.30; a local advisory council established under section 245.4875, subdivision 5; or a local coordinating council established under section 245.4875, subdivision 6.

(b) Two or more family services collaboratives or children's mental health collaboratives may consolidate decision making, pool resources, and collectively act on behalf of the individual collaboratives, based on a written agreement among the participating collaboratives.

Subd. 2. **Duties of the collaborative.** Each local children's mental health collaborative must:

(1) notify the commissioner of human services within ten days of formation by signing a collaborative agreement and providing the commissioner with a copy of the signed agreement;

(2) identify a service delivery area and an operational target population within that service delivery area. The operational target population must be economically and culturally representative of children in the service delivery area to be served by the local children's mental health collaborative. The size of the operational target population must also be economically viable for the service delivery area;

(3) seek to maximize federal revenues available to serve children in the target population by designating local expenditures for services for these children and their families that can be matched with federal dollars;

(4) in consultation with the local children's advisory council and the local coordinating council, if it is not the local children's mental health collaborative, design, develop, and ensure implementation of an integrated service system that meets the requirements for state and federal reimbursement and develop interagency agreements necessary to implement the system;

(5) expand membership to include representatives of other services in the local system of care including prepaid health plans under contract with the commissioner of human services to serve the needs of children in the target population and their families;

(6) create or designate a management structure for fiscal and clinical responsibility and outcome evaluation;

(7) spend funds generated by the local children's mental health collaborative as required in sections 245.491 to 245.495;

(8) explore methods and recommend changes needed at the state level to reduce duplication and promote coordination of services including the use of uniform forms for reporting, billing, and planning of services;

(9) submit its integrated service system design to the Children's Cabinet for approval within one year of notifying the commissioner of human services of its formation;

(10) provide an annual report that includes the elements listed in section 245.494, subdivision 2, and the collaborative's planned timeline to expand its operational target population to the Children's Cabinet; and

(11) expand its operational target population.

Each local children's mental health collaborative may contract with the commissioner of human services to become a medical assistance provider of mental health services according to section 245.4933.

Subd. 3. **Information sharing.** (a) The members of a local children's mental health collaborative may share data on individuals being served by the collaborative or its members if the individual, as defined in section 13.02, subdivision 8, gives written informed consent and the information sharing is necessary in order for the collaborative to carry out duties under subdivision 2. Data on individuals shared under this subdivision retain the original classification as defined under section 13.02, as to each member of the collaborative with whom the data is shared.

(b) If a federal law or regulation impedes information sharing that is necessary in order for a collaborative to carry out duties under subdivision 2, the appropriate state agencies shall attempt to get a waiver or exemption from the applicable law or regulation.

**History:** *1Sp1993 c 1 art 7 s 13; 1994 c 618 art 1 s 27; 1995 c 207 art 8 s 17; art 11 s 11; 1997 c 203 art 5 s 2,3; 1Sp1997 c 4 art 2 s 40; 1998 c 397 art 11 s 3; 1Sp2003 c 14 art 4 s 3; art 11 s 11*

#### **245.4931 INTEGRATED LOCAL SERVICE SYSTEM.**

The integrated service system established by the local children's mental health collaborative must:

(1) include a process for communicating to agencies in the local system of care eligibility criteria for services received through the local children's mental health collaborative and a process for determining eligibility. The process shall place strong emphasis on outreach to families, respecting the family role in identifying children in need, and valuing families as partners;

(2) include measurable outcomes, timelines for evaluating progress, and mechanisms for quality assurance and appeals;

(3) involve the family, and where appropriate the individual child, in developing multiagency service plans to the extent required in sections 125A.08; 245.4871, subdivision 21; 245.4881, subdivision 4; 253B.03, subdivision 7; 260C.212, subdivision 1; and 260C.201, subdivision 6;

(4) meet all standards and provide all mental health services as required in sections 245.487 to 245.4889, and ensure that the services provided are culturally appropriate;

(5) spend funds generated by the local children's mental health collaborative as required in sections 245.491 to 245.495;

(6) encourage public-private partnerships to increase efficiency, reduce redundancy, and promote quality of care; and

(7) ensure that, if the county participant of the local children's mental health collaborative is also a provider of child welfare targeted case management as authorized by the 1993 legislature, then federal reimbursement received by the county for child welfare targeted case management provided to children served by the local children's mental health collaborative must be directed to the integrated fund.

**History:** *1Sp1993 c 1 art 7 s 14; 1998 c 397 art 11 s 3; 1999 c 139 art 4 s 2; 1Sp2003 c 14 art 11 s 11; 2007 c 147 art 8 s 38*

#### **245.4932 REVENUE ENHANCEMENT; AUTHORITY AND RESPONSIBILITIES.**

Subdivision 1. **Collaborative responsibilities.** The children's mental health collaborative shall have the following authority and responsibilities regarding federal revenue enhancement:

(1) the collaborative must establish an integrated fund;

(2) the collaborative shall designate a lead county or other qualified entity as the fiscal agency for reporting, claiming, and receiving payments;

(3) the collaborative or lead county may enter into subcontracts with other counties, school districts, special education cooperatives, municipalities, and other public and nonprofit entities for purposes of identifying and claiming eligible expenditures to enhance federal reimbursement;

(4) the collaborative shall use any enhanced revenue attributable to the activities of the collaborative, including administrative and service revenue, solely to provide mental health services or to expand the operational target population. The lead county or other qualified entity may not use enhanced federal revenue for any other purpose;

(5) the members of the collaborative must continue the base level of expenditures, as defined in section 245.492, subdivision 2, for services for children with emotional or behavioral disturbances and their families from any state, county, federal, or other public or private funding source which, in the absence of the new federal reimbursement earned under sections 245.491 to 245.495, would have been available for those services. The base year for purposes of this subdivision shall be the accounting period closest to state fiscal year 1993;

(6) the collaborative or lead county must develop and maintain an accounting and financial management system adequate to support all claims for federal reimbursement, including a clear audit trail and any provisions specified in the contract with the commissioner of human services;

(7) the collaborative or its members may elect to pay the nonfederal share of the medical assistance costs for services designated by the collaborative; and

(8) the lead county or other qualified entity may not use federal funds or local funds designated as matching for other federal funds to provide the nonfederal share of medical assistance.

**Subd. 2. Commissioner's responsibilities.** (1) Notwithstanding sections 256B.19, subdivision 1, and 256B.0625, the commissioner shall be required to amend the state medical assistance plan to include as covered services eligible for medical assistance reimbursement, those services eligible for reimbursement under federal law or waiver, which a collaborative elects to provide and for which the collaborative elects to pay the nonfederal share of the medical assistance costs.

(2) The commissioner may suspend, reduce, or terminate the federal reimbursement to a collaborative that does not meet the requirements of sections 245.493 to 245.495.

(3) The commissioner shall recover from the collaborative any federal fiscal disallowances or sanctions for audit exceptions directly attributable to the collaborative's actions or the proportional share if federal fiscal disallowances or sanctions are based on a statewide random sample.

**Subd. 3. Payments.** Payments under sections 245.493 to 245.495 to providers for services for which the collaborative elects to pay the nonfederal share of medical assistance shall only be made of federal earnings from services provided under sections 245.493 to 245.495.

**Subd. 4. Centralized disbursement of medical assistance payments.** Notwithstanding section 256B.041, and except for family community support services and therapeutic support of foster care, county payments for the cost of services for which the collaborative elects to pay the nonfederal share, for reimbursement under medical assistance, shall not be made to the commissioner of management and budget. For purposes of individualized rehabilitation services under sections 245.493 to 245.495, the centralized disbursement of payments to providers under section 256B.041 consists only of federal earnings from services provided under sections 245.493 to 245.495.

**History:** *1Sp1993 c 1 art 7 s 15; 1995 c 207 art 8 s 18-21; 2002 c 277 s 3; 2003 c 112 art 2 s 50; 1Sp2003 c 14 art 11 s 11; 2009 c 101 art 2 s 109*

**245.4933 MEDICAL ASSISTANCE PROVIDER STATUS.**

Subdivision 1. **Requirements to become a prepaid medical provider.** (a) In order for a local children's mental health collaborative to become a prepaid provider of medical assistance services and be eligible to receive medical assistance reimbursement, the collaborative must:

(1) enter into a contract with the commissioner of human services to provide mental health services including inpatient, outpatient, medication management, services under the rehabilitation option, and related physician services;

(2) meet the applicable federal requirements;

(3) either carry stop-loss insurance or enter into a risk-sharing agreement with the commissioner of human services; and

(4) provide medically necessary medical assistance mental health services to children in the target population who enroll in the local children's mental health collaborative.

(b) Upon execution of the provider contract with the commissioner of human services the local children's mental health collaborative may:

(1) provide mental health services which are not medical assistance state plan services in addition to the state plan services described in the contract with the commissioner of human services; and

(2) enter into subcontracts which meet the requirements of Code of Federal Regulations, title 42, section 434.6, with other providers of mental health services including prepaid health plans established under section 256B.69.

**Subd. 2. Children enrolled in a prepaid health plan.** A children's mental health collaborative may serve children in the collaborative's target population who are enrolled in a prepaid health plan under contract with the commissioner of human services by contracting with one or more such health plans to provide medical assistance or MinnesotaCare mental health services to children enrolled in the health plan. The collaborative and the health plan shall work cooperatively to ensure the integration of physical and mental health services.

**Subd. 3. Children who become enrolled in a prepaid health plan.** A children's mental health collaborative may provide prepaid medical assistance or MinnesotaCare mental health services to children who are not enrolled in prepaid health plans until those children are enrolled. Publication of a request for proposals in the State Register shall serve as notice to the collaborative of the commissioner's intent to execute contracts for medical assistance and MinnesotaCare services. In order to become or continue to be a provider of medical assistance or MinnesotaCare services the collaborative may contract with one or more such prepaid health plans after the collaborative's target population is enrolled in a prepaid health plan. The collaborative and the health plan shall work cooperatively to ensure the integration of physical and mental health services.

**Subd. 4. Commissioner's duties.** (a) The commissioner of human services shall provide to each children's mental health collaborative that is considering whether to become a prepaid provider of mental health services the commissioner's best estimate of a capitated payment rate prior to an actuarial study based upon the collaborative's operational target population. The capitated payment rate shall be adjusted annually, if necessary, for changes in the operational target population.



(b) The commissioner shall negotiate risk adjustment and reinsurance mechanisms with children's mental health collaboratives that become medical assistance providers including those that subcontract with prepaid health plans.

Subd. 5. **Noncontracting collaboratives.** A local children's mental health collaborative that does not become a prepaid provider of medical assistance or MinnesotaCare services may provide services through individual members of a noncontracting collaborative who have a medical assistance provider agreement to eligible recipients who are not enrolled in the health plan.

Subd. 6. **Individualized rehabilitation services.** A children's mental health collaborative with an integrated service system approved by the Children's Cabinet may become a medical assistance provider for the purpose of obtaining prior authorization for and providing individualized rehabilitation services.

**History:** 1995 c 207 art 8 s 22; art 11 s 11

#### **245.494 STATE LEVEL COORDINATION.**

Subdivision 1. **Children's Cabinet.** The Children's Cabinet, in consultation with the Integrated Fund Task Force, shall:

(1) assist local children's mental health collaboratives in meeting the requirements of sections 245.491 to 245.495, by seeking consultation and technical assistance from national experts and coordinating presentations and assistance from these experts to local children's mental health collaboratives;

(2) assist local children's mental health collaboratives in identifying an economically viable operational target population;

(3) develop methods to reduce duplication and promote coordinated services including uniform forms for reporting, billing, and planning of services;

(4) by September 1, 1994, develop a model multiagency plan of care that can be used by local children's mental health collaboratives in place of an individual education plan, individual family community support plan, individual family support plan, and an individual treatment plan;

(5) assist in the implementation and operation of local children's mental health collaboratives by facilitating the integration of funds, coordination of services, and measurement of results, and by providing other assistance as needed;

(6) develop procedures and provide technical assistance to allow local children's mental health collaboratives to integrate resources for children's mental health services with other resources available to serve children in the target population in order to maximize federal participation and improve efficiency of funding;

(7) ensure that local children's mental health collaboratives and the services received through these collaboratives meet the requirements set out in sections 245.491 to 245.495;

(8) identify base level funding from state and federal sources across systems;

(9) explore ways to access additional federal funds and enhance revenues available to address the needs of the target population;

(10) develop a mechanism for identifying the state share of funding for services to children in the target population and for making these funds available on a per capita basis for services provided through the local children's mental health collaborative to children in the target

population. Each year beginning January 1, 1994, forecast the growth in the state share and increase funding for local children's mental health collaboratives accordingly;

(11) identify barriers to integrated service systems that arise from data practices and make recommendations including legislative changes needed in the Data Practices Act to address these barriers; and

(12) annually review the expenditures of local children's mental health collaboratives to ensure that funding for services provided to the target population continues from sources other than the federal funds earned under sections 245.491 to 245.495 and that federal funds earned are spent consistent with sections 245.491 to 245.495.

**Subd. 2. Children's Cabinet report.** By February 1, 1996, the Children's Cabinet, under section 4.045, in consultation with a representative of the Minnesota District Judges Association Juvenile Committee, must submit a report to the legislature on the status of the local children's mental health collaboratives. The report must include the number of local children's mental health collaboratives, the amount and type of resources committed to local children's mental health collaboratives, the additional federal revenue received as a result of local children's mental health collaboratives, the services provided, the number of children served, outcome indicators, the identification of barriers to additional collaboratives and funding integration, and recommendations for further improving service coordination and funding integration.

**Subd. 3. Duties of the commissioner of human services.** The commissioner of human services, in consultation with the Integrated Fund Task Force, shall:

(1) in the first quarter of 1994, in areas where a local children's mental health collaborative has been established, based on an independent actuarial analysis, identify all medical assistance and MinnesotaCare resources devoted to mental health services for children in the target population including inpatient, outpatient, medication management, services under the rehabilitation option, and related physician services in the total health capitation of prepaid plans under contract with the commissioner to provide medical assistance services under section 256B.69;

(2) assist each children's mental health collaborative to determine an actuarially feasible operational target population;

(3) ensure that a prepaid health plan that contracts with the commissioner to provide medical assistance or MinnesotaCare services shall pass through the identified resources to a collaborative or collaboratives upon the collaboratives meeting the requirements of section 245.4933 to serve the collaborative's operational target population. The commissioner shall, through an independent actuarial analysis, specify differential rates the prepaid health plan must pay the collaborative based upon severity, functioning, and other risk factors, taking into consideration the fee-for-service experience of children excluded from prepaid medical assistance participation;

(4) ensure that a children's mental health collaborative that enters into an agreement with a prepaid health plan under contract with the commissioner shall accept medical assistance recipients in the operational target population on a first-come, first-served basis up to the collaborative's operating capacity or as determined in the agreement between the collaborative and the commissioner;

(5) ensure that a children's mental health collaborative that receives resources passed through a prepaid health plan under contract with the commissioner shall be subject to the quality

assurance standards, reporting of utilization information, standards set out in sections 245.487 to 245.4889, and other requirements established in Minnesota Rules, part 9500.1460;

(6) ensure that any prepaid health plan that contracts with the commissioner, including a plan that contracts under section 256B.69, must enter into an agreement with any collaborative operating in the same service delivery area that:

(i) meets the requirements of section 245.4933;

(ii) is willing to accept the rate determined by the commissioner to provide medical assistance services; and

(iii) requests to contract with the prepaid health plan;

(7) ensure that no agreement between a health plan and a collaborative shall terminate the legal responsibility of the health plan to assure that all activities under the contract are carried out. The agreement may require the collaborative to indemnify the health plan for activities that are not carried out;

(8) ensure that where a collaborative enters into an agreement with the commissioner to provide medical assistance and MinnesotaCare services a separate capitation rate will be determined through an independent actuarial analysis which is based upon the factors set forth in clause (3) to be paid to a collaborative for children in the operational target population who are eligible for medical assistance but not included in the prepaid health plan contract with the commissioner;

(9) ensure that in counties where no prepaid health plan contract to provide medical assistance or MinnesotaCare services exists, a children's mental health collaborative that meets the requirements of section 245.4933 shall:

(i) be paid a capitated rate, actuarially determined, that is based upon the collaborative's operational target population;

(ii) accept medical assistance or MinnesotaCare recipients in the operational target population on a first-come, first-served basis up to the collaborative's operating capacity or as determined in the contract between the collaborative and the commissioner; and

(iii) comply with quality assurance standards, reporting of utilization information, standards set out in sections 245.487 to 245.4889, and other requirements established in Minnesota Rules, part 9500.1460;

(10) subject to federal approval, in the development of rates for local children's mental health collaboratives, the commissioner shall consider, and may adjust, trend and utilization factors, to reflect changes in mental health service utilization and access;

(11) consider changes in mental health service utilization, access, and price, and determine the actuarial value of the services in the maintenance of rates for local children's mental health collaborative provided services, subject to federal approval;

(12) provide written notice to any prepaid health plan operating within the service delivery area of a children's mental health collaborative of the collaborative's existence within 30 days of the commissioner's receipt of notice of the collaborative's formation;

(13) ensure that in a geographic area where both a prepaid health plan including those established under either section 256B.69 or 256L.12 and a local children's mental health collaborative exist, medical assistance and MinnesotaCare recipients in the operational target population who are enrolled in prepaid health plans will have the choice to receive mental health

services through either the prepaid health plan or the collaborative that has a contract with the prepaid health plan, according to the terms of the contract;

(14) develop a mechanism for integrating medical assistance resources for mental health service with MinnesotaCare and any other state and local resources available for services for children in the operational target population, and develop a procedure for making these resources available for use by a local children's mental health collaborative;

(15) gather data needed to manage mental health care including evaluation data and data necessary to establish a separate capitation rate for children's mental health services if that option is selected;

(16) by January 1, 1994, develop a model contract for providers of mental health managed care that meets the requirements set out in sections 245.491 to 245.495 and 256B.69, and utilize this contract for all subsequent awards, and before January 1, 1995, the commissioner of human services shall not enter into or extend any contract for any prepaid plan that would impede the implementation of sections 245.491 to 245.495;

(17) develop revenue enhancement or rebate mechanisms and procedures to certify expenditures made through local children's mental health collaboratives for services including administration and outreach that may be eligible for federal financial participation under medical assistance and other federal programs;

(18) ensure that new contracts and extensions or modifications to existing contracts under section 256B.69 do not impede implementation of sections 245.491 to 245.495;

(19) provide technical assistance to help local children's mental health collaboratives certify local expenditures for federal financial participation, using due diligence in order to meet implementation timelines for sections 245.491 to 245.495 and recommend necessary legislation to enhance federal revenue, provide clinical and management flexibility, and otherwise meet the goals of local children's mental health collaboratives and request necessary state plan amendments to maximize the availability of medical assistance for activities undertaken by the local children's mental health collaborative;

(20) take all steps necessary to secure medical assistance reimbursement under the rehabilitation option for family community support services and therapeutic support of foster care and for individualized rehabilitation services;

(21) provide a mechanism to identify separately the reimbursement to a county for child welfare targeted case management provided to children served by the local collaborative for purposes of subsequent transfer by the county to the integrated fund;

(22) ensure that family members who are enrolled in a prepaid health plan and whose children are receiving mental health services through a local children's mental health collaborative file complaints about mental health services needed by the family members, the commissioner shall comply with section 256B.69, subdivision 20. A collaborative may assist a family to make a complaint; and

(23) facilitate a smooth transition for children receiving prepaid medical assistance or MinnesotaCare services through a children's mental health collaborative who become enrolled in a prepaid health plan.

Subd. 4. **Rulemaking.** The commissioners of human services, health, corrections, and education shall adopt or amend rules as necessary to implement sections 245.491 to 245.495.

Subd. 5. **Rule modification.** By January 15, 1994, the commissioner shall report to the legislature the extent to which claims for federal reimbursement for case management as set out in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, as they pertain to mental health case management are consistent with the number of children eligible to receive this service. The report shall also identify how the commissioner intends to increase the numbers of eligible children receiving this service, including recommendations for modifying rules or statutes to improve access to this service and to reduce barriers to its provision.

In developing these recommendations, the commissioner shall:

(1) review experience and consider alternatives to the reporting and claiming requirements, such as the rate of reimbursement, the claiming unit of time, and documenting and reporting procedures set out in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, as they pertain to mental health case management;

(2) consider experience gained from implementation of child welfare targeted case management;

(3) determine how to adjust the reimbursement rate to reflect reductions in caseload size;

(4) determine how to ensure that provision of targeted child welfare case management does not preclude an eligible child's right, or limit access, to case management services for children with severe emotional disturbance as set out in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, as they pertain to mental health case management;

(5) determine how to include cost and time data collection for contracted providers for rate setting, claims, and reimbursement purposes;

(6) evaluate the need for cost control measures where there is no county share; and

(7) determine how multiagency teams may share the reimbursement.

The commissioner shall conduct a study of the cost of county staff providing case management services under Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, as they pertain to mental health case management. If the average cost of providing case management services to children with severe emotional disturbance is determined by the commissioner to be greater than the average cost of providing child welfare targeted case management, the commissioner shall ensure that a higher reimbursement rate is provided for case management services under Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, to children with severe emotional disturbance. The total medical assistance funds expended for this service in the biennium ending in state fiscal year 1995 shall not exceed the amount projected in the state Medicaid forecast for case management for children with serious emotional disturbances.

**History:** *1Sp1993 c 1 art 7 s 16; 1995 c 207 art 8 s 23,24; art 11 s 3,11; 1997 c 187 art 1 s 16; 1998 c 398 art 5 s 55; 2003 c 130 s 12; 1Sp2003 c 14 art 11 s 11; 2007 c 147 art 8 s 38; 2009 c 173 art 3 s 2*

#### **245.495 ADDITIONAL FEDERAL REVENUES.**

(a) Each local children's mental health collaborative shall report expenditures eligible for federal reimbursement in a manner prescribed by the commissioner of human services under section 256.01, subdivision 2, clause (17). The commissioner of human services shall pay all funds earned by each local children's mental health collaborative to the collaborative. Each local children's mental health collaborative must use these funds to expand the operational target population or to develop or provide mental health services through the local integrated service

system to children in the target population. Funds may not be used to supplant funding for services to children in the target population.

For purposes of this section, "mental health services" are community-based, nonresidential services, which may include respite care, that are identified in the child's multiagency plan of care.

(b) The commissioner may set aside a portion of the federal funds earned under this section to repay the special revenue maximization account under section 256.01, subdivision 2, clause (15). The set-aside must not exceed five percent of the federal reimbursement earned by collaboratives and repayment is limited to:

(1) the costs of developing and implementing sections 245.491 to 245.495, including the costs of technical assistance from the Departments of Human Services, Education, Health, and Corrections to implement the children's mental health integrated fund;

(2) programming the information systems; and

(3) any lost federal revenue for the central office claim directly caused by the implementation of these sections.

(c) Any unexpended funds from the set-aside described in paragraph (b) shall be distributed to counties.

**History:** *1Sp1993 c 1 art 7 s 17; 1995 c 207 art 8 s 25; 1Sp1995 c 3 art 16 s 13; 2003 c 130 s 12; 1Sp2003 c 14 art 11 s 11*

**245.496** [Repealed, 1Sp2003 c 14 art 11 s 12]

## **245.50 INTERSTATE CONTRACTS, MENTAL HEALTH, CHEMICAL HEALTH SERVICES.**

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

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

(b) "Receiving agency" means a public or private hospital, mental health center, chemical health treatment facility, or other person or organization which provides mental health or chemical health services under this section to individuals from a state other than the state in which the agency is located.

(c) "Receiving state" means the state in which a receiving agency is located.

(d) "Sending agency" means a state or county agency which sends an individual to a bordering state for treatment under this section.

(e) "Sending state" means the state in which the sending agency is located.

Subd. 2. **Purpose and authority.** (a) The purpose of this section is to enable appropriate treatment to be provided to individuals, across state lines from the individual's state of residence, in qualified facilities that are closer to the homes of individuals than are facilities available in the individual's home state.

(b) Unless prohibited by another law and subject to the exceptions listed in subdivision 3, a county board or the commissioner of human services may contract with an agency or facility in a bordering state for mental health or chemical health services for residents of Minnesota, and a Minnesota mental health or chemical health agency or facility may contract to provide services to residents of bordering states. Except as provided in subdivision 5, a person who receives services

in another state under this section is subject to the laws of the state in which services are provided. A person who will receive services in another state under this section must be informed of the consequences of receiving services in another state, including the implications of the differences in state laws, to the extent the individual will be subject to the laws of the receiving state.

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

- (1) are serving a sentence after conviction of a criminal offense;
- (2) are on probation or parole;
- (3) are the subject of a presentence investigation; or
- (4) have been committed involuntarily in Minnesota under chapter 253B for treatment of mental illness or chemical dependency, except as provided under subdivision 5.

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

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

Subd. 5. **Special contracts; bordering states.** (a) An individual who is detained, committed, or placed on an involuntary basis under chapter 253B may be confined or treated in a bordering state pursuant to a contract under this section. An individual who is detained, committed, or placed on an involuntary basis under the civil law of a bordering state may be confined or treated in Minnesota pursuant to a contract under this section. A peace or health officer who is acting under the authority of the sending state may transport an individual to a receiving agency that provides services pursuant to a contract under this section and may transport the individual back to the sending state under the laws of the sending state. Court orders valid under the law of the sending state are granted recognition and reciprocity in the receiving state for individuals covered by a contract under this section to the extent that the court orders relate to confinement for treatment or care of mental illness or chemical dependency. Such treatment or care may address other conditions that may be co-occurring with the mental illness or chemical dependency. These court orders are not subject to legal challenge in the courts of the receiving state. Individuals who are detained, committed, or placed under the law of a sending state and who are transferred to a receiving state under this section continue to be in the legal custody of the authority responsible for them under the law of the sending state. Except in emergencies, those individuals may not be transferred, removed, or furloughed from a receiving agency without the specific approval of the authority responsible for them under the law of the sending state.

(b) While in the receiving state pursuant to a contract under this section, an individual shall be subject to the sending state's laws and rules relating to length of confinement, reexaminations, and extensions of confinement. No individual may be sent to another state pursuant to a contract

under this section until the receiving state has enacted a law recognizing the validity and applicability of this section.

(c) If an individual receiving services pursuant to a contract under this section leaves the receiving agency without permission and the individual is subject to involuntary confinement under the law of the sending state, the receiving agency shall use all reasonable means to return the individual to the receiving agency. The receiving agency shall immediately report the absence to the sending agency. The receiving state has the primary responsibility for, and the authority to direct, the return of these individuals within its borders and is liable for the cost of the action to the extent that it would be liable for costs of its own resident.

(d) Responsibility for payment for the cost of care remains with the sending agency.

(e) This subdivision also applies to county contracts under subdivision 2 which include emergency care and treatment provided to a county resident in a bordering state.

(f) If a Minnesota resident is admitted to a facility in a bordering state under this chapter, a physician, licensed psychologist who has a doctoral degree in psychology, or an advance practice registered nurse certified in mental health, who is licensed in the bordering state, may act as an examiner under sections 253B.07, 253B.08, 253B.092, 253B.12, and 253B.17 subject to the same requirements and limitations in section 253B.02, subdivision 7. Such examiner may initiate an emergency hold under section 253B.05 on a Minnesota resident who is in a hospital that is under contract with a Minnesota governmental entity under this section provided the resident, in the opinion of the examiner, meets the criteria in section 253B.05.

**History:** 1985 c 253 s 1; 1993 c 102 s 1,2; 1994 c 529 s 1; 2002 c 375 art 2 s 7-9; 2006 c 193 s 1-3; 2007 c 147 art 8 s 9; 2009 c 167 s 6

## **245.51 INTERSTATE COMPACT ON MENTAL HEALTH.**

The Interstate Compact on Mental Health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form as follows:

### INTERSTATE COMPACT ON MENTAL HEALTH

The contracting states solemnly agree that:

#### ARTICLE I

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

#### ARTICLE II

As used in this compact:

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



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

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

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

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

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

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

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

### ARTICLE III

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

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

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

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

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

### ARTICLE IV

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

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

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

#### ARTICLE V

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

#### ARTICLE VI

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

#### ARTICLE VII

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

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

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

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for

which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

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

#### ARTICLE VIII

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

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

#### ARTICLE IX

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

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

#### ARTICLE X

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

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

#### ARTICLE XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

#### ARTICLE XII

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

#### ARTICLE XIII

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

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

#### ARTICLE XIV

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

**History:** 1957 c 326 s 1

#### **245.52 COMMISSIONER OF HUMAN SERVICES AS COMPACT ADMINISTRATOR.**

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

If the patient has no established residence in a Minnesota county, the commissioner shall designate the county of financial responsibility for the purposes of carrying out the provisions of the Interstate Compact on Mental Health as it pertains to patients being transferred to Minnesota.

The commissioner shall designate the county which is the residence of the person in Minnesota who initiates the earliest written request for the patient's transfer.

**History:** 1957 c 326 s 2; 1981 c 98 s 1; 1984 c 654 art 5 s 58; 1985 c 21 s 4; 1986 c 444; 2005 c 56 s 1

#### **245.53 TRANSMITTAL OF COPIES OF ACT.**

Duly authenticated copies of sections 245.51 to 245.53 shall, upon its approval, be transmitted by the secretary of state to the governor of each state, the Attorney General and the Secretary of State of the United States, and the Council of State Governments.

**History:** 1957 c 326 s 3

#### **245.61 COUNTY BOARDS; GRANTS FOR LOCAL MENTAL HEALTH PROGRAMS.**

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

**History:** 1957 c 392 s 1; 1969 c 1043 s 7; 1973 c 123 art 5 s 7; 1976 c 163 s 43; 1979 c 324 s 13; 2005 c 56 s 1

#### **245.62 COMMUNITY MENTAL HEALTH CENTER.**

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

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

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

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

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

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

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

**History:** 1957 c 392 s 2; 1959 c 530 s 1; 1967 c 888 s 1; 1973 c 123 art 5 s 7; 1973 c 583 s 14; 1973 c 773 s 1; 1975 c 69 s 1; 1979 c 324 s 14; 1983 c 312 art 5 s 1; 1984 c 640 s 32; 1989 c 282 art 4 s 54; 1991 c 255 s 19; 1997 c 7 art 5 s 23,24; 2005 c 56 s 1

#### **245.63 ASSISTANCE OR GRANT FOR A MENTAL HEALTH SERVICES PROGRAM.**

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

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

**245.64** [Repealed, 1989 c 282 art 4 s 64]

**245.65** [Repealed, 1979 c 324 s 50]

**245.651** [Repealed, 1979 c 324 s 50]

#### **245.652 REGIONAL TREATMENT CENTERS; SERVICES FOR CHEMICAL USE.**

Subdivision 1. **Purpose.** The regional treatment centers shall provide services designed to end a person's reliance on chemical use or a person's chemical abuse and increase effective and chemical-free functioning. Clinically effective programs must be provided in accordance with section 246.64. Services may be offered on the regional center campus or at sites elsewhere in the area served by the regional treatment center.

Subd. 2. **Services offered.** Services provided may include, but are not limited to, the following:

- (1) primary and extended residential care, including residential treatment programs of varied duration intended to deal with a person's chemical dependency or chemical abuse problems;
- (2) follow-up care to persons discharged from regional treatment center programs or other chemical dependency programs;
- (3) outpatient treatment programs; and
- (4) other treatment services, as appropriate and as provided under contract or shared service agreements.

Subd. 3. **Persons served.** The regional treatment centers shall provide services primarily to adolescent and adult residents of the state.

Subd. 4. **System locations.** Programs shall be located in Anoka, Brainerd, Fergus Falls, St. Peter, and Willmar and may be offered at other selected sites.

**History:** 1989 c 282 art 6 s 5; 1Sp1993 c 1 art 7 s 19,20; 1997 c 203 art 7 s 2,3

#### **245.66 COMMUNITY MENTAL HEALTH CENTER BOARDS.**

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

and the general public. Each community mental health center board shall be responsible for the governance and performance of its center.

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

**245.67** [Repealed, 1981 c 355 s 34]

**245.68** [Repealed, 1981 c 355 s 34]

### **245.69 ADDITIONAL DUTIES OF COMMISSIONER.**

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

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

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

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

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

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

Subd. 2. **Approval of centers and clinics.** The commissioner of human services has the authority to approve or disapprove public and private mental health centers and public and private mental health clinics for the purposes of section 62A.152, subdivision 2. For the purposes of this subdivision the commissioner shall promulgate rules in accordance with sections 14.001 to 14.69. The rules shall require each applicant to pay a fee to cover costs of processing applications and determining compliance with the rules and this subdivision. The commissioner may contract with any state agency, individual, corporation or association to which the commissioner shall delegate all but final approval and disapproval authority to determine compliance or noncompliance.

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

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

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

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

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

(e) The commissioner shall disapprove an applicant, or withdraw approval of a clinic or center, which the commissioner finds does not comply with the requirements of the rules or this subdivision. A clinic or center which is disapproved or whose approval is withdrawn is entitled to a contested case hearing and judicial review pursuant to sections 14.01 to 14.69.

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

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

**History:** 1957 c 392 s 9; 1975 c 122 s 1; 1979 c 324 s 19; 1980 c 506 s 1; 1981 c 311 s 39; 1982 c 424 s 130; 1982 c 545 s 24; 1984 c 640 s 32; 1984 c 654 art 5 s 58; 1985 c 248 s 70; 1986 c 428 s 1; 1986 c 444; 1987 c 384 art 2 s 1; 1990 c 422 s 10; 1991 c 199 art 2 s 1; 1997 c 7 art 5 s 25

**245.691** [Repealed, 1979 c 324 s 50]

**245.692** [Repealed, 1973 c 572 s 18]

**245.693** [Repealed, 1973 c 572 s 18]

**245.694** [Repealed, 1973 c 572 s 18]

**245.695** [Repealed, 1973 c 572 s 18]

#### **245.696 ADDITIONAL DUTIES OF COMMISSIONER.**

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

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



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

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

(3) employ qualified personnel to implement this chapter;

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

(5) cooperate with the commissioners of health and employment and economic development to coordinate services and programs for people with mental illness;

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

(7) provide data and other information, as requested, to the Advisory Council on Mental Health;

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

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

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

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

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

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

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

(15) administer county mental health grants on a calendar year basis, unless that procedure hinders the achievement of the purposes of a particular grant.

**History:** 1987 c 342 s 1; 1988 c 689 art 2 s 94; 1989 c 282 art 4 s 55; 1990 c 568 art 5 s 28; 1994 c 483 s 1; 1994 c 529 s 2; 2004 c 206 s 52

#### **245.697 STATE ADVISORY COUNCIL ON MENTAL HEALTH.**

Subdivision 1. **Creation.** (a) A State Advisory Council on Mental Health is created. The council must have 30 members appointed by the governor in accordance with federal requirements. In making the appointments, the governor shall consider appropriate representation

of communities of color. The council must be composed of:

- (1) the assistant commissioner of mental health for the department of human services;
- (2) a representative of the Department of Human Services responsible for the medical assistance program;
- (3) one member of each of the four core mental health professional disciplines (psychiatry, psychology, social work, nursing);
- (4) one representative from each of the following advocacy groups: Mental Health Association of Minnesota, NAMI-MN, Mental Health Consumer/Survivor Network of Minnesota, and Minnesota Disability Law Center;
- (5) providers of mental health services;
- (6) consumers of mental health services;
- (7) family members of persons with mental illnesses;
- (8) legislators;
- (9) social service agency directors;
- (10) county commissioners; and
- (11) other members reflecting a broad range of community interests, including family physicians, or members as the United States Secretary of Health and Human Services may prescribe by regulation or as may be selected by the governor.

(b) The council shall select a chair. Terms, compensation, and removal of members and filling of vacancies are governed by section 15.059. Notwithstanding provisions of section 15.059, the council and its subcommittee on children's mental health do not expire. The commissioner of human services shall provide staff support and supplies to the council.

Subd. 2. **Duties.** The State Advisory Council on Mental Health shall:

- (1) advise the governor and heads of state departments and agencies about policy, programs, and services affecting people with mental illness;
- (2) advise the commissioner of human services on all phases of the development of mental health aspects of the biennial budget;
- (3) advise the governor about the development of innovative mechanisms for providing and financing services to people with mental illness;
- (4) encourage state departments and other agencies to conduct needed research in the field of mental health;
- (5) review recommendations of the subcommittee on children's mental health;
- (6) educate the public about mental illness and the needs and potential of people with mental illness;
- (7) review and comment on all grants dealing with mental health and on the development and implementation of state and local mental health plans; and
- (8) coordinate the work of local children's and adult mental health advisory councils and subcommittees.

Subd. 2a. **Subcommittee on Children's Mental Health.** The State Advisory Council on Mental Health (the "advisory council") must have a Subcommittee on Children's Mental

Health. The subcommittee must make recommendations to the advisory council on policies, laws, regulations, and services relating to children's mental health. Members of the subcommittee must include:

- (1) the commissioners or designees of the commissioners of the Departments of Human Services, Health, Education, State Planning, and Corrections;
- (2) the commissioner of commerce or a designee of the commissioner who is knowledgeable about medical insurance issues;
- (3) at least one representative of an advocacy group for children with emotional disturbances;
- (4) providers of children's mental health services, including at least one provider of services to preadolescent children, one provider of services to adolescents, and one hospital-based provider;
- (5) parents of children who have emotional disturbances;
- (6) a present or former consumer of adolescent mental health services;
- (7) educators currently working with emotionally disturbed children;
- (8) people knowledgeable about the needs of emotionally disturbed children of minority races and cultures;
- (9) people experienced in working with emotionally disturbed children who have committed status offenses;
- (10) members of the advisory council;
- (11) one person from the local corrections department and one representative of the Minnesota District Judges Association Juvenile Committee; and
- (12) county commissioners and social services agency representatives.

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

Subd. 3. **Reports.** The State Advisory Council on Mental Health shall report from time to time on its activities to the governor, the chairs of the appropriate policy committees of the house of representatives and senate, and the commissioners of health, employment and economic development, and human services. It shall file a formal report with the governor not later than October 15 of each even-numbered year so that the information contained in the report, including recommendations, can be included in the governor's budget message to the legislature. It shall also report to the chairs of the appropriate policy committees of the house of representatives and senate not later than November 15 of each even-numbered year.

**History:** 1987 c 342 s 2; 1988 c 629 s 45; 1988 c 689 art 2 s 95,96; 1989 c 282 art 4 s 56-58; 1990 c 568 art 5 s 29; 1991 c 292 art 6 s 27; 1994 c 483 s 1; 1Sp1995 c 3 art 16 s 13; 1997 c 7 art 2 s 33,34; 1997 c 192 s 32; 1999 c 39 s 1; 2003 c 112 art 1 s 17; 2003 c 130 s 12; 2004 c 206 s 52

**245.698** [Repealed, 1989 c 282 art 4 s 64]

**245.699** [Repealed, 2007 c 133 art 2 s 13]

**245.70 MENTAL HEALTH; FEDERAL AID.**

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

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

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

**245.71 CONDITIONS TO FEDERAL AID FOR MENTALLY ILL.**

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

Subd. 2. [Repealed by amendment, 2007 c 133 art 2 s 8]

**History:** 1965 c 626 s 2; 1982 c 607 s 2; 1984 c 640 s 32; 1984 c 654 art 5 s 58; 1985 c 252 s 2; 2007 c 133 art 2 s 8

**245.711** [Repealed, 1Sp1993 c 1 art 7 s 50]

**245.712** [Repealed, 1Sp1993 c 1 art 7 s 50]

**245.713 ALLOCATION FORMULA.**

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

Subd. 2. **Total funds available; allocation.** Funds granted to the state by the federal government under United States Code, title 42, sections 300X to 300X-9 each federal fiscal year for mental health services must be allocated as follows:

(a) Any amount set aside by the commissioner of human services for American Indian organizations within the state, which funds shall not duplicate any direct federal funding of American Indian organizations and which funds shall be at least 25 percent of the total federal allocation to the state for mental health services; provided that sufficient applications for funding are received by the commissioner which meet the specifications contained in requests for proposals. Money from this source may be used for special committees to advise the commissioner on mental health programs and services for American Indians and other minorities or underserved groups. For purposes of this subdivision, "American Indian organization" means an American Indian tribe or band or an organization providing mental health services that is

legally incorporated as a nonprofit organization registered with the secretary of state and governed by a board of directors having at least a majority of American Indian directors.

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

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

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

(e) An amount not to exceed 15 percent of the federal block grant allocation for mental health services to be retained by the commissioner for planning and evaluation.

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

Subd. 4. [Repealed, 2005 c 98 art 3 s 25]

**History:** 1982 c 607 s 5; 1984 c 654 art 5 s 58; 1985 c 252 s 4; 1987 c 403 art 2 s 41; 1989 c 282 art 4 s 59; 2005 c 98 art 3 s 25; 2007 c 147 art 11 s 23

#### **245.714 MAINTENANCE OF EFFORT.**

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

**History:** 1982 c 607 s 6

#### **245.715 QUALIFICATIONS AS A COMMUNITY MENTAL HEALTH CENTER.**

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

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

(2) 24-hour a day emergency care services;

(3) day treatment or partial hospitalization services;

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

(5) consultation and education services.

(b) Before accepting federal block grant funds for mental health services, counties shall provide the commissioner with all necessary assurances that the qualified community mental health centers which receive these block grant funds meet the minimum service requirements of paragraph (a), clauses (1) to (5). At any time at least 30 days prior to the commissioner's allocation of federal funds, any county may notify the commissioner of its decision not to accept the federal funds for qualified community mental health centers.

**History:** 1982 c 607 s 7

**245.716** [Repealed, 2005 c 98 art 3 s 25]

**245.717 WITHHOLDING OF FUNDS.**

Beginning in federal fiscal year 1983, the distribution of funds to counties provided in section 245.713 shall be reduced by an amount equal to the federal block grant funds allotted pursuant to section 245.713 in the immediately preceding year which have been spent for some purpose other than qualified community mental health centers. If it is determined that the state is legally liable for any repayment of federal block funds which were not properly used by the counties, the repayment liability shall be assessed against the counties which did not properly use the funds. The commissioner may withhold future block grant funds to those counties until the obligation is met. The commissioner shall not award additional block grant funds to those counties until the commissioner is assured that no future violations will occur.

**History:** 1982 c 607 s 9; 1986 c 444

**245.718 APPEAL.**

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

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

**245.72** [Repealed, 1981 c 355 s 34]

**245.721 MENTAL ILLNESS INFORMATION MANAGEMENT SYSTEM.**

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

**History:** 1987 c 403 art 2 s 42

**245.73 SERVICES FOR ADULTS WITH MENTAL ILLNESS; GRANTS.**

Subdivision 1. **Commissioner's duty.** The commissioner shall establish a statewide program to assist counties in ensuring provision of services to adult mentally ill persons. The commissioner shall make grants to county boards to provide community-based services to mentally ill persons through programs licensed under sections 245A.01 to 245A.16.

Subd. 2. **Application; criteria.** County boards may submit an application and budget for use of the money in the form specified by the commissioner. The commissioner shall make grants only to counties whose applications and budgets are approved by the commissioner for

residential programs for adults with mental illness to meet licensing requirements pursuant to sections 245A.01 to 245A.16. These grants shall not be used for room and board costs. For calendar year 1994 and subsequent years, the commissioner shall allocate the money appropriated under this section on a calendar year basis.

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

Subd. 3. **Formula.** Grants made pursuant to this section shall finance 75 to 100 percent of the county's costs of expanding or providing services for adult mentally ill persons in residential facilities as provided in subdivision 2.

Subd. 4. **Rules; reports.** The commissioner shall promulgate an emergency and permanent rule to govern grant applications, approval of applications, allocation of grants, and maintenance of service and financial records by grant recipients. The commissioner shall specify requirements for reports, including quarterly fiscal reports, according to section 256.01, subdivision 2, paragraph (17). The commissioner shall require collection of data for compliance, monitoring and evaluation purposes and shall require periodic reports to demonstrate the effectiveness of the services in helping adult mentally ill persons remain and function in their own communities. As a part of the report required by section 245.461, the commissioner shall report to the legislature as to the effectiveness of this program and recommendations regarding continued funding.

Subd. 5. **Transfer of funds.** The commissioner may transfer money from adult mental health residential program grants to community support program grants under section 256E.12 if the county requests such a transfer and if the commissioner determines the transfer will help adults with mental illness to remain and function in their own communities. The commissioner shall consider past utilization of the residential program in determining which counties to include in the transferred fund.

**History:** 1981 c 360 art 2 s 14; 1983 c 164 s 1; 1984 c 640 s 32; 1986 c 349 s 1; 1987 c 384 art 2 s 1; 1989 c 89 s 3; 1989 c 282 art 2 s 55,56; art 4 s 60; 1990 c 568 art 5 s 30; 1Sp1993 c 1 art 7 s 21-23

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

#### **245.75 FEDERAL GRANTS FOR MINNESOTA INDIANS.**

The commissioner of human services is authorized to enter into contracts with the Department of Health, Education, Welfare and the Department of Interior, Bureau of Indian Affairs, for the purpose of receiving federal grants for the welfare and relief of Minnesota Indians.

**History:** 1965 c 886 s 23; 1984 c 654 art 5 s 58; 2005 c 10 art 1 s 44

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

#### **245.765 REIMBURSEMENT OF COUNTY FOR CERTAIN INDIAN WELFARE COSTS.**

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

is insufficient to provide full reimbursement.

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

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

#### **245.77 LEGAL DECISION ON RESIDENCY; RECEIPT OF FEDERAL FUNDS.**

In the event federal funds become available to the state for purposes of reimbursing the several local agencies of the state for costs incurred in providing financial relief to poor persons under the liability imposed by Minnesota Statutes 1986, section 256D.18, or for reimbursing the state and counties for categorical aid assistance furnished to persons who are eligible for such assistance only because of the United States Supreme Court decision invalidating state residence requirements, the commissioner of human services is hereby designated the state agent for receipt of such funds. Upon receipt of any federal funds, the commissioner shall in a uniform and equitable manner use such funds to reimburse counties for expenditures made in providing financial relief to poor persons. The commissioner is further authorized to promulgate rules, consistent with the rules and regulations promulgated by the secretary of health, education, and welfare, governing the reimbursement provided for by this provision.

**History:** 1969 c 910 s 1; 1973 c 380 s 5; 1973 c 650 art 21 s 22; 1976 c 2 s 84; 1984 c 654 art 5 s 58; 1985 c 248 s 70; 1989 c 209 art 2 s 27

#### **245.771 SUPERVISION OF FOOD STAMP OR FOOD SUPPORT PROGRAM.**

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

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

Subd. 3. **Employment and training programs.** The commissioner of human services, in consultation with the commissioner of employment and economic development, is authorized to implement and allocate money to food stamp employment and training programs in as many counties as is necessary to meet federal participation requirements and comply with federal laws and regulations. The commissioner of human services may contract with the commissioner of employment and economic development to implement and supervise employment and training programs for food stamp recipients that are required by federal regulations.

Subd. 4. **Food stamp bonus awards.** In the event that Minnesota qualifies for the United States Department of Agriculture Food and Nutrition Services Food Stamp Program performance bonus awards, the funding is appropriated to the commissioner. The commissioner shall retain 25 percent of the funding and distribute the other 75 percent among the counties according to a formula that takes into account each county's impact on state performance in the applicable



bonus categories.

**History:** 1986 c 404 s 9; 1988 c 689 art 2 s 98; 1989 c 282 art 5 s 4; 1994 c 483 s 1; 1994 c 631 s 31; 2004 c 206 s 52; 2007 c 147 art 19 s 14

**245.775** [Repealed, 1Sp1989 c 1 art 16 s 21]

**245.78** [Repealed, 1976 c 243 s 15]

**245.781** [Repealed, 1987 c 333 s 20]

**245.782** [Repealed, 1987 c 333 s 20]

**245.783** [Repealed, 1987 c 333 s 20]

**245.79** [Repealed, 1976 c 243 s 15]

**245.791** [Repealed, 1987 c 333 s 20]

**245.792** [Repealed, 1987 c 333 s 20]

**245.80** [Repealed, 1976 c 243 s 15]

**245.801** [Repealed, 1987 c 333 s 20]

#### **245.802 FACILITIES FOR PEOPLE WITH MENTAL ILLNESS; RULES.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**History:** 1976 c 243 s 7; 1977 c 305 s 45; 1980 c 618 s 18; 1981 c 360 art 2 s 15; 1Sp1981 c 4 art 1 s 115; 1982 c 424 s 130; 1984 c 542 s 6; 1984 c 654 art 5 s 58; 1984 c 658 s 2; 1985 c 248 s 70; 1986 c 444; 1987 c 197 s 1-4; 1994 465 art 3 s 8

**245.803** [Repealed, 1987 c 333 s 20]

**245.804** [Repealed, 1987 c 333 s 20]

**245.805** [Repealed, 1987 c 333 s 20]

**245.81** [Repealed, 1976 c 243 s 15]

**245.811** [Repealed, 1987 c 333 s 20]

**245.812** [Repealed, 1987 c 333 s 20]

**245.813** [Repealed, 1980 c 542 s 2]

#### **245.814 LIABILITY INSURANCE FOR LICENSED PROVIDERS.**

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

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

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

For purposes of this subdivision, insurance for homes licensed to provide adult foster care shall be limited to family adult foster care homes as defined in section 144D.01, subdivision 7, and family adult day services licensed under section 245A.143.

Subd. 2. **Application of coverage.** Coverage shall apply to all foster homes licensed by the Department of Human Services, licensed by a federally recognized tribal government, or established by the juvenile court and certified by the commissioner of corrections pursuant to section 260B.198, subdivision 1, clause (3), item (v), to the extent that the liability is not covered by the provisions of the standard homeowner's or automobile insurance policy. The insurance shall not cover property owned by the individual foster home provider, damage caused intentionally by a person over 12 years of age, or property damage arising out of business pursuits or the operation of any vehicle, machinery, or equipment.

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

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

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

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

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

(e) The compensation in paragraphs (c) and (d) is the total obligation for all damages because of each occurrence regardless of the number of claims made in connection with the same occurrence, but compensation applies separately to each foster home. The state shall have no other responsibility to provide compensation for any injury or loss caused or sustained by any foster home provider or foster child or foster adult.

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

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

premiums collected from that provider.

**History:** 1977 c 360 s 1; 1980 c 614 s 125; 1984 c 654 art 5 s 58; 1986 c 313 s 10; 1986 c 455 s 61; 1988 c 689 art 2 s 99-101; 1994 c 465 art 1 s 62; 1994 c 631 s 31; 1999 c 139 art 4 s 2; 1Sp2001 c 9 art 11 s 2; 2002 c 379 art 1 s 113; 2004 c 288 art 1 s 1

**245.82** [Repealed, 1976 c 243 s 15]

### **245.821 TREATMENT FACILITIES FOR DISABLED PERSONS.**

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

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

**History:** 1974 c 274 s 3; 1985 c 21 s 5; 1992 c 464 art 1 s 55; 2005 c 56 s 1

### **245.825 AVERSIVE AND DEPRIVATION PROCEDURES; LICENSED FACILITIES AND SERVICES.**

Subdivision 1. **Rules governing aversive and deprivation procedures.** The commissioner of human services shall by October, 1983, promulgate rules governing the use of aversive and deprivation procedures in all licensed facilities and licensed services serving persons with developmental disabilities, as defined in section 252.27, subdivision 1a. No provision of these rules shall encourage or require the use of aversive and deprivation procedures. The rules shall prohibit: (1) the application of certain aversive and deprivation procedures in facilities except as authorized and monitored by the commissioner; (2) the use of aversive and deprivation procedures that restrict the consumers' normal access to nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions, and necessary clothing; and (3) the use of faradic shock without a court order. The rule shall further specify that consumers may not be denied ordinary access to legal counsel and next of kin. In addition, the rule may specify other prohibited practices and the specific conditions under which permitted practices are to be carried out. For any persons receiving faradic shock, a plan to reduce and eliminate the use of faradic shock shall be in effect upon implementation of the procedure.

Subd. 1a. [Repealed, 1999 c 86 art 2 s 6]

Subd. 1b. **Review and approval.** Notwithstanding the provisions of Minnesota Rules, parts 9525.2700 to 9525.2810, the commissioner may designate the county case manager to authorize the use of controlled procedures as defined in Minnesota Rules, parts 9525.2710, subpart 9, and 9525.2740, subparts 1 and 2, after review and approval by the interdisciplinary team and the internal review committee as required in Minnesota Rules, part 9525.2750, subparts 1a and 2. Use of controlled procedures must be reported to the commissioner in accordance with the requirements of Minnesota Rules, part 9525.2750, subpart 2a.

Subd. 2. [Repealed, 1995 c 207 art 11 s 12]

**History:** 1982 c 637 s 1,2; 1984 c 654 art 5 s 58; 1985 c 21 s 6; 1987 c 110 s 1; 1992 c 464 art 1 s 55; 1995 c 207 art 11 s 4; 1999 c 86 art 2 s 3; 2005 c 56 s 1

#### **245.826 USE OF RESTRICTIVE TECHNIQUES AND PROCEDURES IN FACILITIES SERVING EMOTIONALLY DISTURBED CHILDREN.**

When amending rules governing facilities serving emotionally disturbed children that are licensed under section 245A.09 and Minnesota Rules, parts 9545.0900 to 9545.1090, and 9545.1400 to 9545.1500, the commissioner of human services shall include provisions governing the use of restrictive techniques and procedures. No provision of these rules may encourage or require the use of restrictive techniques and procedures. The rules must prohibit: (1) the application of certain restrictive techniques or procedures in facilities, except as authorized in the child's case plan and monitored by the county caseworker responsible for the child; (2) the use of restrictive techniques or procedures that restrict the clients' normal access to nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions, and necessary clothing; and (3) the use of corporal punishment. The rule may specify other restrictive techniques and procedures and the specific conditions under which permitted techniques and procedures are to be carried out.

**History:** 1990 c 542 s 6

#### **245.8261 RESTRICTIVE PROCEDURES PLANNING AND REPORTING.**

Subdivision 1. **Scope.** (a) This section applies to providers of the following mental health services for children:

- (1) emergency services as defined in sections 245.4871, subdivision 14, and 245.4879;
- (2) family community support services as defined in section 245.4871, subdivision 17;
- (3) day treatment services as defined in section 245.4871, subdivision 10;
- (4) therapeutic support of foster care as defined in section 245.4871, subdivision 34;
- (5) professional home-based family treatment as defined in sections 245.4871, subdivision 31, and 245.4884, subdivision 3; and
- (6) mental health crisis services as defined in sections 245.4871, subdivision 24a, and 245.488, subdivision 3.

(b) Providers of mental health services for children under paragraph (a) must meet the requirements of this section before using a restrictive procedure with a child.

Subd. 2. **Restrictive procedures plan.** (a) A services provider under subdivision 1, paragraph (a), shall have on file and available for viewing a restrictive procedures plan for children in its program that must include at least the following:

- (1) the list of restrictive procedures the provider intends to use;
- (2) how the provider will monitor and control the use of restrictive procedures;
- (3) a description of the training that staff who use restrictive procedures must complete prior to staff implementation of restrictive procedures;
- (4) how the provider will document information needed to prepare the annual report required in subdivision 15; and

(5) how the provider will ensure that the child receives treatment for any injury caused by the use of a restrictive procedure.

(b) For purposes of this section, allowable restrictive procedures include those procedures allowed under subdivision 4, paragraph (a).

Subd. 3. **Definitions.** (a) For the purposes of this section, the terms in this subdivision have the meanings given them.

(b) "Commissioner" means the commissioner of human services.

(c) "Child" means a person under 18 years of age.

(d) "Individual treatment plan" has the meaning given in section 245.4871, subdivision 21, as required for children's mental health services providers in section 245.4876, subdivision 3. The individual treatment plan must be based on a diagnostic assessment, which includes assessments and review of medical conditions and risks of psychological trauma that might be incurred by use of seclusion or restraint.

(e) "Mechanical restraints" means the use of devices to limit a child's movement or hold a child immobile. The term does not mean mechanical restraints used to:

(1) treat a child's medical needs;

(2) protect a child known to be at risk of injury resulting from lack of coordination or frequent loss of consciousness; or

(3) position a child with physical disabilities in a manner specified in the child's plan of care.

(f) "Physical escort" means physical intervention or contact used as a behavior management technique to guide or carry a child to safety or away from an unsafe or potentially harmful and escalating situation.

(g) "Physical holding" means physical intervention intended to hold a child immobile or limit a child's movement by using body contact as the only source of physical restraint. The term does not mean physical contact:

(1) used to facilitate a child's response or completion of a task when the child does not resist or the child's resistance is minimal in intensity and duration; and

(2) necessary to conduct a medical examination or treatment.

(h) "Restrictive procedures" means application of an action, force, or condition that controls, constrains, or suppresses the action, behavior, intention, bodily placement, or bodily location of a child in a manner that is involuntary, unintended by that child, depriving, or aversive to that child.

(i) "Time out" means removing a child from an activity to a location where the child cannot participate or observe the activity and includes moving or ordering a child to an unlocked room.

(j) "Seclusion" involves the confining of a child alone in a room from which egress is beyond the child's control or prohibited by a mechanism such as a lock or by a device or object positioned to hold the door closed or otherwise prevent the child from leaving the room. The room used for seclusion must be well-lighted, well-ventilated, clean, have an observation window that allows staff to directly monitor the child in seclusion, fixtures that are tamperproof, electrical switches located immediately outside the door, and doors that open out and are unlocked or locked with keyless locks that have immediate release mechanisms.

Subd. 4. **Allowable procedures.** (a) A provider may use one or more of the following restrictive procedures:

- (1) physical escort;
- (2) physical holding;
- (3) seclusion; and
- (4) the limited use of mechanical restraints only in emergency situations.

(b) A provider shall permit use of restrictive procedures only by a mental health professional under section 245.4871, subdivision 27, or by a mental health practitioner under section 245.4871, subdivision 26, who is acting under the clinical supervision of a mental health professional.

**Subd. 5. Parental consent and notification.** Parental consent for use of seclusion and restraint procedures must be obtained when a child begins receiving services; the agreement must be reviewed at least quarterly. A provider shall notify the child's parent or guardian of the use of a restrictive procedure on the same day the procedure is used, unless the parent or guardian notifies the provider that the parent or guardian does not want to receive notification or the parent or guardian requests a different notification schedule.

**Subd. 6. Physical escort requirements.** The physical escort of a child may be used to control a child who is being guided to a place where the child will be safe and to help de-escalate interactions between the child and others. A provider who uses physical escorting with a child shall meet the following requirements:

- (1) staff shall be trained according to subdivision 11;
- (2) staff shall document the use of physical escort and note the technique used, the time of day, and the names of the staff and child involved; and
- (3) the use of physical escort shall be consistent with the child's treatment plan.

**Subd. 7. Physical holding or seclusion.** Physical holding or seclusion may be used in emergency situations as a response to imminent serious risk of physical harm to the child or others and when less restrictive interventions are ineffective. A provider who uses physical holding or seclusion shall meet the following requirements:

- (1) an immediate intervention must be necessary to protect the child or others from physical harm;
- (2) the physical holding or seclusion used must be the least intrusive intervention that will effectively react to an emergency;
- (3) the use of physical holding or seclusion must end when the threat of harm ends;
- (4) the child must be constantly and directly observed by staff during the use of physical holding or seclusion;
- (5) the use of physical holding or seclusion must be used under the supervision of a mental health professional;
- (6) staff shall contact the mental health professional to inform the mental health professional about the use of physical holding or seclusion and to ask for permission to use physical holding or seclusion as soon as it may safely be done, but no later than 30 minutes after initiating the use of physical holding or seclusion;
- (7) before staff uses physical holding or seclusion with a child, staff shall complete the training required in subdivision 11 regarding the use of physical holding or seclusion at the program;

(8) when the need for the use of physical holding or seclusion ends, the child must be assessed to determine if the child can safely be returned to the ongoing activities at the program;

(9) staff shall treat the child respectfully throughout the procedure;

(10) the staff person who implemented the use of physical holding or seclusion shall document its use immediately after the incident concludes and the documentation must include at least the following information:

(i) a detailed description of the incident which led to the use of physical holding or seclusion;

(ii) an explanation of why the procedure chosen needed to be used;

(iii) why less restrictive measures failed or were found to be inappropriate;

(iv) the time the physical hold or seclusion began and the time the child was released;

(v) documentation of the child's behavioral change and change in physical status for each 15-minute interval the procedure is used; and

(vi) the names of all staff involved in the use of the procedure and the names of all witnesses to the use of the procedure; and

(11) if seclusion is used, the room used for the seclusion must:

(i) be well-lighted, well-ventilated, and clean;

(ii) have an observation window which allows staff to directly monitor a child in seclusion;

(iii) have fixtures that are tamperproof, with electrical switches located immediately outside the door;

(iv) have doors that open out and are unlocked or are locked with keyless locks that have immediate release mechanisms; and

(v) have objects that may be used by a child to injure the child's self or others removed from the child and the seclusion room before the child is placed in seclusion.

**Subd. 8. Exempt techniques and procedures.** (a) Use of the instructional techniques and intervention procedures listed in this subdivision is not subject to the restrictions established by this section. The child's individual treatment plan, as defined in section 245.4871, subdivision 21, and as required in section 245.4876, subdivision 3, must address the use of these exempt techniques and procedures. Exempt techniques and procedures include:

(1) corrective feedback or prompt to assist a child in performing a task or exhibiting a response;

(2) physical contact to facilitate a child's completion of a task or response that is directed at increasing adaptive behavior when the child does not resist or the child's resistance is minimal in intensity and duration;

(3) physical contact or a physical prompt to redirect a child's behavior when:

(i) the behavior does not pose a serious threat to the child or others;

(ii) the behavior is effectively redirected with less than 60 seconds of physical contact by staff; or

(iii) the physical contact is used to conduct a necessary medical examination or treatment; and



(4) manual or mechanical restraint to treat a child's medical needs or to protect a child known to be at risk of injury from an ongoing medical or psychological condition.

(b) The exemptions under this subdivision must not be used to circumvent the requirements for controlling the use of manual restraint. The exemptions under this subdivision are intended to allow providers the opportunity to deal effectively and naturally with instruction and treatment interventions.

**Subd. 9. Conditions on use of restrictive procedures.** Restrictive procedures must not:

(1) be implemented with a child in a manner that constitutes sexual abuse, neglect, or physical abuse under section 626.556, the reporting of maltreatment of minors;

(2) restrict a child's normal access to a nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, or necessary clothing or to any protection required by state licensing standards and federal regulations governing the program;

(3) be used as punishment or for the convenience of staff; or

(4) deny the child visitation or contact with legal counsel and next of kin.

**Subd. 10. Prohibitions.** (a) The following actions or procedures are prohibited:

(1) using corporal punishment such as hitting, pinching, slapping, or pushing;

(2) speaking to a child in a manner that ridicules, demeans, threatens, or is abusive;

(3) requiring a child to assume and maintain a specified physical position or posture, for example, requiring a child to stand with the hands over the child's head for long periods of time or to remain in a fixed position;

(4) use of restrictive procedures as a disciplinary consequence;

(5) totally or partially restricting a child's senses, except at a level of intrusiveness that does not exceed:

(i) placing a hand in front of a child's eyes as a visual screen; or

(ii) playing music through earphones worn by the child at a level of sound that does not cause discomfort;

(6) presenting an intense sound, light, noxious smell, taste, substance, or spray, including water mist;

(7) denying or restricting a child's access to equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the child's functioning, except as provided under paragraph (b).

(b) When the temporary removal of the equipment or device is necessary to prevent injury to the child or others or serious damage to the equipment or device, the equipment or device shall be returned to the child as soon as possible.

**Subd. 11. Training for staff.** (a) Staff who use restrictive procedures shall successfully complete training in the following skills and knowledge areas before using restrictive procedures with a child:

(1) the needs and behaviors of children;

(2) relationship-building;

- (3) alternatives to restrictive procedures, including techniques to identify events and environmental factors that may trigger behavioral escalation;
  - (4) de-escalation methods;
  - (5) avoiding power struggles;
  - (6) documentation standards for the use of restrictive procedures;
  - (7) how to obtain emergency medical assistance;
  - (8) time limits for restrictive procedures;
  - (9) obtaining approval for use of restrictive procedures;
  - (10) the proper use of the restrictive procedures approved for the program, including simulated experiences of administering and receiving physical restraint;
  - (11) thresholds for employing and ceasing restrictive procedures;
  - (12) the physiological and psychological impact of physical holding and seclusion;
  - (13) how to monitor and respond to the child's physical signs of distress; and
  - (14) recognizing symptoms of and interventions with potential to cause positional asphyxia.
- (b) Training under this subdivision must be repeated every two years.

Subd. 12. **Administrative review.** The provider shall complete an administrative review of the use of each restrictive procedure within three working days after the use of the restrictive procedure. The administrative review shall be conducted by someone other than the person who decided to impose the restrictive procedure, or that person's immediate supervisor. The child or the child's representative shall have an opportunity to present evidence and argument to the reviewer about why the procedure was unwarranted. The record of the administrative review of the use of a restrictive procedure must state whether:

- (1) the required documentation was recorded;
- (2) the restrictive procedure was used in accordance with the treatment plan;
- (3) the standards governing the use of restrictive procedures were met; and
- (4) the staff who implemented the restrictive procedures were properly trained.

Subd. 13. **Review of patterns of use of restrictive procedures.** At least quarterly, the treatment provider shall review the provider's patterns of the use of restrictive procedures. The review must be completed by the treatment provider or the program's advisory committee. The review shall consider:

- (1) any patterns or problems indicated by similarities in the time of day, day of the week, duration of the use of a procedure, individuals involved, or other factors associated with the use of restrictive procedures;
- (2) any injuries resulting from the use of restrictive procedures;
- (3) actions needed to correct deficiencies in the program's implementation of restrictive procedures;
- (4) an assessment of opportunities missed to avoid the use of restrictive procedures; and
- (5) proposed actions to be taken to minimize the use of physical holding or seclusion.

Subd. 14. **Annual report.** A provider using restrictive procedures shall annually submit a report to the commissioner stating the number and types of restrictive procedures performed.

The report shall be submitted in a form and manner prescribed by the commissioner. Agencies with high use of restrictive procedures will be reviewed by the commissioner to determine needed changes in policies and procedures, including staff training.

**History:** 2008 c 234 s 1; 2009 c 86 art 1 s 40-42

### **245.827 COMMUNITY INITIATIVES FOR CHILDREN.**

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

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

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

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

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

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

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

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

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

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

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

**History:** 1988 c 689 art 2 s 102

**245.83** [Repealed, 1989 c 282 art 2 s 219]

**245.84** [Repealed, 1989 c 282 art 2 s 219]

**245.85** [Repealed, 1989 c 282 art 2 s 219]

**245.86** [Repealed, 1988 c 689 art 2 s 269]

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

**245.871** [Repealed, 1989 c 282 art 2 s 219]

**245.872** [Repealed, 1989 c 282 art 2 s 219]

**245.873** [Repealed, 1989 c 282 art 2 s 219]

**245.88** [Repealed, 1987 c 333 s 20]

**245.881** [Repealed, 1987 c 333 s 20]

**245.882** [Repealed, 1987 c 333 s 20]

**245.883** [Repealed, 1987 c 333 s 20]

**245.884** [Repealed, 1987 c 333 s 20]

**245.885** [Repealed, 1987 c 333 s 20]

#### **245.90 COURT AWARDED FUNDS, DISPOSITION.**

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

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

**History:** 1975 c 434 s 24; 1984 c 654 art 5 s 58; 2004 c 284 art 2 s 16

### **OMBUDSMAN FOR MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES**

#### **245.91 DEFINITIONS.**

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

Subd. 2. **Agency.** "Agency" means the divisions, officials, or employees of the state Departments of Human Services, Health, Education, and of local school districts and designated county social service agencies as defined in section 256G.02, subdivision 7, that are engaged in monitoring, providing, or regulating services or treatment for mental illness, developmental disabilities, chemical dependency, or emotional disturbance.

Subd. 3. **Client.** "Client" means a person served by an agency, facility, or program, who is receiving services or treatment for mental illness, developmental disabilities, chemical dependency, or emotional disturbance. Client also includes a now deceased person who had been served by an agency, facility, or program.

Subd. 4. **Facility or program.** "Facility" or "program" means a nonresidential or residential program as defined in section 245A.02, subdivisions 10 and 14, that is required to be licensed by the commissioner of human services, and an acute care inpatient facility that provides services or treatment for mental illness, developmental disabilities, chemical dependency, or emotional

disturbance.

Subd. 4a. **Gather.** "Gather" means access to information or data for purposes of inspection and to receive copies of information or data.

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

Subd. 6. **Serious injury.** "Serious injury" means:

- (1) fractures;
- (2) dislocations;
- (3) evidence of internal injuries;
- (4) head injuries with loss of consciousness;
- (5) lacerations involving injuries to tendons or organs, and those for which complications are present;
- (6) extensive second-degree or third-degree burns, and other burns for which complications are present;
- (7) extensive second-degree or third-degree frostbite, and others for which complications are present;
- (8) irreversible mobility or avulsion of teeth;
- (9) injuries to the eyeball;
- (10) ingestion of foreign substances and objects that are harmful;
- (11) near drowning;
- (12) heat exhaustion or sunstroke; and
- (13) all other injuries considered serious by a physician.

**History:** 1987 c 352 s 2; 1988 c 543 s 1-3; 1989 c 282 art 2 s 57; 1Sp1997 c 4 art 7 s 42; 2003 c 130 s 12; 2005 c 56 s 1; 2008 c 219 s 1,2

#### **245.92 OFFICE OF OMBUDSMAN; CREATION; QUALIFICATIONS; FUNCTION.**

The ombudsman for persons receiving services or treatment for mental illness, developmental disabilities, chemical dependency, or emotional disturbance shall promote the highest attainable standards of treatment, competence, efficiency, and justice. The ombudsman may gather information and data about decisions, acts, and other matters of an agency, facility, or program. The ombudsman is appointed by the governor, serves in the unclassified service, and may be removed only for just cause. The ombudsman must be selected without regard to political affiliation and must be a person who has knowledge and experience concerning the treatment, needs, and rights of clients, and who is highly competent and qualified. No person may serve as ombudsman while holding another public office.

**History:** 1987 c 352 s 3; 1988 c 543 s 4; 2005 c 56 s 1; 2008 c 219 s 3

#### **245.93 ORGANIZATION OF OFFICE OF OMBUDSMAN.**

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

Subd. 2. **Advocacy.** The function of mental health and developmental disability client advocacy in the Department of Human Services is transferred to the Office of Ombudsman according to section 15.039. The ombudsman shall maintain at least one client advocate in each regional center.

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

**History:** 1987 c 352 s 4; 2005 c 56 s 1

### **245.94 POWERS OF OMBUDSMAN; REVIEWS AND EVALUATIONS; RECOMMENDATIONS.**

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

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

(c) The ombudsman may investigate the quality of services provided to clients and determine the extent to which quality assurance mechanisms within state and county government work to promote the health, safety, and welfare of clients, other than clients in acute care facilities who are receiving services not paid for by public funds. The ombudsman is a health oversight agency as defined in Code of Federal Regulations, title 45, section 164.501.

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

(e) The ombudsman may gather, on behalf of a client, records of an agency, facility, or program if the records relate to a matter that is within the scope of the ombudsman's authority. If the records are private and the client is capable of providing consent, the ombudsman shall first obtain the client's consent. The ombudsman is not required to obtain consent for access to private data on clients with developmental disabilities. The ombudsman is not required to obtain consent for access to private data on decedents who were receiving services for mental illness, developmental disabilities, or emotional disturbance. All data collected, created, received, or maintained by the ombudsman are governed by chapter 13 and other applicable law.

(f) Notwithstanding any law to the contrary, the ombudsman may subpoena a person to appear, give testimony, or produce documents or other evidence that the ombudsman considers relevant to a matter under inquiry. The ombudsman may petition the appropriate court in Ramsey County to enforce the subpoena. A witness who is at a hearing or is part of an investigation possesses the same privileges that a witness possesses in the courts or under the law of this state. Data obtained from a person under this paragraph are private data as defined in section 13.02, subdivision 12.

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

(h) The ombudsman may attend Department of Human Services Review Board and Special Review Board proceedings; proceedings regarding the transfer of patients or residents, as defined in section 246.50, subdivisions 4 and 4a, between institutions operated by the Department of

Human Services; and, subject to the consent of the affected client, other proceedings affecting the rights of clients. The ombudsman is not required to obtain consent to attend meetings or proceedings and have access to private data on clients with developmental disabilities.

(i) The ombudsman shall gather data of agencies, facilities, or programs classified as private or confidential as defined in section 13.02, subdivisions 3 and 12, regarding services provided to clients with developmental disabilities.

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

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

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

(1) may be contrary to law or rule;

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

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

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

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

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

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

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

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

Subd. 2a. **Mandatory reporting.** Within 24 hours after a client suffers death or serious injury, the agency, facility, or program director shall notify the ombudsman of the death or serious injury. The ombudsman is authorized to receive identifying information about a deceased client according to Code of Federal Regulations, title 42, section 2.15, paragraph (b).

Subd. 3. **Complaints.** The ombudsman may receive a complaint from any source concerning an action of an agency, facility, or program. After completing a review, the ombudsman shall inform the complainant and the agency, facility, or program. No client may be punished nor may the general condition of the client's treatment be unfavorably altered as a result of an investigation, a complaint by the client, or by another person on the client's behalf. An agency, facility, or program shall not retaliate or take adverse action against a client or other person, who in good faith makes a complaint or assists in an investigation. The ombudsman may classify as confidential, the identity of a complainant, upon request of the complainant.

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

- (1) consider the matter further;
- (2) modify or cancel its actions;
- (3) alter a rule, order, or internal policy;
- (4) explain more fully the action in question; or
- (5) take other action.

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

**History:** 1987 c 352 s 5; 1988 c 543 s 5-8; 1989 c 282 art 2 s 58,59; 1989 c 351 s 16; 1990 c 398 s 1; 1996 c 451 art 6 s 2,3; 2005 c 56 s 1; 2008 c 219 s 4,5

#### **245.945 REIMBURSEMENT TO OMBUDSMAN FOR MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES.**

The commissioner shall obtain federal financial participation for eligible activity by the ombudsman for mental health and developmental disabilities. The ombudsman shall maintain and transmit to the Department of Human Services documentation that is necessary in order to obtain federal funds.

**History:** 1Sp2003 c 14 art 6 s 3; 2005 c 56 s 1

#### **245.95 RECOMMENDATIONS AND REPORTS TO GOVERNOR.**

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

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

**History:** 1987 c 352 s 6; 1988 c 543 s 9; 1996 c 451 art 6 s 4

#### **245.96 CIVIL ACTIONS.**

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

**History:** 1986 c 444; 1987 c 352 s 7

#### **245.97 OMBUDSMAN COMMITTEE.**

Subdivision 1. **Membership.** The Ombudsman Committee consists of 15 members appointed by the governor to three-year terms. Members shall be appointed on the basis of their knowledge of and interest in the health and human services system subject to the



ombudsman's authority. In making the appointments, the governor shall try to ensure that the overall membership of the committee adequately reflects the agencies, facilities, and programs within the ombudsman's authority and that members include consumer representatives, including clients, former clients, and relatives of present or former clients; representatives of advocacy organizations for clients and other individuals served by an agency, facility, or program; human services and health care professionals, including specialists in psychiatry, psychology, internal medicine, and forensic pathology; and other providers of services or treatment to clients.

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

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

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

Subd. 5. **Medical Review Subcommittee.** At least five members of the committee, including at least three physicians, one of whom is a psychiatrist, must be designated by the governor to serve as a Medical Review Subcommittee. Terms of service, vacancies, and compensation are governed by subdivision 2. The governor shall designate one of the members to serve as chair of the subcommittee. The Medical Review Subcommittee may have access to private and confidential data collected or created by the ombudsman that are necessary to fulfill the duties of the Medical Review Subcommittee under this section and may:

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

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

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

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

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

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

Subd. 7. **Duration.** The committee does not expire and the expiration date provided in section 15.059, subdivision 5, does not apply to this section.

**History:** 1987 c 352 s 8; 1988 c 543 s 10; 1988 c 629 s 46; 1993 c 286 s 26; 1996 c 451 art 6 s 5; 2007 c 133 art 2 s 9; 2008 c 219 s 6

**245.98 COMPULSIVE GAMBLING TREATMENT PROGRAM.**

Subdivision 1. **Definition.** For the purposes of this section, "compulsive gambler" means a person who is chronically and progressively preoccupied with gambling and with the urge to gamble to the extent that the gambling behavior compromises, disrupts, or damages personal, family, or vocational pursuits.

Subd. 2. **Program.** The commissioner of human services shall establish a program for the treatment of compulsive gamblers. The commissioner may contract with an entity with expertise regarding the treatment of compulsive gambling to operate the program. The program may include the establishment of a statewide toll-free number, resource library, public education programs; regional in-service training programs and conferences for health care professionals, educators, treatment providers, employee assistance programs, and criminal justice representatives; and the establishment of certification standards for programs and service providers. The commissioner may enter into agreements with other entities and may employ or contract with consultants to facilitate the provision of these services or the training of individuals to qualify them to provide these services. The program may also include inpatient and outpatient treatment and rehabilitation services for residents in different settings, including a temporary or permanent residential setting for mental health or chemical dependency, and individuals in jails or correctional facilities. The program may also include research studies. The research studies must include baseline and prevalence studies for adolescents and adults to identify those at the highest risk. The program must be approved by the commissioner before it is established.

Subd. 2a. **Assessment of certain offenders.** The commissioner shall adopt by rule criteria to be used in conducting compulsive gambling assessments of offenders under section 609.115, subdivision 9. The commissioner shall also adopt by rule standards to qualify a person to: (1) assess offenders for compulsive gambling treatment; and (2) provide treatment indicated in a compulsive gambling assessment. The rules must specify the circumstances in which, in the absence of an independent assessor, the assessment may be performed by a person with a direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider.

Subd. 3. [Repealed, 1995 c 207 art 11 s 12]

Subd. 4. **Contribution by tribal gaming.** The commissioner of human services is authorized to enter into an agreement with the governing body of any Indian tribe located within the boundaries of the state of Minnesota that conducts either class II or class III gambling, as defined in section 4 of the Indian Gaming Regulatory Act, Public Law 100-497, and future amendments to it, for the purpose of obtaining funding for compulsive gambling programs from the Indian tribe. Prior to entering into any agreement with an Indian tribe under this section, the commissioner shall consult with and obtain the approval of the governor or governor's designated representatives authorized to negotiate a tribal-state compact regulating the conduct of class III gambling on Indian lands of a tribe requesting negotiations. Contributions collected under this subdivision are appropriated to the commissioner of human services for the compulsive gambling treatment program under this section.

Subd. 5. **Standards.** The commissioner shall create standards for treatment and provider qualifications for the treatment component of the compulsive gambling program.

**History:** 1989 c 334 art 7 s 1; 1991 c 336 art 2 s 7; 1993 c 146 art 3 s 7; 1995 c 86 s 1; 1997 c 203 art 9 s 3; 2007 c 147 art 8 s 10

**245.982 PROGRAM SUPPORT.**

In order to address the problem of gambling in this state, the compulsive gambling fund should attempt to assess the beneficiaries of gambling, on a percentage basis according to the revenue they receive from gambling, for the costs of programs to help problem gamblers and their families. In that light, the governor is requested to contact the chairs of the 11 tribal governments in this state and request a contribution of funds for the compulsive gambling program. The governor should seek a total supplemental contribution of \$643,000. Funds received from the tribal governments in this state shall be deposited in the Indian gaming revolving account.

**History:** 1998 c 407 art 8 s 5

**245.99 ADULT MENTAL ILLNESS CRISIS HOUSING ASSISTANCE PROGRAM.**

Subdivision 1. **Creation.** The adult mental illness crisis housing assistance program is established in the Department of Human Services.

Subd. 2. **Rental assistance.** The program shall pay up to 90 days of housing assistance for persons with a serious and persistent mental illness who require inpatient or residential care for stabilization. The commissioner of human services may extend the length of assistance on a case-by-case basis.

Subd. 3. **Eligibility.** Housing assistance under this section is available only to persons of low or moderate income as determined by the commissioner.

Subd. 4. **Administration of crisis housing assistance.** The commissioner may contract with organizations or government units experienced in housing assistance to operate the program under this section. This program is not an entitlement. The commissioner may take any of the following steps whenever the commissioner projects that funds will be inadequate to meet demand in a given fiscal year:

- (1) transfer funds from mental health grants in the same appropriation; and
- (2) impose statewide restrictions as to the type and amount of assistance available to each recipient under this program, including reducing the income eligibility level, limiting reimbursement to a percentage of each recipient's costs, limiting housing assistance to 60 days per recipient, or closing the program for the remainder of the fiscal year.

**History:** 1999 c 245 art 4 s 8; 1Sp2001 c 9 art 9 s 19; 2002 c 379 art 1 s 113