

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to the Department of Public Welfare
(Agency or Board)

Regulation No. DPW 28

Subject: Community Mental Health Services.

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

APR 16 1976

BY Edo Standenmann
AUTH. SIGNATURE

Stamped and filed with the Secretary of State 4-16-76 - 4:10pm 4:30PM RD

Rev. 9-72

209

Barbara D. Gill
Special Assistant
Attorney General

April 19, 1976

- DPW 28

209

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Attorney General

Barbara Gill
Special Assistant
Attorney General
Public Welfare

March 24, 1976

Michael B. Miller
Special Assistant
Attorney General

296-4692

Welfare Rule 28

Returned herewith is the above-captioned rule for the following reasons:

1. Rule 28(u) is unclear in its use of the word "should";

2. The question was raised as to statutory authority of the agency to mandatorily direct monetary grants as in Rule 28(g).

MBM/sr

Enclosures

ADMIN. 1000

STATE OF MINNESOTA

DEPARTMENT Attorney General

Office Memorandum

TO : Michael Miller
Special Assistant
Attorney General
Department of Administration

DATE: 4/8/76

FROM : Barbara D. Gill
Special Assistant
Attorney General

BDG

SUBJECT: Welfare Rule 28

You had returned Rule 28 to the department for minor changes. Rule 28 (u)(3) had used "should" instead of "shall". That has been corrected.

You had also questioned the agency's statutory authority to direct monetary grants exclusively to community mental health boards. I feel there is adequate statutory basis for this provision as we discussed in our phone conversation last week. Accordingly, I am returning the Rule for filing.

BDG:jc

DPW RULE 28: COMMUNITY MENTAL HEALTH SERVICES

This Rule hereby repeals the existing Minnesota Rule, DPW Rule 28, effective March 10, 1961.

(a) This rule provides methods and procedures relating to the establishment and operation of area-wide comprehensive community-based, mental health-mental retardation-chemical dependency programs under state grant-in-aid as provided under Minn. Stat. 245.61 - 245.69. (Minn. Stat. 245.61 - 245.69 is entitled, The Community Mental Health Services Act. For purposes of this Rule, Community Mental Health Services includes services to persons who have mental or emotional disorders or other psychiatric disabilities, mental retardation, and chemical dependency, including drug abuse and alcoholism.)

The Community Mental Health Board has the responsibility for ensuring the planning, development, implementation, coordination and evaluation of the community comprehensive mental health program for the mentally ill/behaviorally disabled, mentally retarded and chemically dependent populations in the geographic area it serves. It also has the responsibility for ensuring delivery of services designated by statute.

Rule 28 also sets forth definitions of Community Mental Health Centers and Community Mental Health Clinics. The definitions of Centers and Clinics constitutes the standards for the Commissioner's "approval" of a program for purposes of Minn. Laws 1975, Chapter 89, which requires certain group insurance policies and plans to provide benefits to nonhospitalized persons for mental health diagnosis, treatment and consultation services.

(b) A Community Mental Health Center means an agency which includes all of the following:

(1) Established under the provision of Minn. Stat. 245.61 - 245.69.

(2) Provide as a minimum the following services for individuals having mental or emotional disorders, mental retardation, alcoholism, drug abuse, and other psychiatric conditions. The extent of each service to be provided by the center shall be indicated in the program plan, which is to reflect the problems, needs and resources of the community served.

(aa) collaborative and cooperative services with public health and other groups for programs of prevention of mental illness, mental retardation, alcoholism, drug abuse and other psychiatric disorders.

(bb) informational and educational services to schools, courts, health and welfare agencies, both public and private.

(cc) informational and educational services to the general public, lay and professional groups.

(dd) consultative services to schools, courts, and health and welfare agencies, both public and private.

(ee) out-patient diagnostic and treatment services.

(ff) rehabilitative services, particularly for those who have received prior treatment in an in-patient facility.

(3) Provides or contracts for detoxification, evaluation and referral for chemical dependency services (Minn. Stat. 254A.08).

(4) Provides specific coordination for mentally ill/behaviorally disabled, mentally retarded, and chemical dependency programs. (Minn. Stat. 254A.07 and 245.61).

(5) Has a competent multidisciplinary mental health/mental retardation/chemical dependency professional team whose members meet the professional standards in their respective fields.

(6) The professional mental health team is qualified by specific mental health training and experience and shall include as a minimum, the services of each of the following:

(aa) a licensed physician, who has completed an approved residency program in psychiatry;

and

(bb) a doctoral clinical, counseling, or health care psychologist, who is licensed under Minn. Stat. 148.87 - 148.99.

and one or both of the following

(cc) a clinical social worker with a Masters degree in Social Work from an accredited college or university;

and/or

(dd) a clinical psychiatric nurse with a Masters degree from an accredited college or university and is registered under Minn. Stat. 148.171. (The Masters degree shall be in psychiatric nursing or a related psychiatric nursing program such as Public Health Nursing with mental health major, Maternal and Child Health with mental health major, etc.)

(7) The multidisciplinary staff shall be sufficient in number to implement and operate the described program of the center. In addition to the above,

this team should include other professionals, paraprofessionals and disciplines, particularly in the preventive and rehabilitative components of the program, subject to review and approval of job descriptions and qualifications by the Commissioner. If any of the minimum required professional staff are not immediately available, the Commissioner may approve and make grants for the operation of the center, provided that the board and director can show evidence acceptable to the Commissioner that they are making sincere, reasonable and ongoing efforts to acquire such staff and show evidence of how the specialized functions of the required professionals are being met. The services being rendered by employed personnel shall be consistent with their professional discipline.

(c) A Community Mental Health Clinic is an agency which devotes, as its major service, at least two-thirds (2/3) of its resources for outpatient mental health diagnosis, treatment and consultation by a multidisciplinary professional mental health team. The multidisciplinary professional mental health team is qualified by special mental health training and experience and shall include as a minimum the services of each of the following:

(1) A licensed physician, who has completed an approved residency program in psychiatry;

and

(2) A doctoral clinical, or counseling or health care psychologist who is licensed under Minn. Stat. 148.87 - 148.99.

and one or both of the following

(3) A clinical social worker with a Masters degree in Social Work from an accredited college or university;

and/ or

(4) A clinical psychiatric nurse with a Masters degree from an accredited college or university and is registered under Minn. Stat. 148.171. (The Masters degree shall be in Psychiatric Nursing or a related psychiatric nursing program such as Public Health with a mental health major, Maternal and Child Health with a mental health major.)

The multidisciplinary team shall be sufficient in number to implement and operate the described program of the clinic. In addition to the above, this team should include other professionals, paraprofessionals and disciplines, particularly in the preventive and rehabilitative components of the program, subject to review and approval of job descriptions and qualifications by the Commissioner.

If any of the minimum required professional staff are not immediately available, the Commissioner may approve and make grants for the operation of the

clinic, provided that the board and director can show evidence acceptable to the Commissioner that they are making sincere, reasonable and ongoing efforts to acquire such staff and evidence of how the specialized functions of the required professional positions are being met. The services being rendered by employed personnel shall be consistent with their professional discipline.

(d) On or before the date designated by the Commissioner, each year the chairman of the Community Mental Health Board or Director of the Community Mental Health Program, provided for in Minnesota Statutes, Section 245.62, shall submit an annual plan identifying program priorities in accordance with state grant-in-aid guidelines, and a budget on prescribed report forms for the next state fiscal year, together with the recommendations of the Community Mental Health Board, to the Commissioner of Public Welfare for approval as provided under Minn. Stat. 245.63.

(e) Other providers of Community Mental Health Services may affiliate with the Community Mental Health Center and may be approved and eligible for state grant-in-aid funds. The state funding for other Community Mental Health Services shall be contingent upon appropriate inclusion in the Center's Community Mental Health Plan for the continuum of Community Mental Health Services and conformity with the state's appropriate disability plan for Mental Health, Mental Retardation or Chemical Dependency. Fiscal affiliates (funded contracting agencies) providing specialized services under contract must meet all regulations and standards that apply to the services they are providing.

(f) The Program Director of the Community Mental Health Program shall provide the Commissioner of Public Welfare with such reports of program activities as the Commissioner may require.

(g) All state Community Mental Health funding shall go directly to the Community Mental Health Board or to a Human Service Board established pursuant to Minn. Laws 1975, Chapter 402, which itself provides or contracts with another agency to provide the Community Mental Health Program. Such programs must meet the standards and regulations for Community Mental Health Programs as enunciated in this Rule in accordance with Chapter 402.

(h) When the governing authority of the Community Mental Health Program operates other programs, services or activities, only the Community Mental Health Center Program shall be subject to the regulations in this rule.

(i) New applications for state assistance or applications for renewal of support must be accompanied by an agreement executed by designated signatories on behalf of the participating counties that specifies the involved counties, the amount and source of local funds in each case, and the period of support. The local funds to be used to match state grant-in-aid must be assured in writing on DPW forms by the local funding authority(ies).

(j) Funds utilized by the Director as authorized by the Community Mental Health Board to match a state grant-in-aid must be available to that director for expenditures for the same general purpose as the state grant-in-aid funds.

(k) The director of the Community Mental Health Program shall, within 20 days after the end of the quarter, submit quarterly prescribed reports to the Commissioner of Public Welfare (Controller's Office), containing all receipts, expenditures, and cash balance, subject to an annual audit by the Commissioner or his/her designee.

(l) Payments on approved grants will be made subsequest to the Department's receipt of the program's quarterly reporting forms, unless the Commissioner of Public Welfare has determined that funds allocated to a program are not needed for that program. Payments shall be in an amount of at least equal to the quarterly allocation minus any unexpended balance from the previous quarter providing this payment does not exceed the program grant award. In the event the program does not report within the prescribed time, the Department will withhold the process of the program's payment until the next quarterly cycle.

(m) No fees shall be charged until the director with approval of the Community Mental Health Board has established fee schedules for the services rendered and they have been submitted to the Commissioner of Public Welfare at least two months prior to the effective date thereof and have been approved by him/her. All fees shall conform to the approved schedules, which are accessible to the public.

(n) The Commissioner of Public Welfare may make supplemental awards to the Community Mental Health Boards.

(o) The Commissioner of Public Welfare may withdraw funds from any program that is not administered in accordance with its approved plan and budget. Written notice of such intended action will be provided to the director and Community Mental Health Board. Opportunity for hearing before the Commissioner or his/her designee shall be provided.

(p) Community Mental Health Boards may make budget transfers within specified limits during any fiscal year without prior approval of the Department. The specified limit which can be transferred in any fiscal year between program activity budgets, shall be up to 10% or up to $5,000 whichever is less. Transfers within an activity can be made into or out of line items with a specified limit of up to 10% or up to $5,000 whichever is less. No line item can be increased or decreased by more than $5,000 or 10% in a fiscal year without prior approval of the Commissioner. Transfers above the specified limits can be made with prior approval from the Commissioner. All transfers within and into program budget activities and/or line items must have prior approval by the Community Mental Health Board and this approval must be reflected in the minutes of its meeting, it must be reported to the Commissioner with the reasons therefore, including a statement of how the transfer will affect program objectives.

(q) Budget adjustments made necessary by funding limitations shall be made by the Commissioner and provided in writing to the director and board of the Community Mental Health Center.

(r) Every Community Mental Health Board receiving state funds for a Community Mental Health Program shall have a Center Director, who is the full-time qualified professional staff member who serves as the executive officer. To be considered qualified, the individual must have professional training to at least the level of graduate degree in his/her clinical and/or administrative discipline, which is relevant to MH-MR-CD and a minimum of two years experience in Community Mental Health Programs. The Center Director is responsible for the planning/design, development, coordination, and evaluation of a comprehensive, area-wide program and for the overall administration of services operated by the board.

The Center Director shall be appointed by the Community Mental Health Board and shall be approved by the Commissioner of Public Welfare.

(s) Within 30 days of receipt of an application for "approval status" as a Center or Clinic, under Minn. Law 1975, Chapter 89, the Commissioner shall approve or deny the request.

The Commissioner shall approve or deny, in whole or in part, an application for state financial assistance within 90 days of receipt of the grant-in-aid application or by the beginning of the state fiscal year, whichever is the later.

(t) An appeal of the Commissioner's denial of grant application or "approval" status as Community Mental Health Center or Community Mental Health Clinic under Minn. Law 1975, Chapter 89, is available under the procedures set forth in the state Administrative Procedures Act, Minnesota Statute 15.01 et seq.

(u) To assist the Community Mental Health Board in meeting its responsibilities as described in Minnesota Statute 245.68 and to provide opportunity for broad community representation necessary for effective comprehensive mental health, mental retardation and chemical dependency program planning, each Community Mental Health Board shall appoint a separate advisory committee in at least the three disability areas of mental health, mental retardation and chemical dependency.

(1) The advisory committees shall consist of residents of the geographic area served who are interested and knowledgeable in the area governed by such committee.

(2) Nominations for appointments as members of the advisory committees are to be made to the community mental health board from agencies, organizations, groups, and individuals within the area served by the community mental health center. Appointments to the advisory committees are made by the Community Mental Health Board.

(3) One Community Mental Health Board member shall serve on each advisory committee.

(4) Each advisory committee shall have at least one-half of its membership composed of individuals who are not providers of services to the three disability groups.

(5) Membership of each advisory committee shall generally reflect the population distribution of the service delivery area of the community mental health center.

(6) The Community Mental Health Board shall appoint a chairperson for each advisory committee. The chairperson shall not be a Community Mental Health Board member nor a staff member. The power to appoint the chairperson may be delegated by the Community Mental Health Board to the individual advisory committee.

(7) Each advisory committee shall be directly responsible to the Community Mental Health Board. Direct communication shall be effected and maintained through contact between the chairperson of the particular advisory committee, or his/her designee, and the chairperson of the Community Mental Health Board, or his/her designee.

(8) Staff shall be assigned by the Director to serve the staffing needs of each advisory committee.

(9) Each advisory committee may appoint study groups and task forces upon consultation with the Community Mental Health Board. It is strongly recommended that specific attention be given to the aging and children and youth populations.

(10) Each advisory committee shall meet at least quarterly.

(11) Each advisory committee must make a formal written and oral report on its work to the Community Mental Health Board at least annually.

(12) Each advisory committee shall submit copies of minutes of their meetings to the Community Mental Health Board and to the Department of Public Welfare (respective disability group program divisions).

(13) The advisory committees shall be charged by the Community Mental Health Board with assisting in the identification of the community's needs for mentally ill/behaviorally disabled, mental retardation and chemical dependency programs. The advisory committee also assists the Community Mental Health Board in determining priorities for the community programs. Based on the priorities, each advisory committee shall recommend to the Community Mental Health Board ways in which the limited available community resources (manpower, facilities and finances) can be put to maximum and optimal use.

(14) The advisory committee recommendations made to the Community Mental Health Board shall be included as a separate section in the grant-in-aid request submitted to the Department of Public Welfare by the Community Mental Health Board.

(15) The advisory committees shall assist the Community Mental Health Board in assessing the programs carried on by the Community Mental Health Board, and make recommendations regarding the reordering of priorities and modifying of programs where necessary.

ES/gir

APPROVED AS TO FORM AND LEGALITY
APR 16 1976 19
WARREN SPANNAUS, ATTORNEY GENERAL
BY /s/ Michael B. Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 16 1976 4:10 P.M.
Joan Anderson Growe
Secretary of State

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
APR 16 1976
BY Eda Standenmann
AUTH. SIGNATURE
RS 4:30pm

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE VERA J. LIKINS

COMMISSIONER OF PUBLIC WELFARE

In the Matter of Proposed Amendments to Rule 28 of the Minnesota Department of Public Welfare Governing Community Mental Health Programs.

ORDER FOR HEARING

To effectively implement a statewide system of community mental health services, the Minnesota Commissioner of Public Welfare deems it necessary to consider adoption of the proposed amendments to Minnesota Rule DPW 28 pursuant to the authority vested in me by state law, particularly Minnesota Statutes 245.68-245.69 (1974), as amended.

NOW, THEREFORE, IT IS ORDERED this 23rd day of September, 1975, that a public hearing on the proposed amendments to the rule first captioned-above be held in Room D, Veterans' Service Building, Columbus Avenue (between Wabasha and Iglehart) St. Paul, Minnesota, 55155, on Thursday, October 30, 1975, commencing at 9:30 a.m. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given and copies of the proposed amendments shall be made available to all representatives of associations, other interested groups or persons who have registered their names with the Secretary of State for that purpose and all persons who are presently members of the Minnesota Legislature.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

Vera J. Likins

VERA J. LIKINS, COMMISSIONER

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE VERA J. LIKINS

COMMISSIONER OF PUBLIC WELFARE

In the Matter of Proposed Amendments to Rule 28 of the Minnesota Department of Public Welfare Governing Community Mental Health Programs.

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to Minnesota Statutes 15.0412, subd. 4, as amended by Minnesota Laws 1975, Chapter 380, in the above-entitled matter, in Room D, Veterans Service Building, Columbus Avenue (between Wabasha and Iglehart) St. Paul, Minnesota, on Thursday, October 30, 1975, commencing at 9:30 A.M., and continuing until all representatives or other interested groups or persons have had an opportunity to be heard concerning adoption of proposed amendments to Minnesota Rule DPW 28 by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing.

Under Minnesota Statutes 10A.01, subd. 11 (1974), any individual representing persons or associations attempting to influence administrative action, such as promulgation of amendments to this rule, must register with the State Ethics Commission as a lobbyist within five (5) days of the commencement of such activity by the individual. (The State Ethics Commission is located at Room 410, State Office Building, St. Paul, Minnesota, 55155.)

The proposals involve amending Minnesota Rule DPW 28 governing community mental health programs so as to conform to recent legislative amendments affecting these programs. Specifically, Minnesota Statutes 245.61-245.69 (1974), as amended; Minnesota Statutes 254A.07, et seq. (1974); and Minnesota Laws 1975, Chapter 89.

Copies of the proposed rule are now available and may be obtained by writing to the Director, Mental Health Program Division, Comprehensive Program Bureau, Department of Public Welfare, First Floor-Centennial Office Building, St. Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

Vera J. Likins

VERA J. LIKINS
Commissioner

Dated: September 25, 1975

STATE OF MINNESOTA

AFFIDAVIT OF MAILING

COUNTY OF RAMSEY

In the Matter of Proposed Adoption of Amendments to Rule 28 of the Minnesota Department of Public Welfare Governing Community Mental Health Programs.

CAROLYN KINSEY, being first duly sworn, deposes and says:

That on the 25th day of September, 1975, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State as well as to all persons listed on the attached sheet as presently being members of the Minnesota Legislature.

Carolyn Kinsey

CAROLYN KINSEY

Subscribed and sworn to before me this 25th day of September, 1975.

Patricia A. Schultz

PATRICIA A. SCHULTZ
Notary Public, Dakota County, Minn.
My Commission Expires June 19, 1981

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

CAROLYN KINSEY, being duly sworn on oath deposes and says:

1. That she is an employee of the Department of Public Welfare of the State of Minnesota.

2. That on the 22nd day of September, 1975, she went to the Secretary of State's Office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to Minnesota Statute Sec. 15.0412 (1971).

3. That on the 22nd day of September, 1975, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

CAROLYN KINSEY

Subscribed and sworn to before me
this 22nd day of September, 1975.

Lorraine C. Pfeiffer
Notary Public, Dakota Co. Minn.
My Commission Expires Sept. 29, 1979

LORRAINE C. PFEIFFER
Notary Public, Dakota Co. Minn.
My Commission Expires Sept. 29, 1979

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE VERA J. LIKINS

COMMISSIONER OF PUBLIC WELFARE

In the Matter of Proposed Amendments to Rule 28 of the Minnesota Department of Public Welfare Governing Community Mental Health Programs.

STATEMENT OF NEED

Minn. Rule DPW 28 is an amendment to an existing rule of the Minnesota Department of Public Welfare. The last time this rule was amended was March 10, 1961.

The need to amend Minn. Rule DPW 28 arises in order to make more explicit the responsibilities of Community Mental Health Boards and to comply with recent legislative enactments.

A. So as to make more explicit the following responsibilities ascribed in Minnesota Statutes 245.61 - 245.69 (1974), as amended, regarding administration and programming of the Community Mental Health Boards, amendments to Minn. Rule DPW 28 are necessary in order to:

1. Provide planning and coordination for mentally ill/behaviorally disabled (MI/BD), mentally retarded/developmentally disabled (MR/DD), and chemical dependency (CD) target populations.

2. Provide preventive programs for MI/BD, MR/DD and CD target populations.

3. Provide educational and consultative services.

4. Provide diagnostic and treatment services.

5. Provide rehabilitative services particularly for those who have received prior treatment in an inpatient facility for mental or emotional disorders, mental retardation, alcoholism or other psychiatric condition.

6. Provide more explicit expectations regarding fiscal matters, such as expenditure reports and transfer of funds within budgets.

B. In order to comply with recent legislative enactments, Minn. Rule DPW 28 requires amending in order to:

1. Provide for detoxification, assessment and alcoholism services, pursuant to Minnesota Statutes 254A.07.

2. Provide for separate advisory committees to Community Mental Health Boards, at least in the areas of mental health, mental retardation and chemical dependency, pursuant to Minnesota Statutes 245.68.

3. Define and distinguish between Community Mental Health Centers and Community Mental Health Clinics in accordance with Minnesota Laws 1975, Chapter 89.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

Dated: October 21, 1975

Vera J. Likins

VERA J. LIKINS
Commissioner

PROPOSED: PUBLIC HEARING
October 30, 1975

DPW RULE 28: COMMUNITY MENTAL HEALTH SERVICES

This proposed Rule hereby repeals the existing Minnesota Rule, DPW Rule 28, effective March 10, 1961.

(a) This rule provides methods and procedures relating to the establishment and operation of area-wide comprehensive community-based, mental health-mental retardation-chemical dependency programs under state grant-in-aid as provided under 245.61 - 245.69. (M.S. 245.61 -245.69 is entitled, The Community Mental Health Services Act. For purposes of this Rule, Community Mental Health Services includes services to persons who have mental or emotional disorders or other psychiatric disabilities, mental retardation (developmental disabilities), and chemical dependency, including drug abuse and alcoholism.)

The Community Mental Health Program Center has the responsibility for the planning, development, coordination and implementation of the community mental health services in the geographic area it serves. It also has the responsibility for the delivery of services designated by statute.

Rule 28 also sets forth definitions of Community Mental Health Centers and Community Mental Health Clinics. The definitions of Centers and Clinics constitutes the standards for the Commissioner's "approval" of a program for purposes of Minnesota Statutes 62A.152, which requires certain group insurance policies and plans to provide benefits to outpatient mental health diagnosis, treatment and consultation services.

(b) A Community Mental Health Center means an agency which includes all of the following:

(1) Established under the provision of M.S. 245.61 - 245.69.

(2) Provide as a minimum the following services for individuals having mental or emotional disorders, mental retardation, alcoholism, drug abuse, and other psychiatric conditions:

(aa) collaborative and cooperative services with public health and other groups for programs of prevention of mental illness, mental retardation, alcoholism, drug abuse and other psychiatric disorders.

(bb) informational and educational services to schools, courts, health and welfare agencies, both public and private.

(cc) informational and educational services to the general public, lay and professional groups.

(dd) consultative services to schools, courts, and health and welfare agencies, both public and private.

(ee) out-patient diagnostic and treatment services.

(ff) rehabilitative services, particularly for those who have received prior treatment in an in-patient facility.

(3) Provides or contracts for detoxification, evaluation and referral for drugs, including alcohol services (M.S. 254A.08).

(4) Provides specific coordination for mentally ill/behaviorally disabled, mentally retarded (developmentally disabled), and chemical dependency programs. (M.S. 254A.07 and 245.61).

(5) Has a competent multidisciplinary mental health/mental retardation/chemical dependency professional team whose members meet the professional standards in their respective fields.

(6) The professional mental health team is qualified by specific mental health training and experience and shall include as a minimum, the services of each of the following:

(aa) a licensed physician, who has completed an approved residency program in psychiatry;

(bb) a doctoral clinical, counseling, or health care psychologist, who is licensed under M.S. 148.87 - 148.99, or is approved by the Commissioner of Welfare;

(cc) a clinical social worker with a Masters degree in Social Work from an accredited college or university; and/or

(dd) a clinical psychiatric nurse with a Masters degree from an accredited college or university. (The Masters degree shall be in psychiatric nursing or a related psychiatric nursing program such as Public Health Nursing with mental health major, Maternal and Child Health with mental health major, etc.)

(7) The multidisciplinary staff shall be sufficient in number to implement and operate the described program of the center.

(c) A Community Mental Health Clinic is an agency which devotes, as its major service, at least two-thirds (2/3) of its resources for outpatient mental health diagnosis, treatment and consultation by a multidisciplinary professional mental health team. The multidisciplinary professional mental health team is qualified by special mental health training and experience and shall include as a minimum the services of each of the following:

(1) A licensed physician, who has completed an approved residency program in psychiatry;

(2) A doctoral clinical, or counseling or health care psychologist who is licensed under M.S. 148.87 - 148.99, or is approved by the Commissioner of Welfare;

(3) A clinical social worker with a Masters degree in Social Work from an accredited college or university; and/or

(4) A clinical psychiatric nurse with a Masters degree from an accredited college or university. (The Masters degree shall be in Psychiatric Nursing or a related psychiatric nursing program such as Public Health with a mental health major, Maternal and Child Health with a mental health major.)

The multidisciplinary team should be sufficient in number to implement and operate the described program of the clinic.

(d) On or before April 1 of each year, the chairman of the Community Mental Health Board or other designated administrator of the Community Mental Health Program, provided for in Minnesota Statutes, Section 245.62, shall submit an annual plan identifying program priorities in accordance with state grant-in-aid guidelines, and a budget on prescribed report forms for the next state fiscal year, together with the recommendations of the Community Mental Health Board, to the Commissioner of Public Welfare for approval.

(e) Other providers of Community Mental Health Services may affiliate with the Community Mental Health Center and may be approved and eligible for state grant-in-aid funds. The state funding for other Community Mental Health Services shall be contingent upon appropriate inclusion in the Center's Community Mental Health Plan for the continuum of Community Mental Health Services and conformity with the state's appropriate disability plan for Mental Health, Mental Retardation or Chemical Dependency. Fiscal affiliates (funded contracting agencies) providing specialized services under contract must meet all regulations and standards that apply to the services they are providing.

(f) The Program Director of the Community Mental Health Program shall provide the Commissioner of Public Welfare with such reports of program activities as the Commissioner may require.

(g) All state Community Mental Health funding shall go directly to the Community Mental Health Board.

(h) When the governing authority of the Community Mental Health Program operates other programs, services or activities, only the Community Mental Health Center Program shall be subject to the regulations in this rule.

(i) New applications for state assistance or applications for renewal of support must be accompanied by an agreement executed by designated signatories on behalf of the participating parties that specifies the participants, the amount and source of local funds in each case, and the period of support. The local funds to be used to match state grant-in-aid must be assured in writing by the local funding authority(ies).

(j) Funds utilized by the administrator of a Community Mental Health Program to match a state grant-in-aid must be available to that administrator for expenditures for the same general purpose as the state grant-in-aid funds.

(k) The administrator of the Community Mental Health Program shall, within 20 days after the end of the quarter, submit quarterly prescribed reports to the Commissioner of Public Welfare (Controller's Office), containing all receipts, expenditures, and cash balance, subject to an annual audit by the Commissioner or his/her designee.

(l) Payments on approved grants will be made subsequent to the Department's receipt of the program's quarterly reporting forms, unless the Commissioner of Public Welfare has determined that funds allocated to a program are not needed for that program. Payments shall be in an amount of at least equal to the quarterly allocation minus any unexpended balance from the previous quarter providing this payment does not exceed the program grant award. In the event the program does not report within the prescribed time, the Department will withhold the process of the program's payment until the next quarterly cycle.

(m) No fees shall be charged until the administrator has established fee schedules for the services rendered and they have been submitted to the Commissioner of Public Welfare at least two months prior to the effective date thereof and have been approved by him/her. All fees shall conform to the approved schedules, which are accessible to the public.

(n) The Commissioner of Public Welfare may make supplemental awards to the Community Mental Health Boards.

(o) The Commissioner of Public Welfare may withdraw funds from any program that is not administered in accordance with its approved plan and budget. Written notice of such intended action will be provided to the administrator. Opportunity for hearing before the Commissioner or his/her designee shall be provided.

(p) Community Mental Health Boards may make budget transfers without prior approval of the department, into major program budget activities and/or line items of their budgets up to a limit of 25% of the line item or $5000, whichever is less. Transfer of more than 25% of the line item or $5000, into line items and/or major program budget activities must have prior approval of the Commissioner. All transfers within and into major program activities and/or line items must have prior approval by the Community Mental Health Board and this approval must be reflected in the minutes of its meetings and must be reported to the Commissioner with the reasons therefore. This does not authorize any transfer of money without Commissioner's approval between budgets which are separately funded by the Legislature, such as mental health, mental retardation, and chemical dependency. This also means there can be no transfer between residential and non-residential funding.

(q) Budget adjustments made necessary by funding limitations shall be made by the Commissioner and provided in writing to the administrator of the Community Mental Health Center.

(r) Every Community Mental Health Board receiving state funds for a Community Mental Health Program shall have a Center Director, who is the full-time qualified professional staff member who serves as the executive officer. To be considered qualified, the individual must have the full professional training in his/her clinical and/or administrative discipline, which is relevant to MH-MR-CD and a minimum of two years experience in Community Mental Health Programs. The Center Director is responsible for the design, development, coordination, and evaluation of a comprehensive, area-wide program and for the overall administration of services operated by the board.

The Center Director shall be appointed by the Community Mental Health Board and shall be approved by the Commissioner of Public Welfare.

(s) Within 30 days of receipt of an application for "approval status" as a Center or Clinic, the Commissioner shall approve or deny the request.

The Commissioner shall approve or deny, in whole or in part, an application for state financial assistance within 90 days of receipt of the grant-in-aid application or by the beginning of the state fiscal year, whichever is the later.

(t) An appeal of the Commissioner's denial of grant application or "approval" status as Community Mental Health Center or Community Mental Health Clinic is available under the procedures set forth in the state Administrative Procedures Act, Minnesota Statute 15.01 et seq.

(u) To assist the Community Mental Health Board in meeting its responsibilities as described in Minnesota Statute 245.68 and to provide opportunity for broad community representation necessary for effective comprehensive mental health, mental retardation and chemical dependency program planning, each Community Mental Health Board shall appoint a separate advisory committee in at least the three disability areas of mental health, mental retardation and chemical dependency.

(1) The advisory committees shall consist of residents of the geographic area served who are interested and knowledgeable in the area governed by such committee.

(2) Nominations for appointments as members of the advisory committees are to be made to the community mental health board from agencies, organizations, groups, and individuals within the area served by the community mental health center. Appointments to the advisory committees are made by the Community Mental Health Board.

(3) One Community Mental Health Board member should serve on each advisory committee.

(4) Each advisory committee shall have at least one-half of its membership composed of individuals who are not providers of services to the three disability groups.

(5) Membership of each advisory committee shall generally reflect the population distribution of the service delivery area of the community mental health center.

(6) The Community Mental Health Board shall appoint a chairperson for each advisory committee. The chairperson shall not be a Community Mental Health Board member nor a staff member. The power to appoint the chairperson may be delegated by the Community Mental Health Board to the individual advisory committee.

(7) Each advisory committee shall be directly responsible to the Community Mental Health Board. Direct communication shall be effected and maintained through contact between the chairperson of the particular advisory

committee, or his/her designee, and the chairperson of the Community Mental Health Board, or his/her designee.

(8) Staff shall be assigned by the Director to serve the staffing needs of each advisory committee.

(9) Each advisory committee may appoint study groups and task forces upon consultation with and approval of the Community Mental Health Board.

(10) Each advisory committee shall meet at least quarterly.

(11) Each advisory committee must make a formal written and oral report on its work to the Community Mental Health Board at least annually.

(12) Each advisory committee shall submit copies of minutes of their meetings to the Community Mental Health Board and to the respective disability group program divisions of the Department of Public Welfare.

(13) The advisory committees shall be charged by the Community Mental Health Board with assisting in the identification of the community's needs for mental health, mental retardation and chemical dependency programs. The advisory committee also assists the Community Mental Health Board in determining priorities for the community programs. Based on the priorities, each advisory committee shall recommend to the Community Mental Health Board ways in which the limited available community resources (manpower, facilities and finances) can be put to maximum and optimal use.

(14) The advisory committee recommendations made to the Community Mental Health Board shall be included as a separate section in the grant-in-aid request submitted to the Department of Public Welfare by the Community Mental Health Board.

(15) The advisory committees shall assist the Community Mental Health Board in assessing the programs carried on by the Community Mental Health Board, reording priorities and modifying programs where necessary.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE VERA J. LIKINS

COMMISSIONER

In the matter of the Proposed Adoption of Amendments to Rule 28 of the Minnesota Department of Public Welfare Governing the Establishment and Operation of Comprehensive Community Mental Health Programs.

FINDINGS OF FACTS

The above-entitled matter came on for hearing before a hearing officer duly appointed by the Minnesota Commissioner of Public Welfare on the 30th day of October, 1975, at 9:30 a.m., in Room D. Veterans Service Building, Columbus Avenue (between Wabasha and Iglehart), St. Paul, Minnesota, after proper notice required by Minn. Stat. 15.0412 (1974) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements, and arguments, having heard all of the testimony, having considered all of the evidence addressed and upon the records, files and proceedings herein, the Department finds the following:

1. Minn. Stat. 245.61 - 245.69 (1974) authorizes the Commissioner of Public Welfare to promulgate official rules and regulations governing community mental health programs regarding administration, programming, standards for qualifications of personnel and quality of professional service and eligibility to receive state grants.

2. Minn. Laws 1975, Chapter 89, authorizes insurance payment for mental health diagnostic, treatment and consultation services to nonhospitalized persons where such services are provided by, among other specified providers, Community Mental Health Centers and Community Mental Health Clinics approved or licensed by the Commissioner of Public Welfare.

3. There is need to amend Minnesota DPW Rule 28 to make more explicit the responsibilities of Community Mental Health Boards regarding administration, planning, programming, and standards for qualifications for personnel and quality of services.

a. The services to be provided are:

(1) a planning and coordination of services for mentally ill/behaviorally disabled, mentally retarded and chemically dependent

(2) preventive programs
(3) educational and consultative services
(4) diagnostic and treatment services
(5) rehabilitative services, particularly for those individuals who have received prior treatment in an inpatient facility for mental or emotional disorders, mental retardation, alcoholism and other psychiatric conditions

b. Written testimony was received within the 20-day period following the Public Hearing alleging that the required services are vaguely stated. To assure flexibility in program and permit responsiveness to individual area needs, Section (b)(2) of the Rule has been expanded in the following manner, "the extent of each service to be provided by the Center shall be indicated in the Program Plan, which is to reflect the problems, needs and resources of the community served." Written testimony was also received that alleged the services were too comprehensive. Oral testimony at the hearing supported the services as identified in the rule. The Department finds the identified services are based on Minn. Stat. 245.61 (1974).

4. There is also need to amend Minnesota DPW Rule 28 to comply with recent legislative enactments which require Community Mental Health Boards to:

a. Provide for detoxification, assessment and alcoholism services pursuant to Minn. Stat. 254A.07 (1974).

b. Provide for separate advisory committees to Community Mental Health Boards, at least in the areas of mental health, mental retardation chemical dependency, pursuant to Minn. Stat. 245.68 (1974).

c. Define and distinguish between Community Mental Health Centers and Community Mental Health Clinics in accordance with Minn. Laws 1975, Chapter 89.

5. Testimony was received: (a) alleging that the minimal professional mental health staffing, identified in the Proposed Rule 28, was a traditional illness model; (b) questioning if centers would be able to meet professional standards; and (c) suggesting the need for equivalency or alternative staffing requirements. The statute, while requiring that Community Mental Health Boards employ psychiatric personnel, qualified mental health professions and a director, does not specifically define this staff. Testimony was also presented that supports the Proposed Rule's minimum staffing standards. The Department finds that the minimal professional multi-disciplinary staffing requirements are in the best interest of the public to be served and are consistent with generally accepted mental health staffing patterns. Appropriate licensure of professionals is required and this is consistent with other state statutes and generally accepted good pratice. The Department further encourages Community Mental Health Boards to employ other professionals, para-professionals and persons from other disciplines whose qualifications meet the standards for their respective fields and whose job descriptions enhance the Comprehensive Mental Health Program.

6. Testimony was presented which requested that the fiscal reporting limitation be extended from 20 days to 30 days after the end of the quarter. The Department finds that the 20-day limitation for fiscal reporting will insure that the controller's office can meet the fiscal reporting limitations imposed upon them.

7. Testimony was presented which requested that an Advisory Committee for Children be required. Although Minn. Stat. 245.68(1) does not prohibit the establishment of Advisory Committees in any area, it only specifically requires Advisory Committees for Mental Health, Mental Retardation, and Inebriacy (including alcohol and drug). The Department finds that to mandate an additional Advisory Committee in the Rule would exceed the provisions of the Statute and that it is desirable to encourage the Community Mental Health Boards to establish additional Committees or subcommittees to focus on problems of children and aging populations.

8. Testimony was presented that included concerns about the relationship of Community Mental Health Programs and Human Service Boards. Reflected concerns included the absence of specific mention of Human Service Boards, channeling of State community mental health funds to the Human Service Boards, CMHC contracting with Human Service Boards, and professional staffing requirements if a Human Service Board chooses to provide the CMHC program. Minn. Laws 1975, Chapter 402.02, states, "The department of corrections, health and public welfare shall provide funds from any grant or subsidy program or other authorized sources to the human service board, based upon a plan which satisfies the standards and regulations of the individual state agency, and which represents all subsidy money for human services which each agency commits to programs within counties comprising the human service board." The Department finds that accordingly a Human Service Board may provide the Community Mental Health Program or may contract with a separate agency; however, the standards and regulations relating to Community Mental Health Programs must be met.

9. Testimony included a request for some flexibility in transferring funds in program budget activity areas, as well as line items. In reviewing the wording of the Proposed Rule 28, the Department finds that the flexibility was provided by the Rule as proposed. However, the deletion of the last two sentences of this section of the proposed Rule clarifies the provision of flexibility.

10. Testimony was presented concerning the necessity to distinguish between Community Mental Health Centers and Community Mental Health Clinics and testimony was presented in support of the distinction. The Department finds that distinct definition is necessary as Minn. Laws 1975, Chapter 89, identifies both types of agencies as eligible providers of Mental Health services for insurance payment and this distinction is consistent with generally accepted definitions nationally.

11. Written testimony received within the 20-day period following the hearing recommended that grant-in-aid guidelines be included within Rule 28. By virtue of the nature of the guidelines and the need for them to be continually updated, it would be impractical to include them in a Rule which has the force and effect of law and is time consuming and expensive to alter. The Department finds that the grant-in-aid guidelines should not be included in the Rule.

EW/akd

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

VERA J. LIKINS
COMMISSIONER OF THE MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE VERA J. LIKINS

COMMISSIONER OF PUBLIC WELFARE

In the matter of Proposed Adoption of Amendments to Rule 28 of the Minnesota Department of Public Welfare governing the establishment and operation of community mental health programs.

ORDER ADOPTING RULE

The above-entitled matter came on for hearing before a hearing officer duly appointed by the Commissioner of Public Welfare on the 30th day of October, 1975, at 9:30 a.m. in Room D, Veterans Building, Columbus Avenue (between Wabasha and Iglehart), St. Paul, Minnesota, after proper notice required by Minn. Stat. S. 15.0412 (1974), as amended, was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rule.

NOW, THEREFORE, IT IS ORDERED that this rule identified as DPW Rule 28 is adopted this 26th day of February, 1976, pursuant to authority vested in me by Minn. Stat. S. 246.69(a) (1974).

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

Vera J. Likins

VERA J. LIKINS
COMMISSIONER OF THE MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE VERA J. LIKINS

COMMISSIONER OF PUBLIC WELFARE

In the Matter of Proposed Amendments to Rule 28 of the Minnesota Department of Public Welfare Governing Community Mental Health Programs.

ORDER FOR HEARING

To effectively implement a statewide system of community mental health services, the Minnesota Commissioner of Public Welfare deems it necessary to consider adoption of the proposed amendments to Minnesota Rule DPW 28 pursuant to the authority vested in me by state law, particularly Minnesota Statutes 245.68-245.69 (1974), as amended.

NOW, THEREFORE, IT IS ORDERED this 23rd day of September, 1975, that a public hearing on the proposed amendments to the rule first captioned-above be held in Room D, Veterans' Service Building, Columbus Avenue (between Wabasha and Iglehart) St. Paul, Minnesota, 55155, on Thursday, October 30, 1975, commencing at 9:30 a.m. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given and copies of the proposed amendments shall be made available to all representatives of associations, other interested groups or persons who have registered their names with the Secretary of State for that purpose and all persons who are presently members of the Minnesota Legislature.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

Vera J. Likins

VERA J. LIKINS, COMMISSIONER

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE VERA J. LIKINS

COMMISSIONER OF PUBLIC WELFARE

In the Matter of Proposed Amendments to Rule 28 of the Minnesota Department of Public Welfare Governing Community Mental Health Programs.

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to Minnesota Statutes 15.0412, subd. 4, as amended by Minnesota Laws 1975, Chapter 380, in the above-entitled matter, in Room D, Veterans Service Building, Columbus Avenue (between Wabasha and Iglehart) St. Paul, Minnesota, on Thursday, October 30, 1975, commencing at 9:30 A.M., and continuing until all representatives or other interested groups or persons have had an opportunity to be heard concerning adoption of proposed amendments to Minnesota Rule DPW 28 by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing.

Under Minnesota Statutes 10A.01, subd. 11 (1974), any individual representing persons or associations attempting to influence administrative action, such as promulgation of amendments to this rule, must register with the State Ethics Commission as a lobbyist within five (5) days of the commencement of such activity by the individual. (The State Ethics Commission is located at Room 410, State Office Building, St. Paul, Minnesota, 55155.)

The proposals involve amending Minnesota Rule DPW 28 governing community mental health programs so as to conform to recent legislative amendments affecting these programs. Specifically, Minnesota Statutes 245.61-245.69 (1974), as amended; Minnesota Statutes 254A.07, et seq. (1974); and Minnesota Laws 1975, Chapter 89.

Copies of the proposed rule are now available and may be obtained by writing to the Director, Mental Health Program Division, Comprehensive Program Bureau, Department of Public Welfare, First Floor-Centennial Office Building, St. Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

Vera J. Likins

VERA J. LIKINS
Commissioner

Dated: September 25, 1975

STATE OF MINNESOTA

AFFIDAVIT OF MAILING

COUNTY OF RAMSEY

In the Matter of Proposed Adoption of Amendments to Rule 28 of the Minnesota Department of Public Welfare Governing Community Mental Health Programs.

CAROLYN KINSEY, being first duly sworn, deposes and says:

That on the 25th day of September, 1975, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State as well as to all persons listed on the attached sheet as presently being members of the Minnesota Legislature.

Carolyn Kinsey

CAROLYN KINSEY

Subscribed and sworn to before me this 25th day of September, 1975.

Patricia A. Schultz

PATRICIA A. SCHULTZ
Notary Public, Dakota County, Minn.
My Commission Expires June 19, 1981

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

CAROLYN KINSEY, being duly sworn on oath deposes and says:

1. That she is an employee of the Department of Public Welfare of the State of Minnesota.

2. That on the 22nd day of September, 1975, she went to the Secretary of State's Office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to Minnesota Statute Sec. 15.0412 (1971).

3. That on the 22nd day of September, 1975, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

CAROLYN KINSEY

Subscribed and sworn to before me
this 22nd day of September, 1975.

Lorraine C. Pfeiffer
Notary Public, Dakota Co. Minn.
My Commission Expires Sept. 29, 1979

LORRAINE C. PFEIFFER
Notary Public, Dakota Co. Minn.
My Commission Expires Sept. 29, 1979

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE VERA J. LIKINS

COMMISSIONER OF PUBLIC WELFARE

In the Matter of Proposed Amendments to Rule 28 of the Minnesota Department of Public Welfare Governing Community Mental Health Programs.

STATEMENT OF NEED

Minn. Rule DPW 28 is an amendment to an existing rule of the Minnesota Department of Public Welfare. The last time this rule was amended was March 10, 1961.

The need to amend Minn. Rule DPW 28 arises in order to make more explicit the responsibilities of Community Mental Health Boards and to comply with recent legislative enactments.

A. So as to make more explicit the following responsibilities ascribed in Minnesota Statutes 245.61 - 245.69 (1974), as amended, regarding administration and programming of the Community Mental Health Boards, amendments to Minn. Rule DPW 28 are necessary in order to:

1. Provide planning and coordination for mentally ill/behaviorally disabled (MI/BD), mentally retarded/developmentally disabled (MR/DD), and chemical dependency (CD) target populations.

2. Provide preventive programs for MI/BD, MR/DD and CD target populations.

3. Provide educational and consultative services.

4. Provide diagnostic and treatment services.

5. Provide rehabilitative services particularly for those who have received prior treatment in an inpatient facility for mental or emotional disorders, mental retardation, alcoholism or other psychiatric condition.

6. Provide more explicit expectations regarding fiscal matters, such as expenditure reports and transfer of funds within budgets.

B. In order to comply with recent legislative enactments, Minn. Rule DPW 28 requires amending in order to:

1. Provide for detoxification, assessment and alcoholism services, pursuant to Minnesota Statutes 254A.07.

2. Provide for separate advisory committees to Community Mental Health Boards, at least in the areas of mental health, mental retardation and chemical dependency, pursuant to Minnesota Statutes 245.68.

3. Define and distinguish between Community Mental Health Centers and Community Mental Health Clinics in accordance with Minnesota Laws 1975, Chapter 89.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

Dated: October 21, 1975

Vera J. Likins

VERA J. LIKINS
Commissioner

PROPOSED: PUBLIC HEARING
October 30, 1975

DPW RULE 28: COMMUNITY MENTAL HEALTH SERVICES

This proposed Rule hereby repeals the existing Minnesota Rule, DPW Rule 28, effective March 10, 1961.

(a) This rule provides methods and procedures relating to the establishment and operation of area-wide comprehensive community-based, mental health-mental retardation-chemical dependency programs under state grant-in-aid as provided under 245.61 - 245.69. (M.S. 245.61 -245.69 is entitled, The Community Mental Health Services Act. For purposes of this Rule, Community Mental Health Services includes services to persons who have mental or emotional disorders or other psychiatric disabilities, mental retardation (developmental disabilities), and chemical dependency, including drug abuse and alcoholism.)

The Community Mental Health Program Center has the responsibility for the planning, development, coordination and implementation of the community mental health services in the geographic area it serves. It also has the responsibility for the delivery of services designated by statute.

Rule 28 also sets forth definitions of Community Mental Health Centers and Community Mental Health Clinics. The definitions of Centers and Clinics constitutes the standards for the Commissioner's "approval" of a program for purposes of Minnesota Statutes 62A.152, which requires certain group insurance policies and plans to provide benefits to outpatient mental health diagnosis, treatment and consultation services.

(b) A Community Mental Health Center means an agency which includes all of the following:

(1) Established under the provision of M.S. 245.61 - 245.69.

(2) Provide as a minimum the following services for individuals having mental or emotional disorders, mental retardation, alcoholism, drug abuse, and other psychiatric conditions:

(aa) collaborative and cooperative services with public health and other groups for programs of prevention of mental illness, mental retardation, alcoholism, drug abuse and other psychiatric disorders.

(bb) informational and educational services to schools, courts, health and welfare agencies, both public and private.

(cc) informational and educational services to the general public, lay and professional groups.

(dd) consultative services to schools, courts, and health and welfare agencies, both public and private.

(ee) out-patient diagnostic and treatment services.

(ff) rehabilitative services, particularly for those who have received prior treatment in an in-patient facility.

(3) Provides or contracts for detoxification, evaluation and referral for drugs, including alcohol services (M.S. 254A.08).

(4) Provides specific coordination for mentally ill/behaviorally disabled, mentally retarded (developmentally disabled), and chemical dependency programs. (M.S. 254A.07 and 245.61).

(5) Has a competent multidisciplinary mental health/mental retardation/chemical dependency professional team whose members meet the professional standards in their respective fields.

(6) The professional mental health team is qualified by specific mental health training and experience and shall include as a minimum, the services of each of the following:

(aa) a licensed physician, who has completed an approved residency program in psychiatry;

(bb) a doctoral clinical, counseling, or health care psychologist, who is licensed under M.S. 148.87 - 148.99, or is approved by the Commissioner of Welfare;

(cc) a clinical social worker with a Masters degree in Social Work from an accredited college or university; and/or

(dd) a clinical psychiatric nurse with a Masters degree from an accredited college or university. (The Masters degree shall be in psychiatric nursing or a related psychiatric nursing program such as Public Health Nursing with mental health major, Maternal and Child Health with mental health major, etc.)

(7) The multidisciplinary staff shall be sufficient in number to implement and operate the described program of the center.

(c) A Community Mental Health Clinic is an agency which devotes, as its major service, at least two-thirds (2/3) of its resources for outpatient mental health diagnosis, treatment and consultation by a multidisciplinary professional mental health team. The multidisciplinary professional mental health team is qualified by special mental health training and experience and shall include as a minimum the services of each of the following:

(1) A licensed physician, who has completed an approved residency program in psychiatry;

(2) A doctoral clinical, or counseling or health care psychologist who is licensed under M.S. 148.87 - 148.99, or is approved by the Commissioner of Welfare;

(3) A clinical social worker with a Masters degree in Social Work from an accredited college or university; and/or

(4) A clinical psychiatric nurse with a Masters degree from an accredited college or university. (The Masters degree shall be in Psychiatric Nursing or a related psychiatric nursing program such as Public Health with a mental health major, Maternal and Child Health with a mental health major.)

The multidisciplinary team should be sufficient in number to implement and operate the described program of the clinic.

(d) On or before April 1 of each year, the chairman of the Community Mental Health Board or other designated administrator of the Community Mental Health Program, provided for in Minnesota Statutes, Section 245.62, shall submit an annual plan identifying program priorities in accordance with state grant-in-aid guidelines, and a budget on prescribed report forms for the next state fiscal year, together with the recommendations of the Community Mental Health Board, to the Commissioner of Public Welfare for approval.

(e) Other providers of Community Mental Health Services may affiliate with the Community Mental Health Center and may be approved and eligible for state grant-in-aid funds. The state funding for other Community Mental Health Services shall be contingent upon appropriate inclusion in the Center's Community Mental Health Plan for the continuum of Community Mental Health Services and conformity with the state's appropriate disability plan for Mental Health, Mental Retardation or Chemical Dependency. Fiscal affiliates (funded contracting agencies) providing specialized services under contract must meet all regulations and standards that apply to the services they are providing.

(f) The Program Director of the Community Mental Health Program shall provide the Commissioner of Public Welfare with such reports of program activities as the Commissioner may require.

(g) All state Community Mental Health funding shall go directly to the Community Mental Health Board.

(h) When the governing authority of the Community Mental Health Program operates other programs, services or activities, only the Community Mental Health Center Program shall be subject to the regulations in this rule.

(i) New applications for state assistance or applications for renewal of support must be accompanied by an agreement executed by designated signatories on behalf of the participating parties that specifies the participants, the amount and source of local funds in each case, and the period of support. The local funds to be used to match state grant-in-aid must be assured in writing by the local funding authority(ies).

(j) Funds utilized by the administrator of a Community Mental Health Program to match a state grant-in-aid must be available to that administrator for expenditures for the same general purpose as the state grant-in-aid funds.

(k) The administrator of the Community Mental Health Program shall, within 20 days after the end of the quarter, submit quarterly prescribed reports to the Commissioner of Public Welfare (Controller's Office), containing all receipts, expenditures, and cash balance, subject to an annual audit by the Commissioner or his/her designee.

(l) Payments on approved grants will be made subsequent to the Department's receipt of the program's quarterly reporting forms, unless the Commissioner of Public Welfare has determined that funds allocated to a program are not needed for that program. Payments shall be in an amount of at least equal to the quarterly allocation minus any unexpended balance from the previous quarter providing this payment does not exceed the program grant award. In the event the program does not report within the prescribed time, the Department will withhold the process of the program's payment until the next quarterly cycle.

(m) No fees shall be charged until the administrator has established fee schedules for the services rendered and they have been submitted to the Commissioner of Public Welfare at least two months prior to the effective date thereof and have been approved by him/her. All fees shall conform to the approved schedules, which are accessible to the public.

(n) The Commissioner of Public Welfare may make supplemental awards to the Community Mental Health Boards.

(o) The Commissioner of Public Welfare may withdraw funds from any program that is not administered in accordance with its approved plan and budget. Written notice of such intended action will be provided to the administrator. Opportunity for hearing before the Commissioner or his/her designee shall be provided.

(p) Community Mental Health Boards may make budget transfers without prior approval of the department, into major program budget activities and/or line items of their budgets up to a limit of 25% of the line item or $5000, whichever is less. Transfer of more than 25% of the line item or $5000, into line items and/or major program budget activities must have prior approval of the Commissioner. All transfers within and into major program activities and/or line items must have prior approval by the Community Mental Health Board and this approval must be reflected in the minutes of its meetings and must be reported to the Commissioner with the reasons therefore. This does not authorize any transfer of money without Commissioner's approval between budgets which are separately funded by the Legislature, such as mental health, mental retardation, and chemical dependency. This also means there can be no transfer between residential and non-residential funding.

(q) Budget adjustments made necessary by funding limitations shall be made by the Commissioner and provided in writing to the administrator of the Community Mental Health Center.

(r) Every Community Mental Health Board receiving state funds for a Community Mental Health Program shall have a Center Director, who is the full-time qualified professional staff member who serves as the executive officer. To be considered qualified, the individual must have the full professional training in his/her clinical and/or administrative discipline, which is relevant to MH-MR-CD and a minimum of two years experience in Community Mental Health Programs. The Center Director is responsible for the design, development, coordination, and evaluation of a comprehensive, area-wide program and for the overall administration of services operated by the board.

The Center Director shall be appointed by the Community Mental Health Board and shall be approved by the Commissioner of Public Welfare.

(s) Within 30 days of receipt of an application for "approval status" as a Center or Clinic, the Commissioner shall approve or deny the request.

The Commissioner shall approve or deny, in whole or in part, an application for state financial assistance within 90 days of receipt of the grant-in-aid application or by the beginning of the state fiscal year, whichever is the later.

(t) An appeal of the Commissioner's denial of grant application or "approval" status as Community Mental Health Center or Community Mental Health Clinic is available under the procedures set forth in the state Administrative Procedures Act, Minnesota Statute 15.01 et seq.

(u) To assist the Community Mental Health Board in meeting its responsibilities as described in Minnesota Statute 245.68 and to provide opportunity for broad community representation necessary for effective comprehensive mental health, mental retardation and chemical dependency program planning, each Community Mental Health Board shall appoint a separate advisory committee in at least the three disability areas of mental health, mental retardation and chemical dependency.

(1) The advisory committees shall consist of residents of the geographic area served who are interested and knowledgeable in the area governed by such committee.

(2) Nominations for appointments as members of the advisory committees are to be made to the community mental health board from agencies, organizations, groups, and individuals within the area served by the community mental health center. Appointments to the advisory committees are made by the Community Mental Health Board.

(3) One Community Mental Health Board member should serve on each advisory committee.

(4) Each advisory committee shall have at least one-half of its membership composed of individuals who are not providers of services to the three disability groups.

(5) Membership of each advisory committee shall generally reflect the population distribution of the service delivery area of the community mental health center.

(6) The Community Mental Health Board shall appoint a chairperson for each advisory committee. The chairperson shall not be a Community Mental Health Board member nor a staff member. The power to appoint the chairperson may be delegated by the Community Mental Health Board to the individual advisory committee.

(7) Each advisory committee shall be directly responsible to the Community Mental Health Board. Direct communication shall be effected and maintained through contact between the chairperson of the particular advisory

committee, or his/her designee, and the chairperson of the Community Mental Health Board, or his/her designee.

(8) Staff shall be assigned by the Director to serve the staffing needs of each advisory committee.

(9) Each advisory committee may appoint study groups and task forces upon consultation with and approval of the Community Mental Health Board.

(10) Each advisory committee shall meet at least quarterly.

(11) Each advisory committee must make a formal written and oral report on its work to the Community Mental Health Board at least annually.

(12) Each advisory committee shall submit copies of minutes of their meetings to the Community Mental Health Board and to the respective disability group program divisions of the Department of Public Welfare.

(13) The advisory committees shall be charged by the Community Mental Health Board with assisting in the identification of the community's needs for mental health, mental retardation and chemical dependency programs. The advisory committee also assists the Community Mental Health Board in determining priorities for the community programs. Based on the priorities, each advisory committee shall recommend to the Community Mental Health Board ways in which the limited available community resources (manpower, facilities and finances) can be put to maximum and optimal use.

(14) The advisory committee recommendations made to the Community Mental Health Board shall be included as a separate section in the grant-in-aid request submitted to the Department of Public Welfare by the Community Mental Health Board.

(15) The advisory committees shall assist the Community Mental Health Board in assessing the programs carried on by the Community Mental Health Board, reording priorities and modifying programs where necessary.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE VERA J. LIKINS

COMMISSIONER

In the matter of the Proposed Adoption of Amendments to Rule 28 of the Minnesota Department of Public Welfare Governing the Establishment and Operation of Comprehensive Community Mental Health Programs.

FINDINGS OF FACTS

The above-entitled matter came on for hearing before a hearing officer duly appointed by the Minnesota Commissioner of Public Welfare on the 30th day of October, 1975, at 9:30 a.m., in Room D. Veterans Service Building, Columbus Avenue (between Wabasha and Iglehart), St. Paul, Minnesota, after proper notice required by Minn. Stat. 15.0412 (1974) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements, and arguments, having heard all of the testimony, having considered all of the evidence addressed and upon the records, files and proceedings herein, the Department finds the following:

1. Minn. Stat. 245.61 - 245.69 (1974) authorizes the Commissioner of Public Welfare to promulgate official rules and regulations governing community mental health programs regarding administration, programming, standards for qualifications of personnel and quality of professional service and eligibility to receive state grants.

2. Minn. Laws 1975, Chapter 89, authorizes insurance payment for mental health diagnostic, treatment and consultation services to nonhospitalized persons where such services are provided by, among other specified providers, Community Mental Health Centers and Community Mental Health Clinics approved or licensed by the Commissioner of Public Welfare.

3. There is need to amend Minnesota DPW Rule 28 to make more explicit the responsibilities of Community Mental Health Boards regarding administration, planning, programming, and standards for qualifications for personnel and quality of services.

a. The services to be provided are:

(1) a planning and coordination of services for mentally ill/behaviorally disabled, mentally retarded and chemically dependent

(2) preventive programs
(3) educational and consultative services
(4) diagnostic and treatment services
(5) rehabilitative services, particularly for those individuals who have received prior treatment in an inpatient facility for mental or emotional disorders, mental retardation, alcoholism and other psychiatric conditions

b. Written testimony was received within the 20-day period following the Public Hearing alleging that the required services are vaguely stated. To assure flexibility in program and permit responsiveness to individual area needs, Section (b)(2) of the Rule has been expanded in the following manner, "the extent of each service to be provided by the Center shall be indicated in the Program Plan, which is to reflect the problems, needs and resources of the community served." Written testimony was also received that alleged the services were too comprehensive. Oral testimony at the hearing supported the services as identified in the rule. The Department finds the identified services are based on Minn. Stat. 245.61 (1974).

4. There is also need to amend Minnesota DPW Rule 28 to comply with recent legislative enactments which require Community Mental Health Boards to:

a. Provide for detoxification, assessment and alcoholism services pursuant to Minn. Stat. 254A.07 (1974).

b. Provide for separate advisory committees to Community Mental Health Boards, at least in the areas of mental health, mental retardation chemical dependency, pursuant to Minn. Stat. 245.68 (1974).

c. Define and distinguish between Community Mental Health Centers and Community Mental Health Clinics in accordance with Minn. Laws 1975, Chapter 89.

5. Testimony was received: (a) alleging that the minimal professional mental health staffing, identified in the Proposed Rule 28, was a traditional illness model; (b) questioning if centers would be able to meet professional standards; and (c) suggesting the need for equivalency or alternative staffing requirements. The statute, while requiring that Community Mental Health Boards employ psychiatric personnel, qualified mental health professions and a director, does not specifically define this staff. Testimony was also presented that supports the Proposed Rule's minimum staffing standards. The Department finds that the minimal professional multi-disciplinary staffing requirements are in the best interest of the public to be served and are consistent with generally accepted mental health staffing patterns. Appropriate licensure of professionals is required and this is consistent with other state statutes and generally accepted good pratice. The Department further encourages Community Mental Health Boards to employ other professionals, para-professionals and persons from other disciplines whose qualifications meet the standards for their respective fields and whose job descriptions enhance the Comprehensive Mental Health Program.

6. Testimony was presented which requested that the fiscal reporting limitation be extended from 20 days to 30 days after the end of the quarter. The Department finds that the 20-day limitation for fiscal reporting will insure that the controller's office can meet the fiscal reporting limitations imposed upon them.

7. Testimony was presented which requested that an Advisory Committee for Children be required. Although Minn. Stat. 245.68(1) does not prohibit the establishment of Advisory Committees in any area, it only specifically requires Advisory Committees for Mental Health, Mental Retardation, and Inebriacy (including alcohol and drug). The Department finds that to mandate an additional Advisory Committee in the Rule would exceed the provisions of the Statute and that it is desirable to encourage the Community Mental Health Boards to establish additional Committees or subcommittees to focus on problems of children and aging populations.

8. Testimony was presented that included concerns about the relationship of Community Mental Health Programs and Human Service Boards. Reflected concerns included the absence of specific mention of Human Service Boards, channeling of State community mental health funds to the Human Service Boards, CMHC contracting with Human Service Boards, and professional staffing requirements if a Human Service Board chooses to provide the CMHC program. Minn. Laws 1975, Chapter 402.02, states, "The department of corrections, health and public welfare shall provide funds from any grant or subsidy program or other authorized sources to the human service board, based upon a plan which satisfies the standards and regulations of the individual state agency, and which represents all subsidy money for human services which each agency commits to programs within counties comprising the human service board." The Department finds that accordingly a Human Service Board may provide the Community Mental Health Program or may contract with a separate agency; however, the standards and regulations relating to Community Mental Health Programs must be met.

9. Testimony included a request for some flexibility in transferring funds in program budget activity areas, as well as line items. In reviewing the wording of the Proposed Rule 28, the Department finds that the flexibility was provided by the Rule as proposed. However, the deletion of the last two sentences of this section of the proposed Rule clarifies the provision of flexibility.

10. Testimony was presented concerning the necessity to distinguish between Community Mental Health Centers and Community Mental Health Clinics and testimony was presented in support of the distinction. The Department finds that distinct definition is necessary as Minn. Laws 1975, Chapter 89, identifies both types of agencies as eligible providers of Mental Health services for insurance payment and this distinction is consistent with generally accepted definitions nationally.

11. Written testimony received within the 20-day period following the hearing recommended that grant-in-aid guidelines be included within Rule 28. By virtue of the nature of the guidelines and the need for them to be continually updated, it would be impractical to include them in a Rule which has the force and effect of law and is time consuming and expensive to alter. The Department finds that the grant-in-aid guidelines should not be included in the Rule.

EW/akd

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

VERA J. LIKINS
COMMISSIONER OF THE MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE VERA J. LIKINS

COMMISSIONER OF PUBLIC WELFARE

In the matter of Proposed Adoption of Amendments to Rule 28 of the Minnesota Department of Public Welfare governing the establishment and operation of community mental health programs.

ORDER ADOPTING RULE

The above-entitled matter came on for hearing before a hearing officer duly appointed by the Commissioner of Public Welfare on the 30th day of October, 1975, at 9:30 a.m. in Room D, Veterans Building, Columbus Avenue (between Wabasha and Iglehart), St. Paul, Minnesota, after proper notice required by Minn. Stat. S. 15.0412 (1974), as amended, was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rule.

NOW, THEREFORE, IT IS ORDERED that this rule identified as DPW Rule 28 is adopted this 26th day of February, 1976, pursuant to authority vested in me by Minn. Stat. S. 246.69(a) (1974).

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

Vera J. Likins

VERA J. LIKINS
COMMISSIONER OF THE MINNESOTA
DEPARTMENT OF PUBLIC WELFARE