

## CHAPTER 246

## PUBLIC INSTITUTIONS

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**246.014 SERVICES.**

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

(a) The commissioner of human services shall develop and maintain state-operated services in a manner consistent with sections 245.461, 245.487, and 253.28, and chapters 252A, 254A, and 254B. State-operated services shall be provided in coordination with counties and other vendors. State-operated services shall include regional treatment centers, specialized inpatient or outpatient treatment programs, enterprise services, community-based services and programs, community preparation services, consultative services, and other services consistent with the mission of the Department of Human Services. These services shall include crisis beds, waived homes, intermediate care facilities, and day training and habilitation facilities. The administrative structure of state-operated services must be statewide in character. The state-operated services staff may deliver services at any location throughout the state.

(b) The commissioner of human services shall create and maintain forensic services programs. Forensic services shall be provided in coordination with counties and other vendors. Forensic services shall include specialized inpatient programs at secure treatment facilities as defined in section 253B.02, subdivision 18a, consultative services, aftercare services, community-based services and programs, transition services, or other services consistent with the mission of the Department of Human Services.

(c) Community preparation services as identified in paragraphs (a) and (b) are defined as specialized inpatient or outpatient services or programs operated outside of a secure environment but are administered by a secured treatment facility.

(d) The commissioner of human services may establish policies and procedures which govern the operation of the services and programs under the direct administrative authority of the commissioner.

*History: 1Sp2003 c 14 art 6 s 21*

**246.0141 TOBACCO USE PROHIBITED.**

No patient, staff, guest, or visitor on the grounds or in a state regional treatment center, the Minnesota Security Hospital, the Minnesota sex offender program, or the Minnesota extended treatment options program may possess or use tobacco or a tobacco-related device. For the purposes of this section, "tobacco" and "tobacco-related device" have the meanings given in section 609.685, subdivision 1. This section does not prohibit the possession or use of tobacco or a tobacco-related device by an adult as part of a traditional Indian spiritual or cultural ceremony. For purposes of this section, an Indian is a person who is a member of an Indian tribe as defined in section 260.755, subdivision 12.

*History: 1Sp2003 c 14 art 7 s 67*

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

Subd. 3. The commissioner of human services may authorize state-operated services to provide consultative services for courts, state welfare agencies, and supervise

the placement and aftercare of patients, on a fee-for-service basis as defined in section 246.50, provisionally or otherwise discharged from a state-operated services facility. State-operated services may also promote and conduct programs of education relating to mental health. The commissioner shall administer, expend, and distribute federal funds which may be made available to the state and other funds not appropriated by the legislature, which may be made available to the state for mental health purposes.

**History:** *1Sp2003 c 14 art 6 s 22*

**246.017 MEDICAL RECORD; POLICY.**

*[For text of subd 1, see M.S.2002]*

Subd. 2. [Repealed, 1Sp2003 c 14 art 6 s 68]

**246.018 OFFICE OF MEDICAL DIRECTOR.**

*[For text of subd 1, see M.S.2002]*

Subd. 2. **Medical director.** The commissioner of human services shall appoint, and unless otherwise established by law, set the salary of a licensed physician to serve as medical director to assist in establishing and maintaining the medical policies of the Department of Human Services. The commissioner may place the medical director's position in the unclassified service if the position meets the criteria of section 43A.08, subdivision 1a. The medical director must be a psychiatrist certified by the Board of Psychiatry.

Subd. 3. **Duties.** The medical director shall:

(1) oversee the clinical provision of inpatient mental health services provided in the state's regional treatment centers;

(2) recruit and retain psychiatrists to serve on the state medical staff established in subdivision 4;

(3) consult with the commissioner of human services, community mental health center directors, and the state-operated services governing body to develop standards for treatment and care of patients in state-operated service programs;

(4) develop and oversee a continuing education program for members of the medical staff; and

(5) participate and cooperate in the development and maintenance of a quality assurance program for state-operated services that assures that residents receive quality inpatient care and continuous quality care once they are discharged or transferred to an outpatient setting.

Subd. 4. **State-operated services medical staff.** (a) The medical director shall establish a state-operated services medical staff which shall be under the clinical direction of the Office of Medical Director.

(b) The medical director, in conjunction with the medical staff, shall:

(1) establish standards and define qualifications for physicians who care for residents in state-operated services;

(2) monitor the performance of physicians who care for residents in state-operated services; and

(3) recommend to the commissioner changes in procedures for operating state-operated service facilities that are needed to improve the provision of medical care in those facilities.

**History:** *1Sp2003 c 14 art 6 s 23-25*

**246.022** [Repealed, 1Sp2003 c 14 art 6 s 68]

**246.06** [Repealed, 1Sp2003 c 14 art 6 s 68]

**246.07** [Repealed, 1Sp2003 c 14 art 6 s 68]

**246.08** [Repealed, 1Sp2003 c 14 art 6 s 68]

**246.11** [Repealed, 1Sp2003 c 14 art 6 s 68]

**246.13 RECORD OF PATIENTS AND RESIDENTS IN STATE-OPERATED SERVICES.**

The commissioner of human services' office shall have, accessible only by consent of the commissioner or on the order of a judge or court of record, a record showing the residence, sex, age, nativity, occupation, civil condition, and date of entrance or commitment of every person, in the state-operated services facilities as defined under section 246.014 under exclusive control of the commissioner; the date of discharge and whether such discharge was final; the condition of the person when the person left the state-operated services facility; and the date and cause of all deaths. The record shall state every transfer from one state-operated services facility to another, naming each state-operated services facility. This information shall be furnished to the commissioner of human services by each public agency, along with other obtainable facts as the commissioner may require. When a patient or resident in a state-operated services facility is discharged, transferred, or dies, the head of the state-operated services facility or designee shall inform the commissioner of human services of these events within ten days on forms furnished by the commissioner.

*History: 1Sp2003 c 14 art 6 s 26*

**246.15 MONEY OF PATIENTS OR RESIDENTS.**

Subdivision 1. **Record keeping of money.** The head of the state-operated services facility or designee under the jurisdiction of the commissioner of human services may have the care and custody of all money belonging to patients or residents which may come into the head of the state-operated services facility or designee's hands. The head of the state-operated services facility or designee shall keep accurate accounts of the money, and pay them out under rules prescribed by law or by the commissioner of human services, taking vouchers for the money. All money received by any officer or employee shall be paid to the head of the state-operated services facility or designee immediately. Every head of the state-operated services facility or designee, at the close of each month, or earlier if required by the commissioner, shall forward to the commissioner a statement of the amount of all money received and the names of the patients or residents from whom received, accompanied by a check for the amount, payable to the commissioner of finance. On receipt of the statement, the commissioner shall transmit the statement along with a check to the commissioner of finance. Upon the payment of the check, the amount shall be credited to a fund to be known as "Client Fund," for the institution from which the check was received. All funds shall be paid out by the commissioner of finance upon vouchers duly approved by the commissioner of human services. The commissioner may permit a contingent fund to remain in the hands of the head of the state-operated services facility or designee of the institution from which necessary expenditures may be made.

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

*History: 2003 c 112 art 2 s 32; 1Sp2003 c 14 art 6 s 27*

**246.16 UNCLAIMED MONEY OR PERSONAL PROPERTY OF PATIENTS OR RESIDENTS.**

Subdivision 1. **Unclaimed money.** When money has accumulated in the hands of the head of the state-operated services facility or designee under the jurisdiction of the commissioner of human services money belonging to patients or residents of the institution who have died there, or disappeared from there, and for which there is no claimant or person entitled to the money known to the head of the state-operated services facility or designee the money may, at the discretion of the head of the state-

operated services facility or designee, be expended under the direction of the head of the state-operated services facility or designee for the benefit of the patients or residents of the institution. No money shall be used until it has remained unclaimed for at least five years. If, at any time after the expiration of the five years, the legal heirs of the patients or residents appear and make proper proof of heirship, they shall be entitled to receive from the state the sum of money expended by the head of the state-operated services facility or designee belonging to the patient or resident.

**Subd. 2. Unclaimed personal property.** When any patient or resident of a state-operated services facility under the jurisdiction of the commissioner of human services dies or disappears from the state-operated services facility, leaving personal property exclusive of money in the custody of the head of the state-operated services facility or designee and the property remains unclaimed for a period of two years, with no person entitled to the property known to the head of the state-operated services or designee, the head of the state-operated services facility or designee may sell the property at public auction. Notice of the sale shall be published for two consecutive weeks in a legal newspaper in the county where the state-operated services facility is located and shall state the time and place of the sale. The proceeds of the sale, after deduction of the costs of publication and auction, may be expended, at the discretion of the head of the state-operated services facility or designee, for the benefit of the patients or residents of the state-operated services facility. Any patient or resident, or heir or representative of the patient or resident, may file with, and make proof of ownership to, the head of the state-operated services facility or designee of the state-operated services facility disposing of the personal property within four years after the sale, and, upon satisfactory proof to the head of the state-operated services or designee, shall certify for payment to the commissioner of finance the amount received by the sale of the property. No suit shall be brought for damages consequent to the disposal of personal property or use of money in accordance with this section against the state or any official, employee, or agent thereof.

**History:** 2003 c 112 art 2 s 50; 1Sp2003 c 14 art 6 s 28

#### 246.18 DISPOSAL OF FUNDS.

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

*[For text of subd 2, see M.S.2002]*

**Subd. 2a. Disposition of interest for chemical dependency funds.** Beginning July 1, 1991, interest earned on cash balances on deposit with the commissioner of finance derived from receipts from chemical dependency programs affiliated with state-operated facilities under the commissioner of human services must be deposited in the state treasury and credited to a chemical dependency account under subdivision 2. Any interest earned is appropriated to the commissioner to operate chemical dependency programs according to subdivision 2.

*[For text of subds 4 to 6, see M.S.2002]*

**History:** 2003 c 112 art 2 s 33,50

#### 246.19 [Repealed, 1Sp2003 c 14 art 6 s 68]

**246.21 CONTINGENT FUND.**

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

**History:** 2003 c 112 art 2 s 34

**246.41 CONTRIBUTIONS FOR BENEFIT OF PERSONS WITH MENTAL RETARDATION.**

*[For text of subd 1, see M.S.2002]*

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

*[For text of subd 3, see M.S.2002]*

**History:** 2003 c 112 art 2 s 50

**246.42 [Repealed, 1Sp2003 c 14 art 6 s 68]****246.51 PAYMENT FOR CARE AND TREATMENT; DETERMINATION.**

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

*[For text of subds 2 and 3, see M.S.2002]*

**History:** 2003 c 112 art 2 s 50

**246.54 LIABILITY OF COUNTY; REIMBURSEMENT.**

Subdivision 1. **County portion for cost of care.** Except for chemical dependency services provided under sections 254B.01 to 254B.09, the client's county shall pay to the state of Minnesota a portion of the cost of care provided in a regional treatment center

or a state nursing facility to a client legally settled in that county. A county's payment shall be made from the county's own sources of revenue and payments shall be paid as follows: payments to the state from the county shall equal 20 percent of the cost of care, as determined by the commissioner, for each day, or the portion thereof, that the client spends at a regional treatment center or a state nursing facility. If payments received by the state under sections 246.50 to 246.53 exceed 80 percent of the cost of care, the county shall be responsible for paying the state only the remaining amount. The county shall not be entitled to reimbursement from the client, the client's estate, or from the client's relatives, except as provided in section 246.53. No such payments shall be made for any client who was last committed prior to July 1, 1947.

**Subd. 2. Exceptions.** Subdivision 1 does not apply to services provided at the Minnesota Security Hospital, the Minnesota sex offender program, or the Minnesota extended treatment options program. For services at these facilities, a county's payment shall be made from the county's own sources of revenue and payments shall be paid as follows: payments to the state from the county shall equal ten percent of the cost of care, as determined by the commissioner, for each day, or the portion thereof, that the client spends at the facility. If payments received by the state under sections 246.50 to 246.53 exceed 90 percent of the cost of care, the county shall be responsible for paying the state only the remaining amount. The county shall not be entitled to reimbursement from the client, the client's estate, or from the client's relatives, except as provided in section 246.53.

**History:** *1Sp2003 c 14 art 3 s 4*

**NOTE:** The amendment to this section by Laws 2003, First Special Session chapter 14, article 3, section 4, is effective July 1, 2004. Laws 2003, First Special Session chapter 14, article 3, section 4, the effective date.

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

*[For text of subd 1, see M.S.2002]*

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

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

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

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

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

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

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

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

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

*[For text of subd 3, see M.S.2002]*

**History:** 2003 c 130 s 12

#### 246.57 SHARED SERVICE AGREEMENTS.

Subdivision 1. **Authorized.** The commissioner of human services may authorize any state-operated services to enter into agreement with other governmental entities and both nonprofit and for-profit organizations for participation in shared service agreements that would be of mutual benefit to the state, other governmental entities and organizations involved, and the public. Positions funded by a shared service agreement are authorized for the duration of the shared service agreement. The charges for the services shall be on an actual cost basis. All receipts for shared services may be retained by the state-operated service that provided the services.

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

*[For text of subd 5, see M.S.2002]*

Subd. 6. **Dental services.** The commissioner of human services shall authorize any state-operated services facility under the commissioner's authority to provide dental services to disabled persons who are eligible for medical assistance and are not residing at the regional treatment center or state-operated nursing home, provided that the reimbursement received for these services is sufficient to cover actual costs. To provide these services, regional treatment centers and state-operated nursing homes may participate under contract with health networks in their service area. All receipts for these dental services shall be retained by the regional treatment center or state-operated nursing home that provides the services and shall be in addition to other funding the regional treatment center or state-operated nursing home receives.

**History:** 1Sp2003 c 14 art 6 s 29-31

#### 246.71 DEFINITIONS.

*[For text of subs 1 to 3, see M.S.2002]*

Subd. 4. **Employee of a secure treatment facility or employee.** "Employee of a secure treatment facility" or "employee" means an employee of the Minnesota Security Hospital or a secure treatment facility operated by the Minnesota sex offender program.

Subd. 5. **Secure treatment facility.** "Secure treatment facility" means the Minnesota Security Hospital and the Minnesota sex offender program facility in Moose Lake and any portion of the Minnesota sex offender program operated by the Minnesota sex offender program at the Minnesota Security Hospital.

*[For text of subd 6, see M.S.2002]*

**History:** 1Sp2003 c 14 art 6 s 32,33