

## CHAPTER 245

## DEPARTMENT OF PUBLIC WELFARE

245.0313	Aid to the disabled; mentally retarded.	245.74	Equalization aid to counties; other aids.
245.04	Repealed.	245.765	Reimbursement of county for certain Indian welfare costs.
245.05	Repealed.		
245.06	Repealed.	245.781	Citation.
245.07	Repealed.	245.782	Definitions.
245.52	Commissioner of public welfare as compact administrator.	245.783	Applications; inspection.
		245.791	Exclusions.
245.64	Funds allocated.	245.801	Revocation of license; denial.
245.66	Community mental health center boards.	245.802	Rules; regulations.
245.67	Repealed.	245.803	Violations; penalties.
245.68	Repealed.	245.812	Location and zoning.
245.73	Grants for residential services for adult mentally ill persons.	245.84	Authorization to make grants.

**245.0313 AID TO THE DISABLED; MENTALLY RETARDED.**

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

**History:** 1981 c 360 art 2 s 13

**245.04** [Repealed, 1981 c 253 s 48]

**245.05** [Repealed, 1981 c 253 s 48]

**245.06** [Repealed, 1981 c 253 s 48]

**245.07** [Repealed, 1981 c 253 s 48]

**245.52 COMMISSIONER OF PUBLIC WELFARE AS COMPACT ADMINISTRATOR.**

The commissioner of public welfare is hereby designated as "compact administrator." He shall have the powers and duties specified in the compact, and he 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 he deems appropriate to effecting the purpose of the compact. He shall, within the limits of the appropriations for the care of the mentally ill and mentally deficient available therefor, 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:** 1981 c 98 s 1

**245.64 FUNDS ALLOCATED.**

In preparing the biennial plan prescribed in section 256E.09, the county board shall allocate available funds to the mental health programs in accordance with such approved plans and budgets. The county board may, from time to time

during the year, review the budgets and expenditures of the various programs and if funds are not needed for a program to which they were allocated, it may, after reasonable notice and opportunity for hearing, withdraw such funds as are unencumbered and reallocate them to other programs. The county board may withdraw funds from any program which is not being administered in accordance with its approved plan and budget.

**History:** 1981 c 355 s 20

#### **245.66 COMMUNITY MENTAL HEALTH CENTER BOARDS.**

Every city, town, combination thereof or nonprofit corporation establishing a community mental health center under contract with a county board or human service board shall, before it may come within the provisions of sections 245.61 to 245.69 and receive funds from the county board or human service board, establish a community mental health center board. The community mental health center boards may include county commissioner representatives from each participating county and shall be representative of local health departments, medical societies, hospital boards, lay associations concerned with mental health, mental retardation and chemical dependency, labor, agriculture, business, civic and professional groups and the general public. Membership may include a representative from any county which purchases substantial services from the community mental health board. Each community mental health center board shall be responsible for the governing of its center and shall be responsible for the performance of the center under any contracts entered into with a county board of commissioners or human services board. This governing shall include determination of the services to be provided by the community mental health center, establishment of the annual budget, appointment of the center director, and establishment of personnel standards and compensation for employees of the center.

**History:** 1981 c 355 s 21

**245.67** [Repealed, 1981 c 355 s 34]

**245.68** [Repealed, 1981 c 355 s 34]

#### **245.73 GRANTS FOR RESIDENTIAL SERVICES FOR ADULT MENTALLY ILL PERSONS.**

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 facilities licensed under sections 245.781 to 245.813.

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. The commissioner shall give first priority to residential facilities for adult mentally ill persons operating as of July 1, 1980, to meet licensing requirements of the commissioner pursuant to sections 245.781 to 245.813. Funds shall not be used to supplant or reduce local, state, or federal expenditure levels supporting existing resources unless the reduction in available moneys is the result of a state or federal decision not to refund an existing program. State funds received by a county pursuant to this section shall be used only for direct service costs. Both direct service and other costs, including but not limited to renovation, construction or rent of buildings, purchase or lease of vehicles or equipment as required for licensure as a facility for adult mentally ill

# MINNESOTA STATUTES 1981 SUPPLEMENT

persons under sections 245.781 to 245.812, may be paid out of the matching funds required under subdivision 3. Neither the state funds nor the matching funds shall be used for room and board costs.

**Subd. 3. Formula.** Grants made pursuant to this section shall finance 75 percent of the county's costs of expanding or providing services for adult mentally ill persons in residential facilities as provided in subdivision 2.

**Subd. 4. Rules; reports.** The commissioner shall promulgate a temporary and permanent rule to govern grant applications, approval of applications, allocation of grants, and maintenance of service and financial records by grant recipients. The commissioner shall require collection of data for compliance, monitoring and evaluation purposes and shall require periodic reports to demonstrate the effectiveness of the services in helping adult mentally ill persons remain and function in their own communities. The commissioner shall report to the legislature no later than December 31 of each even-numbered year as to the effectiveness of this program and recommendations regarding continued funding.

**History:** 1981 c 360 art 2 s 14

## 245.74 EQUALIZATION AID TO COUNTIES; OTHER AIDS.

**Subdivision 1. Formula.** The commissioner of public welfare shall pay equalization aid to counties based upon the appropriation and a formula that includes four factors: recipient rate, per capita income, per capita taxable value, and per capita expenditures for welfare.

**Subd. 2. Expenditures for welfare.** (a) For the purposes of equalization aid, "expenditures for welfare" include all forms of public assistance and the administrative costs thereof, to wit: medical assistance, aid to families with dependent children, Minnesota supplemental aid, payments to the commissioner of public welfare for care and treatment of patients in state institutions, medical relief, hospital charges, maintenance of children not under state guardianship, general assistance, and all administrative costs except university hospitals care, care of children under state guardianships, and poor burials.

(b) Salary expenditures for computation of equalization aid shall not be included in county expenditures for welfare or for purposes of computing county per capita expenditures for welfare.

**Subd. 3. Payment.** Initial payments for equalization aid to counties shall be made on or before October 1 each fiscal year. Final payments shall be made before January 1 of the following fiscal year.

**Subd. 4. Transfers.** The commissioner shall not pay equalization aid to a county if it has transferred any money available for welfare purposes to any other county funds, except that where money is otherwise unavailable, a county may transfer money to the general revenue fund of the county for payment of rent of office space for the county welfare board. The county shall make the transfer only with the approval of the governor after consultation with the legislative advisory commission. Transfer of money to pay rent shall not be considered an expenditure for welfare for purposes of equalization aid reimbursement. Any federal money received in lieu of taxes because of federal grants shall be available for welfare purposes.

**Subd. 5. Limit.** A county shall not receive from state money paid for equalization aid an amount in excess of 75 percent of its expenditures for welfare as defined in subdivision 2.

**History:** 1981 c 360 art 1 s 19

**245.765 REIMBURSEMENT OF COUNTY FOR CERTAIN INDIAN WELFARE COSTS.**

Subdivision 1. The commissioner of public welfare, 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.

*[For text of subd 2, see M.S.1980]*

**History:** 1981 c 360 art 1 s 20

**245.781 CITATION.**

Sections 245.781 to 245.812 and 252.28, Subdivision 2 shall be known as the "public welfare licensing act".

**History:** 1Sp1981 c 4 art 1 s 106

**245.782 DEFINITIONS.**

Subdivision 1. For the purposes of sections 245.781 to 245.812 and 252.28, subdivision 2, the following terms shall have the meanings given them:

*[For text of subs 2 to 10, see M.S.1980]*

Subd. 11. "License" means a certificate issued by the commissioner authorizing the operator to provide specified services for a specified period of time in accordance with the terms of the license, sections 245.781 to 245.812 and 252.28, subdivision 2, and the rules and regulations of the commissioner.

Subd. 12. "Provisional license" means the certificate issued by the commissioner, prior to the issuance of a license, authorizing the operator to begin providing specified services for a specified period of time in accordance with the provisions of the provisional license, sections 245.781 to 245.812 and 252.28, subdivision 2, and the rules and regulations of the commissioner. A provisional license may be issued if the operator is temporarily unable to comply with all of the requirements for a license.

*[For text of subd 13, see M.S.1980]*

**History:** 1Sp1981 c 4 art 1 s 107-109

**245.783 APPLICATIONS; INSPECTION.**

Subdivision 1. No individual, corporation, partnership, voluntary association, or other organization may operate a day care or residential facility or agency unless licensed to do so by the commissioner. No unlicensed individual or agency shall receive a child for care or placement, place a child in foster care, assist with plans for his placement in foster care, or solicit money in behalf of the agency. Application for license and renewal of license shall be made on forms supplied by the commissioner and in the manner he prescribes. The commissioner shall offer consultation, assistance and information to all applicants for licensure under sections 245.781 to 245.812 and 252.28, subdivision 2. This shall include information regarding regulations and requirements of other state agencies and departments which affect the applicant, and shall assist applicants and operators to meet and maintain requirements for licensure.

# MINNESOTA STATUTES 1981 SUPPLEMENT

Subd. 2. The commissioner shall be responsible for processing applications for licensure made under sections 245.781 to 245.812 and section 252.28, subdivision 2. State agencies and departments including, but not limited to, the state fire marshal, state building code, state commissioner of health and commissioner of energy, planning and development, which are involved in the investigation and review of a facility or an applicant's qualifications shall direct their employees to report directly to the commissioner on these matters and shall be subject to the rules promulgated by the commissioner with respect to the coordination of licensing and inspection functions. This subdivision relates only to other state departments or agencies and confers no additional powers or duties upon the commissioner respecting federal, county, municipal, or other nonstate agencies. Nothing in this subdivision shall prevent the state fire marshal from delegating inspection duties to local units of government.

Subd. 3. Before issuing a license or renewing a license, the commissioner shall conduct a study of the applicant and the agency or the day care or residential facility. The bureau of criminal apprehension, a county attorney, a county sheriff, and a chief of a local police department with the informed consent of the subject of the data shall assist in this study by providing to the commissioner, the director of any local agency responsible for licensing, or their representatives all criminal conviction data available from local, state, and national criminal history record repositories, including the criminal justice data communications network, pertaining to the following individuals connected with the application for or renewal of a license: applicants, operators, all persons living in the household, all staff of any day care or residential facility and all staff of agencies placing children for care. If the commissioner is satisfied that the provisions of sections 245.781 to 245.812 and 252.28, subdivision 2 and the applicable rules and regulations promulgated by him are substantially met, a license shall be issued. If the results of the study indicate that all of the applicable laws, rules and regulations cannot be met immediately, but can and will be met within one year or less, and the deviations do not threaten the health, rights, or safety of persons to be served, a provisional license may be issued for a period not to exceed one year from the date of issuance.

The commissioner may request advice from persons using the facility, agency, or service, operators of a similar facility, agency, or service, and relevant professionals as part of the evaluation of an applicant.

*[For text of subs 4 to 6, see M.S.1980]*

**History:** 1981 c 290 s 5; 1981 c 356 s 185; ISp1981 c 4 art 1 s 110-112

## 245.791 EXCLUSIONS.

Sections 245.781 to 245.812 shall not apply to:

- (1) Day care or residential care provided by a relative to related persons;
- (2) Day care or residential care provided for a cumulative total of less than 30 days in any 12 month period;
- (3) Day care provided for persons from a single unrelated family for any length of time;
- (4) A home caring for a person placed there by a licensed agency for legal adoption, unless the adoption is not completed within two years after placement;
- (5) A licensed hospital whose psychiatric or chemical dependency program is located within the hospital.

# MINNESOTA STATUTES 1981 SUPPLEMENT

893

DEPARTMENT OF PUBLIC WELFARE 245.801

(6) A nursing home, hospital, or boarding care home, licensed by the state commissioner of health, except that an identifiable unit of such a facility which regularly provides care for more than five handicapped persons must be licensed under sections 245.781 to 245.812;

(7) A day care or residential facility serving fewer than five physically or mentally handicapped adults;

(8) A day care or residential program serving any number of nonhandicapped adults;

(9) A sheltered workshop day program, certified by the state board of education;

(10) A work activity day program, certified by the state board of education;

(11) A work-wage home providing care for one nonrelated child who has reached his sixteenth birthday and who has been independently placed for purposes of education or employment;

(12) A school under the general supervision of the commissioner of education or a local education agency;

(13) A residential or day care facility under the direct control and supervision of a local education agency or a state agency other than the commissioner;

(14) Day care provided for periods of no more than three hours per day for any person while his relatives are in the same building, or can be present in the same building within 30 minutes;

(15) Facilities which in the judgment of the commissioner of education are operated for the primary purpose of educating children shall be exempt from these rules and regulations except insofar as the regulations affect the health and safety of the children therein. The classrooms shall meet the applicable standards of the commissioner of public safety and state commissioner of health.

**History:** *1Sp1981 c 4 art 1 s 113*

## **245.801 REVOCATION OF LICENSE; DENIAL.**

*[For text of subs 1 to 4, see M.S.1980]*

Subd. 5. At any hearing provided for by sections 245.781 to 245.812 and 252.28, subdivision 2, the applicant or operator may be represented by counsel and has the right to call, examine, and cross-examine witnesses. The hearing examiner is empowered to require the presence of witnesses and evidence by subpoena on the behalf of any party. Each decision of a hearing examiner shall be in writing, shall contain findings of fact and conclusions, and shall be mailed to the parties by certified mail to their last known addresses as shown in the application.

Subd. 6. An operator whose license has been revoked or not renewed because of noncompliance with applicable laws, or rules and regulations may not be granted a new license for five years following the revocation or denial of renewal except that the commissioner may grant a variance to this provision for family day care after two years following the revocation or denial of a family day care license and issue a license according to criteria established by rules adopted under section 15.0412, subdivision 5. The commissioner may grant variances immediately upon the effective date of and in accordance with the rules.

**History:** *1981 c 264 s 1; 1Sp1981 c 4 art 1 s 114*

**245.802 RULES; REGULATIONS.**

*[For text of subd 1, see M.S.1980]*

Subd. 2. The commissioner shall conduct a comprehensive review of the rules and regulations promulgated under sections 245.781 to 245.812 and 252.28, subdivision 2 at least once every five years.

Subd. 3. A residential facility that is federally certified as an intermediate care facility serving adult mentally ill persons on July 1, 1981 shall not be denied a program license on the basis of any rule that requires physical plant specifications regarding the alteration of a certain number of beds and a certain number or size of living areas per treatment unit which would require the facility to alter its total number of beds.

**History:** 1981 c 360 art 2 s 15; 1Sp1981 c 4 art 1 s 115

**245.803 VIOLATIONS; PENALTIES.**

Subdivision 1. The operation of a day care or residential facility or agency required to be licensed under sections 245.781 to 245.812 and 252.28, subdivision 2 without a license is a misdemeanor punishable by a fine of not more than \$300. The commissioner may seek an injunction in the district court against the continuing operation of a day care or residential facility or agency:

(1) If the facility or agency is in violation of sections 245.781 to 245.812 and 252.28, subdivision 2 or of the rules and regulations promulgated by the commissioner and the operator has failed to correct the violation within 30 days of receipt of a written order to do so; or

(2) If an operator has willfully failed to apply for a license or renewal of license.

Proceedings for securing injunctions may be brought by the attorney general, or by the appropriate county attorney.

Subd. 2. Any individual who advertises a facility required to be licensed pursuant to sections 245.781 to 245.812 and 252.28, subdivision 2 prior to obtaining a license is guilty of a misdemeanor.

Subd. 3. The sanctions provided in sections 245.781 to 245.812 and 252.28, subdivision 2 are cumulative, and shall not be construed as restricting any sanctions otherwise available.

**History:** 1Sp1981 c 4 art 1 s 116-118

**245.812 LOCATION AND ZONING.**

*[For text of subd 1, see M.S.1980]*

Subd. 2. In determining whether a license shall be issued, the commissioner shall specifically consider the population, size, land use plan, availability of community services and the number and size of existing public and private community residential facilities in the town, municipality or county in which an applicant seeks to operate a residence. Under no circumstances may the commissioner newly license any group residential facility pursuant to sections 245.781 to 245.812 and 252.28, subdivision 2 if such residential facility will be within 1,320 feet of any existing group residential facility unless the appropriate town, municipality or county zoning authority grants the facility a conditional use or special use permit. With the exception of foster family homes the requirements of this subdivision apply to all licensed residential facilities, and for cities of the first class

# MINNESOTA STATUTES 1981 SUPPLEMENT

895

DEPARTMENT OF PUBLIC WELFARE 245.84

apply even if a facility is considered a permitted single family residential use of property according to subdivision 3.

*[For text of subds 3 and 4, see M.S.1980]*

Subd. 5. Notwithstanding any law to the contrary, no license or provisional license shall be issued under sections 245.781 to 245.812 and 252.28, subdivision 2 without 30 days written notice from the commissioner to the affected municipality or other political subdivision.

Subd. 6. No state funds shall be made available to or be expended by any state or local agency for facilities licensed under sections 245.781 to 245.812 and 252.28, subdivision 2 unless and until the provisions of subdivision 5 have been complied with in full.

Subd. 7. Residential facilities for adult mentally ill persons established on or before July 1, 1980, are exempt from the requirements of this section until July 1, 1984. The commissioner shall develop a mechanism for ensuring full compliance with this section by residential facilities for adult mentally ill persons by July 1, 1984.

**History:** 1981 c 360 art 2 s 16; 1Sp1981 c 4 art 1 s 119-121

## **245.84 AUTHORIZATION TO MAKE GRANTS.**

*[For text of subd 1, see M.S.1980]*

Subd. 2. Within the limit of appropriations available and subject to the allocation requirements of section 245.87 the commissioner shall establish a program to make grants to counties for the purpose of reducing according to a sliding fee schedule the costs of child care for eligible families. The commissioner shall promulgate rules to govern the program in accordance with this subdivision. No later than April 1 of each odd-numbered year, the commissioner shall notify all county boards of the procedures for applying for sliding fee program grants. No later than June 1 of each odd-numbered year, each county wishing to participate in the sliding fee program shall apply to the commissioner for a grant. No later than July 1 of that year, the commissioner shall allocate to all counties that apply and agree to comply with the provisions of sections 245.84 to 245.87 grants in the amounts determined by rule. The commissioner shall require collection of data and periodic reports as the commissioner deems necessary to demonstrate the effectiveness of the program in preventing and reducing dependence of participants on public assistance and in providing other benefits. The commissioner shall report to the legislature no later than January 15 of each odd-numbered year of the effectiveness of the program.

In addition to payments from parents, contributions to the cost of the program shall be made by grantees as follows: 5 percent in the first grant year, 15 percent in the second and subsequent grant years.

The county board shall establish the income range for eligibility of families for the sliding fee program, which shall be not less than the minimum nor more than the maximum income range, as follows: (a) the minimum income range includes families having income above the maximum allowable for title XX fully subsidized child care but less than 70 percent of the state median income for a family of four adjusted for family size as that median appears in the then current title XX comprehensive annual services program plan issued by the state department of public welfare; (b) the maximum income range includes families having income above the maximum allowable for title XX fully subsidized child care but



# MINNESOTA STATUTES 1981 SUPPLEMENT

less than 90 percent of the state median income for a family of four adjusted for family size as that median appears in the then current title XX comprehensive annual services program plan issued by the state department of public welfare. Families having parents determined by the commissioner, according to criteria which the commissioner shall establish, to be unable to care for the child because of employment, school attendance or other circumstances are eligible for the sliding fee program.

In setting the sliding fee schedule, the commissioner shall exclude from the amount of income used to determine eligibility under the income range established by the county board an amount for federal and state income and social security taxes attributable to that income level according to federal and state standardized tax tables. The total fee charged for child care to any family shall not exceed 75 percent of the income so determined to be above the maximum allowable for fully subsidized child care.

In each case where the grantee charges a fee that is less than the fee set by the commissioner for the same service, the state's payment shall be limited to the difference between the fee set by the commissioner and the charge for care.

In cases where the provider of the child care service charges in excess of 125 percent of the median charge for like care arrangements in the geographic area defined by the commissioner for the purposes of ascertaining such median charge, the state's payment shall be limited to the difference between 125 percent of the median charge for like care arrangements in the geographic area and the parents' fee.

The commissioner shall promulgate temporary and permanent rules in accordance with section 15.0412 to implement this section. No more than seven percent of any grant shall be used for the grantee's administration expenses.

*[For text of subds 3 and 4, see M.S.1980]*

Subd. 5. The county shall biennially develop a plan for the distribution of funds for child care services as part of the community social services plan prescribed in section 256E.09. All licensed child care programs shall be given written notice concerning the availability of funds and the application process.

**History:** 1981 c 355 s 22,23