

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 683

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 3/17
DATE FOR REVIEW N/A
DATE DUE 3/24

Adopted w/a hearing _____
Adopted w/o a hearing _____
Temporary rule X

Approved _____ Disapproved 3/24 Returned to Agency _____

Resubmitted 4/3 Due 4/10
Approved 4/3 Disapproved _____ Returned to Agency 4/3

Date filed w/Secretary of State NA

✓ Rule as Adopted (labelled "Proposed")

✓ Rule as Proposed see S.R.

✓ Order Adopting 3.16.81

N/A Notice of Intent to Solicit Outside Opinion

___ Order for rulemaking not submitted
_____ ~~Date of Hearing~~

N/A Certificate of Board's Authorizing Resolution

See SR Notice of rulemaking
_____ Sufficiency

N/A Affidavit of Mailing Notice of rulemaking
_____ At least 30 days prior to hearing/adoption

N/A Mailing list Certificate

✓ Publication in State Register
2.23.81 At least ~~30~~/20 days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

N/A Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

N/A Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

___ Record (~~includes transcript or tape, exhibits~~, comments received by agency, ~~requests for a hearing, and other relevant materials~~)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General

Our File # [illegible]

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Arthur E. Noot
Commissioner
Department of Public Welfare

DATE: 4/3/81

ATTN : Trudy Dunham, Mental Health Bureau

FROM : Jerry S. Anderson
Special Assistant Attorney General

PHONE: 6-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State Department of Public Welfare Governing Standards for Approval of Mental Health Centers and Mental Health Clinics for Insurance Reimbursements - DPW Temporary Rule 29 (12 MCAR 2.029

The above-captioned temporary rules have been approved by this office.

While the statute does not require it, this office recommends that an Order of Adoption and a copy of the Rules as Adopted be filed with the Secretary of State. It is the department's responsibility to comply with the Notice provisions of Minn. Stat. § 15.0412, Subd. 5.

If you have any questions, do not hesitate to contact me.

JSA/gy

cc: Duane Harves
Susan Robertson

AG Copy

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

In the Matter of the Proposed Adoption of Rules of the State Department of Public Welfare Governing Standards for Approval of Mental Health Centers and Mental Health Clinics for Insurance Reimbursements DPW Temporary Rule 29 (12 MCAR 2.029)

ORDER ADOPTING TEMPORARY RULES

The above-entitled matter was published in the State Register on February 23, 1981, as a proposed temporary rule pursuant to Minnesota Statutes section 15.0412, subdivision 5. After affording interested and affected persons an opportunity to submit written data and views within 20 days of the publication date, reviewing and considering the data and views, and determining the above-captioned rules are needed and reasonable,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Department of Public Welfare Temporary Rule 29 are adopted this 31 day of March, 1981, pursuant to authority vested in me by Minnesota Statutes section 245.69, subdivision 2.

STATE OF MINNESOTA

COMMISSIONER OF PUBLIC WELFARE

DPW TEMPORARY RULE 29

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Department of Public Welfare
Mental Illness Program Division

DPW TEMPORARY RULE 29 (12 MCAR 2.029)
STANDARDS FOR APPROVAL OF MENTAL HEALTH CENTERS AND CLINICS FOR INSURANCE REIMBURSEMENT

A. Statutory Citation: The authority for this rule is Chapter 506, Laws of Minnesota, 1980, codified as Minn. Stat. §245.69, Subd. 2.

B. Purpose: The purpose of this rule is to establish minimum standards for approval of public and private mental health centers and public and private mental health clinics in accordance with the authorizing statute and with Minn. Stat. §62A.152, Subd. 2, which requires certain group insurance policies and plans to provide benefits to covered persons for outpatient mental illness consultative, diagnostic, and treatment services.

C. Applicability:

1. This rule applies to those public and private mental health centers and public and private mental health clinics which seek the approval of the Commissioner of Public Welfare for purposes of group health insurance or subscriber contract reimbursement under the terms and provisions of this rule. This rule does not apply to the individual office practice of physicians or licensed consulting psychologists, or to licensed hospitals.

2. The provisions of this rule shall be severable. If any clause, sentence, or provision is declared illegal or of no effect, the validity of the remainder of this rule and its applicability shall not be affected.

3. Any provision of this rule inconsistent with any applicable state or federal law is superseded by that law.

4. Approval of a mental health center or mental health clinic under this rule does not convey or imply approval of a staff member of such facility to claim reimbursement from Medical Assistance or other third party payors when practicing privately. Approval of a mental health center or mental health clinic under this rule does not convey or imply approval of such facility to claim reimbursement from Medical Assistance.

5. Approval of a mental health center or mental health clinic under this rule constitutes approval only for purposes of Minn. Stat. §62A.152, Subd. 2. Approval shall not be construed as endorsement or accreditation by the Department of Public Welfare.

D. Definitions.

1. Application: The formal request by a mental health center or mental health clinic to the Commissioner on the forms created for this purpose, to be recognized as meeting the requirements of Minn. Stat. §245.69, Subd. 2 and this rule, and therefore eligible to claim reimbursement for outpatient clinical services to persons with mental illness covered by group health insurance policies or subscriber contracts under the terms of Minn. Stat. §62A.152.

2. Approval: The determination by the Commissioner and written notice to the applicant that the applicant mental health center or mental health clinic has met the minimum standards of this rule and Minn. Stat. §245.69, Subd. 2.

3. Case Review: A process of consultation which specifically addresses a client's condition and treatment, including issues of presenting problems, diagnosis and assessment, measurable treatment goals and objectives, treatment strategy, the appropriateness of the treatment and its duration, the outcomes of treatment, etc.

4. Clinical Services: Services provided to a specific person or persons, to diagnose and prognosticate the recipient's status relative to a disabling condition or problem; and, where indicated, to treat the recipient to reduce impairment due to mental illness. This includes time spent in treatment planning, record keeping required for treatment, and quality assurance mechanisms.

5. Commissioner: Commissioner of the Minnesota Department of Public Welfare or a designated representative.

6. Competent: Having qualifications and abilities in assessment, diagnosis and treatment strategies ~~to provide certain mental health services,~~ based on experience, education~~,~~ and training. ~~and personal characteristics; having qualifications in assessment, diagnosis and treatment strategies, and the ability to work well with certain categories of clients.~~

7. Consultation: The process of imparting information or advice by one person or persons to another person or organization.

8. Continuing Education: The process of planned augmentation of job related knowledge, understanding, and skills for the staff of a mental health center or clinic to assist staff in acquisition of the skills needed to update or enhance their competencies in the delivery of clinical services.

9. Deferral: The determination by the Commissioner and written notice to the applicant that the applicant mental health center or clinic does not meet the minimum standards of this rule, a listing of the specific deficiencies and providing up to six (6) months to make needed changes as a prerequisite for approval.

10. Disapproval: The determination by the Commissioner and written notice to the applicant that the applicant mental health center or clinic does not meet the minimum standards of this rule.

11. Documentation: Automatically and/or manually produced and stored evidence that will attest to the compliance with requirements of this rule.

12. Fee: The non-refundable charge for processing each application for approval under this rule.

13. Discipline: A particular field of study and training, e.g., psychiatry, psychology, clinical social work, psychiatric nursing and allied mental health field.

14. Group Health Insurance: An insurance policy providing insurance reimbursement for health-related services for persons enrolled with the insurance carrier as part of a covered group.

15. Legally constituted person: An organization that is constituted by at least one of the following: 1) charter, 2) articles of incorporation, 3) partnership, or 4) legislative or executive action; and that has a governing body that sets policy and is fully responsible for the operation and performance of the organization.

16. Mental Health Center: An outpatient mental health facility which offers clinical services and indirect services such as consultation, prevention, and community education; and is a legally constituted person.

17. Mental Health Clinic: An outpatient mental health facility or clearly identifiable outpatient mental health unit within an organization, which offers primarily clinical services; and is a legally constituted person.

18. Mental Health Practitioner: A staff member not in Section E.3.d, E.3.e, or E.3.~~f~~, g providing clinical services under the direct supervision of a mental health professional, with ~~identifiable training and~~ areas of competence, and either a) bachelor's degree in a mental health field from an accredited college or university and one year of supervised clinical experience; b) three years of supervised clinical experience; c) a graduate student formally assigned to the center or clinic by their accredited college or university; or d) a masters or other graduate degree in a mental health field from an accredited college or university.

19. Mental Health Professional: A staff member listed in Section E.3.d., E.3.e., or E.3.g. providing clinical services including all Minnesota licensed psychologists and psychiatrists.

20. Mental Illness: A condition with physiological, psychological, and/or social components, which results in an inability to interpret the environment realistically and in an impaired functioning in primary aspects of daily living such as personal relations, living arrangements, work, and recreation.; ~~For purposes of reimbursement under the terms of this rule, mental illness shall mean a condition~~ and is listed in the International Classification of Diseases (ICD-9-CM) whose classification category and code is included in the range 290.0-302.99 or 306.0-315.99, or the corresponding code in the American Psychiatric Association Diagnostic and Statistical Manual (DSM-III), Axes I, II or III.

21. Multidisciplinary Staff: All mental health professionals and mental health practitioners providing outpatient clinical services for mentally ill persons and employed by the center or clinic.

22. Subscriber Contract: A contract, agreement, or other arrangement between a nonprofit health service organization and the subscriber (or an employer for the benefit of the subscriber) under the terms and conditions of which health service or reimbursement therefor is provided.

23. Treatment Strategy: Particular form(s) or modality(s) of service delivery, appropriate to problems of mental illness and client characteristics which delineate the process for achievement of client goals.

E. Minimum Standards

1. Treatment Standards

a. Each mental health center or clinic shall establish a diagnostic and assessment process that provides services appropriate to the individual needs of clients for whom services are reimburseable through group health or subscriber contract. The diagnosis shall be by or under the direct supervision of and signed by a psychiatrist and/or licensed consulting psychologist, or by and signed by a licensed psychologist in collaboration with a licensed consulting psychologist.

b. Each mental health center or clinic shall have a case record and individual treatment plan for each client for whom treatment services are reimburseable through group health insurance or subscriber contract. The case record shall include ~~a)~~ i. the DSM-III or ICD-9-CM diagnosis; ~~b)~~ ii. indications of clinical services received by the client, including peer review and consultation notes; ~~c)~~ iii. the treatment plan; and ~~d)~~ iv. at the closing of the case, a statement of treatment outcome. Case records shall be maintained sufficiently to determine good practice. The individual treatment plan, based upon a diagnostic assessment of mental illness, shall be jointly developed by the client and mental health professional. The plan shall include ~~a)~~ i. client or family history; ~~b)~~ ii. statement of the presenting problem as seen by the client; ~~c)~~ iii. measurable treatment goals; and ~~d)~~ iv. treatment strategy. Clinical services shall be provided in accordance with the plan, and updated as needed with the client. A mental health professional shall be responsible for the treatment of each client.

c. Clinical services shall be appropriate to the presenting problem, age, sex, socioeconomic and ethnic background of the client, and provided in the least restrictive manner. ~~Clinical services shall be provided in accordance with existing professional codes of ethics.~~ Appropriateness of clinical service is subject to review through quality assurance standards (Section E.2).

d. If the appropriate treatment and/or the client desired treatment is not available at the mental health center or clinic, the facility, ~~shall make~~ with the consent of the client, may facilitate appropriate referrals. ~~for the client.~~

e. Each mental health center or clinic shall ensure clinical services are available to clients on an emergency basis.

f. Each mental health center or clinic shall have access to hospital admission for psychiatric inpatient care, and provide as needed by a client. This is not to be interpreted as requiring direct hospital admission privileges on the part of qualified personnel.

2. Quality Assurance Standards:

Each applicant mental health center or clinic shall have established mechanisms for quality assurance and shall provide at the Commissioner's request, documentation of the maintenance and ongoing nature of at least the following:

a. Each mental health center or clinic shall document that staff providing clinical services function in a multidisciplinary manner. There shall be an integral and ongoing involvement of psychiatry, psychology and clinical social work or psychiatric nursing in the provision of clinical services, including diagnosis and assessment, treatment and quality assurance mechanisms.

b. The multidisciplinary staff shall meet at least twice monthly for a minimum of four (4) hours per month for multidisciplinary case reviews, peer consultations, treatment plan development and in-depth case discussions. Each mental health center or clinic shall develop and implement procedures which set standards for case review and encourage the ongoing consultation among multidisciplinary staff. Written minutes of the twice monthly consultation meetings shall be retained at the center or clinic for a period of at least three years.

c. Each mental health clinic or center shall ensure that the client has been informed by the multidisciplinary staff member(s) of the staff's assessment of the problem; treatment alternatives; possible outcomes and side effects of treatment modalities; staff recommendations for treatment; approximate length, cost and hoped for outcome of treatment; the prospective client's rights and responsibilities if (s)he consents to the treatment plan; staff rights and responsibilities; the Government Data Practices Act; and procedures for reporting alleged violations of client rights. If the client is considering chemotherapy, hospitalization, or other medical treatment, the appropriate medical staff member shall inform the client of the treatment alternatives, action of the medication or medical procedure, and its possible side effects.

d. Each mental health center or clinic shall have a multidisciplinary peer review system which shall include review of a randomly selected sample of at least 5% or 6 cases, (whichever is more) of the annual active treatment caseloads of each mental health professional. The purposes of peer review shall minimally include assurance that recorded clinical information is sufficient for purposes of clinical care and evaluation; and that diagnosis and treatment provided are appropriate, necessary and sufficient, and of good quality. Each center or clinic shall develop standards and criteria for multidisciplinary peer review of cases by mental health professional staff. Minutes of all peer review meetings shall be retained at the center or clinic for at least three years.

e. Each mental health center or clinic shall have an established staff supervision procedure~~. A staff organization chart~~ and documentation of the ongoing nature and existence of supervisory activity. ~~shall be required.~~ A staff organization chart shall be required.

f. Each mental health center or clinic shall have an established internal utilization review system. The system shall permit periodic examination of an ~~agency's~~ center or clinics operations to determine if resources are being used effectively and efficiently, and review of the cost and quality of clinical services delivered. Utilization data is to be compiled and documentation of the application of such information to ~~agency~~ center or clinic operations shall occur annually.

g. Each mental health center or clinic shall solicit client input regarding satisfaction with the quality of clinical services.

h. Each mental health center or clinic shall ensure that assignment for treatment is made to an appropriate staff member, competent in the recommended treatment strategy and in treating the individual client characteristics. Clinical services shall be provided in accordance with existing professional codes of ethics.

i. Each mental health center or clinic shall have a continuing education policy. All multidisciplinary staff shall continue their education as required by rule or statute, or in the absence of any requirement shall attend or otherwise participate in thirty-six (36) clock hours every two years of academic or practical course work and training approved by the governing body of the clinic or center and which is relevant to the identified training needs of the staff. In the event any continuing education requirements are developed pursuant to Minn. Stat. §214 for any human services occupations which are part of the staff, this portion of this rule is hereby deemed amended to adopt the standards later developed pursuant to Minn. Stat. §214.

j. Each mental health clinic or center shall develop procedures for the ~~investigation and/or~~ reporting of suspected abuse or neglect of clients. ~~in accordance with the Vulnerable Adults Act, Minnesota Laws, 1980, Chapter 542; Reporting of Maltreatment of Minors, Minn. Stat. §626.556; and existing professional codes of ethics.~~

k. Client information compiled by a mental health center or clinic, including case records and minutes of staff case-specific consultation, shall be protected as private data on individuals within the welfare system as provided in Minn. Stat. §15.1611-15.1698, the Government Data Practices Act.

3. Staffing Standards

a. Each applicant mental health center and clinic shall employ a multidisciplinary staff in psychology, psychiatry and related disciplines consistent with any personnel standards developed pursuant to Minn. Stat. §214 for any human services occupation now credentialed or which may be credentialed by the state. Employment records shall be maintained sufficiently to determine the clinical services qualifications and terms and conditions of employment for each multidisciplinary staff person.

b. Each mental health center and clinic shall designate a mental health professional responsible for ensuring compliance with the rule standards.

c. The multidisciplinary staff shall be composed of at least four (4) mental health professionals. At least two (2) of the mental health professionals shall be employed full-time (minimally 35 hours a week) by the mental health center or clinic and shall be of different disciplines.

d. The mental health professional staff shall include a psychiatrist, board certified or eligible for board certification and licensed under Minn. Stat. §147; and a licensed consulting psychologist, licensed under Minn. Stat. §148.88-148.99.

e. The mental health professional staff shall include a clinical social worker with a masters degree in social work from an accredited college or university or its equivalent with at least two (2) years of post-masters supervised experience in direct clinical services and/or a clinical psychiatric registered nurse with a masters degree from an accredited college or university or its equivalent who is licensed under the Section Minn. Stat. §148.171-148.285 with at least two years of post-masters supervised experience in direct clinical services. A minimum of ~~one (1)~~ forty (40) hours of supervisory contact per ~~week~~ year is required to classify clinical experience as supervised.

f. The mental health professionals required in Sections E.3.d. and E.3.e. shall each be employed by the clinic or center in the form of an individual who is on-site and providing clinical services at least eight (8) hours every two weeks. This standard shall be considered minimal for the smallest clinic or center permissable under E.3.c. Larger clinics and centers shall employ or contract with these required professionals in similar proportion to ensure and document their ongoing presence and availability in the provision of clinical services.

g. The mental health professional staff may also include clinical, counseling, or health care psychologists with a master's degree from an accredited college or university or its equivalent with at least two (2) years of post-master's supervised experience in direct clinical services or who is licensed under Minn. Stat. §148.88-148.99; and/or a person with a masters degree from an accredited college or university or its equivalent in an allied mental health field, which degree is established by the person's official transcript to minimally include 36 semester hours of graduate course work in clinical theory and supervised clinical work, with at least two (2) years of post-masters supervised experience in direct clinical services. A minimum of ~~one (1)~~ forty (40) hours of supervisory contact per ~~week (35~~ year ~~hours of clinical services)~~ is required to classify clinical experience as supervised.

h. No discipline shall be represented in a full-time equivalent proportion of the mental health professional staff greater than 60%. This provision does not apply to mental health centers and clinics with less than six (6) full-time equivalent mental health professional staff, though compliance with all other staffing standards is required. In determination of full-time equivalence, only time spent in clinical services shall be considered.

i. Mental health practitioners may be employed by a mental health center or clinic to provide clinical services in their documented area of competence for purposes of reimbursement. A center or clinic employed mental health professional shall be responsible for supervision of the practitioner, including a minimum of one (1) hour of face-to-face, case-specific consultative supervisory contact each week. All practitioners shall minimally attend two case-specific consultation meetings a month, and continue their education as required by E.2.i. All client cases receiving clinical services from a practitioner shall be reviewed at least once each two (2) months by the clinical supervisor; in addition, such cases are subject to the same agency peer review mechanism as all other cases. Mental health practitioners shall not comprise more than twenty-five (25) percent of the full-time equivalent total of all the multidisciplinary staff. In determination of full-time equivalence, only time spent in clinical services shall be considered. In the event practitioner standards are developed pursuant to Minn. Stat. §214 which are not consistent with this section, those provisions of the rule are superceded by Minn. Stat. §214.

F. Approval Procedures:

1. Application:

a. An organization seeking approval as a mental health center or mental health clinic for insurance reimbursement of its outpatient mental

illness services shall make formal application to the Commissioner for such approval. The application forms for this purpose shall be obtained from the Mental Illness Program Division of the Minnesota Department of Public Welfare. The application forms shall require only such information as is required by statute or rule.

b. Payment of a nonrefundable application fee, established by the Commissioner, shall accompany each application. A fee shall be required for reapplication following disapproval of a previous application.

2. Review:

When a completed application has been received, the Commissioner shall begin the formal review, including the on-site survey. Documentation of standards, as ~~agency~~ clinic or center policy and as procedures implemented in the provision of clinical services, shall be reviewed. If implementation of a procedure is too recent to be reliably documented, a written statement of the planned implementation shall be accepted as documentation on the initial application. The review shall minimally include the following:

a. Review of documentation provided by the applicant organization of its multidisciplinary staff, education and training credentials, and areas of competence of both mental health professional and mental health practitioner staff.

b. Review of written ~~agency~~ center or clinic policy and procedures for provision of clinical services in a multidisciplinary manner, and documentation of how the procedures are actually in effect on an ongoing basis.

c. Review of documentation provided by the applicant organization of its quality assurance procedures, including:

(1) A written ~~agency~~ center or clinic policy on continuing education for all multidisciplinary staff providing clinical services, and an assessment of staff professional education and training needs, with the ~~agency~~ center or clinic responsible for showing the relevancy of the continuing education to the identified training needs of its staff.

(2) The written policy and procedures to protect clients and inform them of their rights and the treatment process, including reporting and/or investigation of alleged violations of client rights and documentation on how the policy and procedures are actually in effect on an ongoing basis.

(3) Organizational structure including written procedures for multidisciplinary staff interaction and supervision.

(4) Written multidisciplinary case-specific consultation standards, criteria, policy and procedures.

(5) Written multidisciplinary peer review system standards, criteria, policy and procedures.

(6) Written client satisfaction assessment procedures.

(7) Internal utilization review written policy and procedures, including the annual application of information to ~~agency~~ center or clinic operations.

d. Review of written applicant organization policy and procedures for intakes, case assignment and diagnosis and assessment; referral policy; emergency service procedure, case termination procedure; and documentation on how the procedures are actually in effect on an ongoing basis.

e. Review of case record and treatment plan format and procedure.

f. Interview with a random sample of multidisciplinary staff of the organization.

g. Review of a random sample of treatment plans and case records.

h. The Department of Public Welfare shall ensure that the use and disclosure of information on applicants, their employees, and their clients in the approval process be safeguarded and in compliance with the Government Data Practices Act, Minn. Stat. §15.1611-15.1699.

i. Unannounced site visits of the mental health center or clinic may occur during approval and deferral periods to verify continuing compliance with the rule. Any such visit shall occur only during normal working hours of the center or clinic, and shall not disrupt the normal functioning of the facility.

3. Method of Approval/Disapproval

a. Upon completion of the on-site review, the reviewer(s) shall submit to the Commissioner the survey findings with a recommendation to approve, defer or disapprove the application, and the reasons for the recommendation.

b. The Commissioner shall send the applicant organization a letter of approval, deferral or disapproval within 30 days of the completion of the on-site review. If the decision is deferral or disapproval, the Commissioner's letter to the applicant organization shall state the specific deficiencies.

c. The Commissioner shall disapprove an applicant organization or withdraw approval when a mental health center or clinic is not in compliance with the authorizing statute and with this rule.

d. If an applicant is deferred, the length of deferral shall not exceed six months. If deficiencies stated in the deferral letter are not satisfactorily corrected by the end of the deferral period, the application is disapproved. At any time during the deferral period, the applicant may submit documentation indicating correction of such deficiencies; the Commissioner shall then approve or disapprove the applicant within 30 days. At any time during the deferral period, the applicant may request the Commissioner to change the applicant status to disapproval; the Commissioner shall comply within 14 days of receipt of this written request. The applicant shall not be considered an approved clinic or center, or eligible for insurance reimbursement as such during the deferral period.

e. An approved center or clinic may submit claims for insurance reimbursement for services provided on or after the date the completed application is received by DPW, except for applicants deferred or disapproved during the review process. A deferred applicant may submit claims for insurance reimbursement for services provided on or after the date the Commissioner signs a letter notifying applicant of approval. No center or clinic shall submit claims for insurance reimbursement as an approved clinic or center until receipt of written notice of approval by the Commissioner, except as provided in Sections F.3.f. and F.3.g.

f. The currently approved mental health center and clinic under Department of Public Welfare Rule #28 shall continue as an approved center or clinic for 180 days after the date this rule is effective provided that the center or clinic submits a completed application within 45 days after the date this rule is effective. Centers and clinics not submitting a completed application within 45 days shall lose their approval status effective 60 days after the effective date of this rule.

g. Each completed application received from a Rule 28 approved mental health center or clinic within the 45 days shall be reviewed. If the written application appears to meet all minimal standards, a letter of provisional approval by the Commissioner shall be issued. The provisional approval shall enable the center or clinic to submit claims for insurance reimbursement as an approved center or clinic for a time period not to exceed 30 days after the on-site review. If the application does not appear to meet minimal standards, the applicant shall be notified of the deficiencies. The applicant shall lose approval status effective 180 days after the date this rule is effective if the deficiencies have not been corrected.

h. The Department of Public Welfare shall maintain an administrative file on each applicant for five (5) years, including:

(1) application and attached documentation;

(2) on-site survey report, or statement why it was not conducted;

(3) reviewer's report and recommendation to the Commissioner;

(4) letters of approval, deferral and/or disapproval sent to applicant;

(5) appeal documents;

(6) reports of agency changes in policy, staff and/or services;

(7) other related correspondence.

i. The Commissioner may accept as documentation for a specific standard, evidence of licensure or accreditation through another regulating body when the required minimum standards are the same as or higher than that of a specific provision of the rule.

4. Appeals:

If a mental health center or clinic is disapproved, a contested case hearing and judicial review may be requested by an applicant organization as provided in Minn. Stat. §§15.0418-15.0425. A mental health center or clinic which is disapproved, or whose approval is withdrawn due to noncompliance, may reapply with a new formal application not sooner than ninety (90) days after notification of disapproval.

G. Application Fee

An application fee, not to exceed $1,000, shall be established by the Commissioner. The fee shall be based on the estimated cost of the application procedure and number of applicants; it shall be revised periodically as the Commissioner deems necessary to ensure related expenditures are not in excess of fees collected.

H. Duration of Approval

1. Initial approval by the Commissioner shall be valid for twelve (12) months from the effective date. Subsequent approvals may be valid for up to twenty-four (24) months. If an approved mental health center or clinic has met the conditions of this rule, including reapplication when required, its status as an approved mental health center or clinic shall continue in effect pending Department processing of the reapplication.

2. The approval shall be issued only for the ~~location(s) and~~ mental health center or clinic named in the application, and shall not be transferable or assignable to another ~~location or~~ center or clinic. The approval shall be issued only for the location(s) named in the application and shall not be transferable or assignable to another location, unless the Commissioner is notified in writing at least 24 hours in advance of such change, and the notification attests that compliance with all provisions of the rule and authorizing statute are maintained.

3. Changes in mental health center or clinic staffing, treatment or quality assurance procedures that may effect the ability of the center or clinic to comply with the minimum standards of this rule shall be reported in writing to the Commissioner within two weeks of occurrence. Review of the change shall be conducted within two weeks of notification. Organizations with changes resulting in deficiencies in minimum standards for approval shall be notified, and may have up to six months to correct deficiencies before losing approval status. Interim procedures to resolve the deficiency on a temporary basis shall be developed and submitted in writing to the Commissioner for his approval. Nonreporting of change that results in deficiency, failure to develop an approved interim procedure, or nonresolution of the deficiency within six months, shall result in loss of approved status.

DR-F

APPROVED AS TO FORM AND LEGALITY

4-3 1981

WARREN SPANNAUS, ATTORNEY GENERAL

BY Jerry Anderson

SPECIAL ASSISTANT ATTORNEY GENERAL

ADMIN. 1000
3

STATE OF MINNESOTA

DEPARTMENT PUBLIC WELFARE

Office Memorandum

TO : JERRY ANDERSON
Special Assistant to the Attorney General

DATE: 3/31/81

FROM : TRUDY DUNHAM
Mental Health Bureau

SUBJECT: RESUBMIT: DPW Temporary Rule 29, Governing Standards for approval of mental health centers and clinics for insurance reimbursement

The Department of Public Welfare is resubmitting the above-referenced rule for your review. Enclosed please find two copies of the Order Adopting and the original and two copies of the new Rule as Adopted. You have retained the original file of the Department submitted on March 16th, 1981.

In response to the concerns outlined in your memo of 3/24/81, please find:

1. A memo indicating the Department finding that implementation of Rule 29 will not exceed $100,000 in a year, and a copy of the note prepared by Department staff to that effect.

2. In 12 MCAR Section 2.029 D. 2, omission of the phrases "personal characteristics" and "ability to work well with certain categories of clients".

3. In 12 MCAR Section 2.029 D.18, omission of the phrase "identifiable training".

4. In 12 MCAR Section 2.029, page 4, rearrangement of spacing to include material previously missing.

5. In 12 MCAR Section 2.029, H.2, rewriting of section on change of location, omitting requirement for reapplication upon appropriate notification to the Department.

If you have any questions regarding the material submitted, please do not hesitate to call me at 296-4503.

ADMIN. 1000
3

STATE OF MINNESOTA

DEPARTMENT Public Welfare

Office Memorandum

TO : JERRY ANDERSON
Special Assistant to the Attorney General

DATE: 3 - 31 - 81

FROM : ARTHUR E. NOOT
COMMISSIONER

SUBJECT: Projected fiscal impact of DPW Temporary Rule 29

Based upon staff calculations, the Department of Public Welfare has found the fiscal impact of DPW Temporary Rule 29 to be less than $100,000 annually. The attached fiscal note was prepared for internal Departmental review and has not been officially filed since the projected total local spending was less than $100,000 as provided in Minn. Stat. section 15.0412, subd. 7.

Fi-00085-02

Revisor's No._____

FISCAL NOTE

Change in Costs*

H.F. No._____

S.F. No._____

Source of Funding	F.Y. 1981	F.Y. 1982	F.Y. 1983
DPW (General Fund)[1]	$ 31,625	$ 54,200	$ 56,900
County[2]	-	-	-
Current Rule 28 Centers[3]	95,500	36,750	5,670
Less amount agency can absorb within existing funding[4]	95,500	36,750	5,670
TOTAL	0	0	0

If any portion is absorbed, indicate activity(s) affected: see footnote 4

Change in Income*

	F.Y. 1981	F.Y. 1982	F.Y. 1983
Increase/(Decrease)	$ 31,625	$54,200	$56,900
To/From which Fund: from General to DPW			

Additional Personnel Required: Type; and Estimated Annual Cost:

one Welfare Specialist position (salary, fringe, travel) $ 27,000 in FY 82
(This position was added in FY 81)
mental health consultants with review and recommendations, public hearing examiner for appeals, other costs (rule promulgation, hearing, applications) $ 27,000.

Purpose of New Program and Intended Impact on Clientele:

To make third party reimbursement available under Minn. Stat. 62A.152 for outpatient mental or nervous disorder diagnosis, treatment and consultation at public and private mental health centers and clinics throughout the state, including and beyond the current approval mechanism for community mental health centers.

Criteria for Evaluation of Program:

Approved mental health centers and clinics meet treatment and quality assurance standards of the rule and statute; application process proceeds smoothly, with as little unnecessary disruption or cost to center/clinic applicants as possible.

Statutory Provisions Affected:

Minn. Stat. 245.69 Subd. 2 Minn. Stat. 62A.152

Long Range Financial and Program Implications:
(If Federal Funding is included, discuss probability of continued Federal support.)

Increases availability of approved clinics and centers for insurance reimbursement (client service option); provides additional funding source to mental health clinics not eligible for Rule 28 approval.

Reviewed by Controller_____

Agency_____

[signature] 4.3.81

Signature of Department Head Date

*Attach a copy of the methodology and computations used to arrive at these numbers.

ATTACHMENT: RULE 29 FISCAL NOTE

1. Laws of Minnesota 1980 Chapter 506 provided a special appropriation which is to be used only for the promulgation of Rule 29 and the approval of clinics and centers for insurance reimbursement pursuant to Minn. Stat. 62A.152. The expenditure of this fund cannot exceed anticipated biennial revenues generated through application fees. Note that such fees are a cost to applicants, including Rule 28 centers and the DPW expense should not be added to the center costs to determine overall fiscal impact.

2. There is no direct cost to counties. Some of the Rule 28 approved mental health centers were established by counties. To the extent the county funds the center, the cost may be born by the county. Any such county costs are included below under Rule 28 centers. Other funding sources for centers include state funds, medical assistance, federal funding, private grants, client fees and insurance.

3. Current Rule 28 mental health centers, to the extent they have maintained compliance with Rule 28 and are aware of the national standards for community mental health centers, will have minimal cost increases under Rule 29. Training staff in treatment plan development will be necessary in about 50% of the centers; peer review and internal utilization systems will be developed in about 75% of the centers.

Estimated costs for centers: FY 81

Application fee ($ 800 x 35)	$ 28,000
Other application costs ($ 200 x 35)	7,000
Staff training; development of procedures; (6 hrs x $24/hr x 12 staff x 35 centers)	60,480
TOTAL:	$ 95,480

Estimated costs for centers: FY 82

Application fee ($ 800 x 35)	$ 28,000
Other application costs ($ 100 x 35)	3,500
Staff training (new staff) (3 hrs x $25/hr x 2 staff x 35 centers)	5,250
TOTAL:	$ 36,750

Estimated costs for centers: FY 83

Application fee/ costs	$ 0
Staff training (new staff) (3 hrs x $27/hr x 2 staff x 35 centers)	5,670
TOTAL:	$ 5,670

4. At an average cost of less than $3000 per mental health center, most centers will be required to absorb the costs within their existing funding. Staff training will occur as part of the inservice training which already exists in centers. DPW staff are available to assist in providing some training and assistance as needed. The procedures for various quality assurance mechanisms can usually be met with existing information systems, or with slight changes in the information collected or utilization of information. The rule does not require sophisticated systems which would entail development by a specialist or computer information system. The application form can be completed by center staff with minimal time or effort. After the initial approval, the application is required only every two years. The application will be an updating of information in the second year (for the majority of information -- unless permanent rule is very different from temporary rule), and require less time to prepare.

   The Departmental costs are those incurred by the hiring of one staff member, travel costs to approve centers, rule development and promulgation costs, disbursement of the rule and application to interested parties, possible consultation by mental health experts when questions arise regarding the sufficiency of a procedure, and appeal costs. These will all be covered by the application fees (fees are deposited in the General Fund and credited to the Rule 29 account). If the applications for Rule 29 approval are few, expenditures relating to staff and printing are also lower.

tcd/3-81

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Arthur E. Noot
Commissioner of Public Welfare

DATE: 3/24/81

ATTN: Allen E. Giles
Special Assistant Attorney General

FROM : Jerry S. Anderson
Special Assistant Attorney General

PHONE: 6-4692

SUBJECT: Proposed Temporary Rule Governing Approval of Mental Health Centers and Clinics for Insurance Reimbursement

The rules in the above-referenced matter have not been approved by this office for the following reasons.

1. Minn. Stat. § 15.0412, subd. 7 (1980) requires that notice of a proposed rule be accompanied by a written statement regarding the cost to local public bodies of implementation of the rule if the estimated cost exceeds $100,000 in either of the two years following adoption of the rule. In reviewing this rule, it appears that compliance with the rule will in fact cost local public bodies additional money beyond what they presently spend. Additionally, there is support in the record that the total additional expenditure by all public bodies in either of the two years will be greater than $100,000.

   Because of this possibility, the supporting documentation for adoption of the rule must include an agency finding, and the reasons therefore, that adoption of the rule will not cost local public bodies in excess of $100,000.

   If adoption of the rule will cause the cost to exceed $100,000, however, the agency must give new notice of rulemaking, which must include this necessary statement.

2. In 12 MCAR § 2.029 D.2., the phrases "personal characteristics" and "ability to work well with certain categories of clients" are vague. Rules must be phrased with specificity to provide for predictability and nondiscriminatory application.

3. In § 2.029 D.18., the phrase "identifiable training" is vague.

4. § 2.029 H.2. requires reapplication by any clinic or center merely as a result of change of location. Because the application process is involved and expensive, a question arises whether full application should be required in such circumstances. Total reapplication would appear to be unreasonable in a number of circumstances, but the rule provides no distinctions. Therefore, as written, this section is unreasonable.

5. All of the copies of the rule delivered to this office are missing material at the bottom of page 4. Thus, the rule as submitted is defective.

After consideration of the above comments and agency action, if any, these rules may be resubmitted for review. Upon resubmission, please include two copies of a new or supplemental Order Adopting, and the original and two copies of the new Rule as Adopted. Also, please include a memorandum specifying that the rules are being resubmitted so that we may obtain our initial file in this matter.

If you have any questions concerning the issues raised in this memorandum, please do not hesitate to call me.

JSA/gy

cc: Duane Harves
Susan Robertson
Trudy Dunham

DPW TEMPORARY RULE 29

A. Statutory Citation

B. Purpose

C. Applicability

D. Definitions

E. Minimum Standards

   1. Treatment

   2. Quality Assurance

   3. Staffing

F. Approval Procedures

   1. Application

   2. Review

   3. Method of Approval/Disapproval

   4. Appeals

G. Application Fee

H. Duration of Approval

Department of Public Welfare
Mental Illness Program Division

DPW TEMPORARY RULE 29 (12 MCAR 2.029)
STANDARDS FOR APPROVAL OF MENTAL HEALTH CENTERS
AND CLINICS FOR INSURANCE REIMBURSEMENT

A. Statutory Citation: The authority for this rule is Chapter 506, Laws of Minnesota, 1980, codified as Minn. Stat. §245.69, Subd. 2.

B. Purpose: The purpose of this rule is to establish minimum standards for approval of public and private mental health centers and public and private mental health clinics in accordance with the authorizing statute and with Minn. Stat. §62A.152, Subd. 2, which requires certain group insurance policies and plans to provide benefits to covered persons for outpatient mental illness consultative, diagnostic, and treatment services.

C. Applicability:

1. This rule applies to those public and private mental health centers and public and private mental health clinics which seek the approval of the Commissioner of Public Welfare for purposes of group health insurance or subscriber contract reimbursement under the terms and provisions of this rule. This rule does not apply to the individual office practice of physicians or licensed consulting psychologists, or to licensed hospitals.

2. The provisions of this rule shall be severable. If any clause, sentence, or provision is declared illegal or of no effect, the validity of the remainder of this rule and its applicability shall not be affected.

3. Any provision of this rule inconsistent with any applicable state or federal law is superseded by that law.

4. Approval of a mental health center or mental health clinic under this rule does not convey or imply approval of a staff member of such facility to claim reimbursement from Medical Assistance or other third party payors when practicing privately. Approval of a mental health center or mental health clinic under this rule does not convey or imply approval of such facility to claim reimbursement from Medical Assistance.

5. Approval of a mental health center or mental health clinic under this rule constitutes approval only for purposes of Minn. Stat. §62A.152, Subd. 2. Approval shall not be construed as endorsement or accreditation by the Department of Public Welfare.

D. Definitions.

1. Application: The formal request by a mental health center or mental health clinic to the Commissioner on the forms created for this purpose, to be recognized as meeting the requirements of Minn. Stat. §245.69, Subd. 2 and this rule, and therefore eligible to claim reimbursement for outpatient clinical services to persons with mental illness covered by group health insurance policies or subscriber contracts under the terms of Minn. Stat. §62A.152.

2. Approval: The determination by the Commissioner and written notice to the applicant that the applicant mental health center or mental health clinic has met the minimum standards of this rule and Minn. Stat. §245.69, Subd. 2.

3. Case Review: A process of consultation which specifically addresses a client's condition and treatment, including issues of presenting problems, diagnosis and assessment, measurable treatment goals and objectives, treatment strategy, the appropriateness of the treatment and its duration, the outcomes of treatment, etc.

4. Clinical Services: Services provided to a specific person or persons, to diagnose and prognosticate the recipient's status relative to a disabling condition or problem; and, where indicated, to treat the recipient to reduce impairment due to mental illness. This includes time spent in treatment planning, record keeping required for treatment, and quality assurance mechanisms.

5. Commissioner: Commissioner of the Minnesota Department of Public Welfare or a designated representative.

6. Competent: Having qualifications and abilities to provide certain mental health services, based on experience, education, training and personal characteristics; having qualifications in assessment, diagnosis and treatment strategies, and the ability to work well with certain categories of clients.

7. Consultation: The process of imparting information or advice by one person or persons to another person or organization.

8. Continuing Education: The process of planned augmentation of job related knowledge, understanding, and skills for the staff of a mental health center or clinic to assist staff in acquisition of the skills needed to update or enhance their competencies in the delivery of clinical services.

9. Deferral: The determination by the Commissioner and written notice to the applicant that the applicant mental health center or clinic does not meet the minimum standards of this rule, a listing of the specific deficiencies and providing up to six (6) months to make needed changes as a prerequisite for approval.

10. Disapproval: The determination by the Commissioner and written notice to the applicant that the applicant mental health center or clinic does not meet the minimum standards of this rule.

11. Documentation: Automatically and/or manually produced and stored evidence that will attest to the compliance with requirements of this rule.

12. Fee: The non-refundable charge for processing each application for approval under this rule.

13. Discipline: A particular field of study and training, e.g., psychiatry, psychology, clinical social work, psychiatric nursing and allied mental health field.

14. Group Health Insurance: An insurance policy providing insurance reimbursement for health-related services for persons enrolled with the insurance carrier as part of a covered group.

15. Legally constituted person: An organization that is constituted by at least one of the following: 1) charter, 2) articles of incorporation, 3) partnership, or 4) legislative or executive action; and that has a governing body that sets policy and is fully responsible for the operation and performance of the organization.

16. Mental Health Center: An outpatient mental health facility which offers clinical services and indirect services such as consultation, prevention, and community education; and is a legally constituted person.

17. Mental Health Clinic: An outpatient mental health facility or clearly identifiable outpatient mental health unit within an organization, which offers primarily clinical services; and is a legally constituted person.

18. Mental Health Practitioner: A staff member not in Section E.3.d, E.3.e, or E.3.~~f~~ g providing clinical services under the direct supervision of a mental health professional, with identifiable training and areas of competence, and either a) bachelor's degree in a mental health field from an accredited college or university and one year of supervised clinical experience; b) three years of supervised clinical experience; c) a graduate student formally assigned to the center or clinic by their accredited college or university; or d) a masters or other graduate degree in a mental health field from an accredited college or university.

19. Mental Health Professional: A staff member listed in Section E.3.d., E.3.e., or E.3.g. providing clinical services including all Minnesota licensed psychologists and psychiatrists.

20. Mental Illness: A condition with physiological, psychological, and/or social components, which results in an inability to interpret the environment realistically and in an impaired functioning in primary aspects of daily living such as personal relations, living arrangements, work, and recreation.~~; For purposes of reimbursement under the terms of this rule, mental illness shall mean a condition~~ and is listed in the International Classification of Diseases (ICD-9-CM) whose classification category and code is included in the range 290.0-302.99 or 306.0-315.99, or the corresponding code in the American Psychiatric Association Diagnostic and Statistical Manual (DSM-III), Axes I, II or III.

21. Multidisciplinary Staff: All mental health professionals and mental health practitioners providing outpatient clinical services for mentally ill persons and employed by the center or clinic.

22. Subscriber Contract: A contract, agreement, or other arrangement between a nonprofit health service organization and the subscriber (or an employer for the benefit of the subscriber) under the terms and conditions of which health service or reimbursement therefor is provided.

23. Treatment Strategy: Particular form(s) or modality(s) of service delivery, appropriate to problems of mental illness and client characteristics which delineate the process for achievement of client goals.

E. Minimum Standards

1. Treatment Standards

a. Each mental health center or clinic shall establish a diagnostic and assessment process that provides services appropriate to the individual needs of clients for whom services are reimburseable through group health or subscriber contract. The diagnosis shall be by or under the direct supervision of and signed by a psychiatrist and/or licensed consulting psychologist, or by and signed by a licensed psychologist in collaboration with a licensed consulting psychologist.

b. Each mental health center or clinic shall have a case record and individual treatment plan for each client for whom treatment services are reimburseable through group health insurance or subscriber contract. The case record shall include ~~a)~~ i. the DSM-III or ICD-9-CM diagnosis; ~~b)~~ ii. indications of clinical services received by the client, including peer review and consultation notes; ~~c)~~ iii. the treatment plan; and ~~d)~~ iv. at the closing of the case, a statement of treatment outcome. Case records shall be maintained sufficiently to determine good practice. The individual treatment plan, based upon a diagnostic assessment of mental illness, shall be jointly developed by the client and mental health professional. The plan shall include ~~a)~~ i. client or family history; ~~b)~~ ii. statement of the presenting problem as seen by the client; ~~c)~~ iii. measurable treatment goals; and ~~d)~~ iv. treatment strategy. Clinical services shall be provided in accordance with the plan, and updated as needed with the client. A mental health professional shall be responsible for the treatment of each client.

c. Clinical services shall be appropriate to the presenting problem, age, sex, socioeconomic and ethnic background of the client, and provided in the least restrictive manner. ~~Clinical services shall be provided in accordance with existing professional codes of ethics.~~ Appropriateness of clinical service is subject to review through quality assurance standards (Section E.2).

d. If the appropriate treatment and/or the client desired treatment is not available at the mental health center or clinic, the facility, ~~shall make~~ with the consent of the client, may facilitate appropriate referrals. ~~for the client.~~

e. Each mental health center or clinic shall ensure clinical services are available to clients on an emergency basis.

f. Each mental health center or clinic shall have access to hospital admission for psychiatric inpatient care, and provide as needed by a client. This is not to be interpreted as requiring direct hospital admission privileges on the part of qualified personnel.

2. Quality Assurance Standards:

Each applicant mental health center or clinic shall have established mechanisms for quality assurance and shall provide at the Commissioner's request, documentation of the maintenance and ongoing nature of at least the following:

a. Each mental health center or clinic shall document that staff providing clinical services function in a multidisciplinary manner. There shall be an integral and ongoing involvement of psychiatry, psychology and

b. The multidisciplinary staff shall meet at least twice monthly for a minimum of four (4) hours per month for multidisciplinary case reviews, peer consultations, treatment plan development and in-depth case discussions. Each mental health center or clinic shall develop and implement procedures which set standards for case review and encourage the ongoing consultation among multidisciplinary staff. Written minutes of the twice monthly consultation meetings shall be retained at the center or clinic for a period of at least three years.

c. Each mental health clinic or center shall ensure that the client has been informed by the multidisciplinary staff member(s) of the staff's assessment of the problem; treatment alternatives; possible outcomes and side effects of treatment modalities; staff recommendations for treatment; approximate length, cost and hoped for outcome of treatment; the prospective client's rights and responsibilities if (s)he consents to the treatment plan; staff rights and responsibilities; the Government Data Practices Act; and procedures for reporting alleged violations of client rights. If the client is considering chemotherapy, hospitalization, or other medical treatment, the appropriate medical staff member shall inform the client of the treatment alternatives, action of the medication or medical procedure, and its possible side effects.

d. Each mental health center or clinic shall have a multidisciplinary peer review system which shall include review of a randomly selected sample of at least 5% or 6 cases, (whichever is more) of the annual active treatment caseloads of each mental health professional. The purposes of peer review shall minimally include assurance that recorded clinical information is sufficient for purposes of clinical care and evaluation; and that diagnosis and treatment provided are appropriate, necessary and sufficient, and of good quality. Each center or clinic shall develop standards and criteria for multidisciplinary peer review of cases by mental health professional staff. Minutes of all peer review meetings shall be retained at the center or clinic for at least three years.

costly to review this many - staff no time for clinical services

e. Each mental health center or clinic shall have an established staff supervision procedure. ~~A staff organization chart~~ and documentation of the ongoing nature and existence of supervisory activity. ~~shall be required.~~ A staff organization chart shall be required.

f. Each mental health center or clinic shall have an established internal utilization review system. The system shall permit periodic examination of an ~~agency's~~ center or clinics operations to determine if resources are being used effectively and efficiently, and review of the cost and quality of clinical services delivered. Utilization data is to be compiled and documentation of the application of such information to ~~agency~~ center or clinic operations shall occur annually.

g. Each mental health center or clinic shall solicit client input regarding satisfaction with the quality of clinical services.

h. Each mental health center or clinic shall ensure that assignment for treatment is made to an appropriate staff member, competent in the recommended treatment strategy and in treating the individual client characteristics. Clinical services shall be provided in accordance with existing professional codes of ethics.

i. Each mental health center or clinic shall have a continuing education policy. All multidisciplinary staff shall continue their education as required by rule or statute, or in the absence of any requirement shall attend or otherwise participate in thirty-six (36) clock hours every two years of academic or practical course work and training approved by the governing body of the clinic or center and which is relevant to the identified training needs of the staff. In the event any continuing education requirements are developed pursuant to Minn. Stat. §214 for any human services occupations which are part of the staff, this portion of this rule is hereby deemed amended to adopt the standards later developed pursuant to Minn. Stat. §214.

j. Each mental health clinic or center shall develop procedures for the ~~investigation and/or~~ reporting of suspected abuse or neglect of clients. ~~in accordance with the Vulnerable Adults Act, Minnesota Laws, 1980, Chapter 542; Reporting of Maltreatment of Minors, Minn. Stat. §626.556; and existing professional codes of ethics.~~

k. Client information compiled by a mental health center or clinic, including case records and minutes of staff case-specific consultation, shall be protected as private data on individuals within the welfare system as provided in Minn. Stat. §15.1611-15.1698, the Government Data Practices Act.

3. Staffing Standards

a. Each applicant mental health center and clinic shall employ a multidisciplinary staff in psychology, psychiatry and related disciplines consistent with any personnel standards developed pursuant to Minn. Stat. §214 for any human services occupation now credentialed or which may be credentialed by the state. Employment records shall be maintained sufficiently to determine the clinical services qualifications and terms and conditions of employment for each multidisciplinary staff person.

b. Each mental health center and clinic shall designate a mental health professional responsible for ensuring compliance with the rule standards.

c. The multidisciplinary staff shall be composed of at least four (4) mental health professionals. At least two (2) of the mental health professionals shall be employed full-time (minimally 35 hours a week) by the mental health center or clinic and shall be of different disciplines.

d. The mental health professional staff shall include a psychiatrist, board certified or eligible for board certification and licensed under Minn. Stat. §147; and a licensed consulting psychologist, licensed under Minn. Stat. §148.88-148.99.

e. The mental health professional staff shall include a clinical social worker with a masters degree in social work from an accredited college or university or its equivalent with at least two (2) years of post-masters supervised experience in direct clinical services and/or a clinical psychiatric registered nurse with a masters degree from an accredited college or university or its equivalent who is licensed under the Section Minn. Stat. §148.171-148.285 with at least two years of post-masters supervised experience in direct clinical services. A minimum of ~~one (1)~~ forty (40) hours of supervisory contact per ~~week~~ year is required to classify clinical experience as supervised.

f. The mental health professionals required in Sections E.3.d. and E.3.e. shall each be employed by the clinic or center in the form of an individual who is on-site and providing clinical services at least eight (8) hours every two weeks. This standard shall be considered minimal for the smallest clinic or center permissable under E.3.c. Larger clinics and centers shall employ or contract with these required professionals in similar proportion to ensure and document their ongoing presence and availability in the provision of clinical services.

g. The mental health professional staff may also include clinical, counseling, or health care psychologists with a master's degree from an accredited college or university or its equivalent with at least two (2) years of post-master's supervised experience in direct clinical services or who is licensed under Minn. Stat. §148.88-148.99; and/or a person with a masters degree from an accredited college or university or its equivalent in an allied mental health field, which degree is established by the person's official transcript to minimally include 36 semester hours of graduate course work in clinical theory and supervised clinical work, with at least two (2) years of post-masters supervised experience in direct clinical services. A minimum of ~~one (1)~~ forty (40) hours of supervisory contact per ~~week (35~~ year ~~hours of clinical services)~~ is required to classify clinical experience as supervised.

h. No discipline shall be represented in a full-time equivalent proportion of the mental health professional staff greater than 60%. This provision does not apply to mental health centers and clinics with less than six (6) full-time equivalent mental health professional staff, though compliance with all other staffing standards is required. In determination of full-time equivalence, only time spent in clinical services shall be considered.

i. Mental health practitioners may be employed by a mental health center or clinic to provide clinical services in their documented area of competence for purposes of reimbursement. A center or clinic employed mental health professional shall be responsible for supervision of the practitioner, including a minimum of one (1) hour of face-to-face, case-specific consultative supervisory contact each week. All practitioners shall minimally attend two case-specific consultation meetings a month, and continue their education as required by E.2.i. All client cases receiving clinical services from a practitioner shall be reviewed at least once each two (2) months by the clinical supervisor; in addition, such cases are subject to the same agency peer review mechanism as all other cases. Mental health practitioners shall not comprise more than twenty-five (25) percent of the full-time equivalent total of all the multidisciplinary staff. In determination of full-time equivalence, only time spent in clinical services shall be considered. In the event practitioner standards are developed pursuant to Minn. Stat. §214 which are not consistent with this section, those provisions of the rule are superceded by Minn. Stat. §214.

F. Approval Procedures:

1. Application:

a. An organization seeking approval as a mental health center or mental health clinic for insurance reimbursement of its outpatient mental

illness services shall make formal application to the Commissioner for such approval. The application forms for this purpose shall be obtained from the Mental Illness Program Division of the Minnesota Department of Public Welfare. The application forms shall require only such information as is required by statute or rule.

b. Payment of a nonrefundable application fee, established by the Commissioner, shall accompany each application. A fee shall be required for reapplication following disapproval of a previous application.

2. Review:

When a completed application has been received, the Commissioner shall begin the formal review, including the on-site survey. Documentation of standards, as ~~agency~~ clinic or center policy and as procedures implemented in the provision of clinical services, shall be reviewed. If implementation of a procedure is too recent to be reliably documented, a written statement of the planned implementation shall be accepted as documentation on the initial application. The review shall minimally include the following:

a. Review of documentation provided by the applicant organization of its multidisciplinary staff, education and training credentials, and areas of competence of both mental health professional and mental health practitioner staff.

b. Review of written ~~agency~~ center or clinic policy and procedures for provision of clinical services in a multidisciplinary manner, and documentation of how the procedures are actually in effect on an ongoing basis.

c. Review of documentation provided by the applicant organization of its quality assurance procedures, including:

(1) A written ~~agency~~ center or clinic policy on continuing education for all multidisciplinary staff providing clinical services, and an assessment of staff professional education and training needs, with the ~~agency~~ center or clinic responsible for showing the relevancy of the continuing education to the identified training needs of its staff.

(2) The written policy and procedures to protect clients and inform them of their rights and the treatment process, including reporting and/or investigation of alleged violations of client rights and documentation on how the policy and procedures are actually in effect on an ongoing basis.

(3) Organizational structure including written procedures for multidisciplinary staff interaction and supervision.

(4) Written multidisciplinary case-specific consultation standards, criteria, policy and procedures.

(5) Written multidisciplinary peer review system standards, criteria, policy and procedures.

(6) Written client satisfaction assessment procedures.

(7) Internal utilization review written policy and procedures, including the annual application of information to ~~agency~~ center or clinic operations.

d. Review of written applicant organization policy and procedures for intakes, case assignment and diagnosis and assessment; referral policy; emergency service procedure, case termination procedure; and documentation on how the procedures are actually in effect on an ongoing basis.

e. Review of case record and treatment plan format and procedure.

f. Interview with a random sample of multidisciplinary staff of the organization.

g. Review of a random sample of treatment plans and case records.

h. The Department of Public Welfare shall ensure that the use and disclosure of information on applicants, their employees, and their clients in the approval process be safeguarded and in compliance with the Government Data Practices Act, Minn. Stat. §15.1611-15.1699.

i. Unannounced site visits of the mental health center or clinic may occur during approval and deferral periods to verify continuing compliance with the rule. Any such visit shall occur only during normal working hours of the center or clinic, and shall not disrupt the normal functioning of the facility.

3. Method of Approval/Disapproval

a. Upon completion of the on-site review, the reviewer(s) shall submit to the Commissioner the survey findings with a recommendation to approve, defer or disapprove the application, and the reasons for the recommendation.

b. The Commissioner shall send the applicant organization a letter of approval, deferral or disapproval within 30 days of the completion of the on-site review. If the decision is deferral or disapproval, the Commissioner's letter to the applicant organization shall state the specific deficiencies.

c. The Commissioner shall disapprove an applicant organization or withdraw approval when a mental health center or clinic is not in compliance with the authorizing statute and with this rule.

d. If an applicant is deferred, the length of deferral shall not exceed six months. If deficiencies stated in the deferral letter are not satisfactorily corrected by the end of the deferral period, the application is disapproved. At any time during the deferral period, the applicant may submit documentation indicating correction of such deficiencies; the Commissioner shall then approve or disapprove the applicant within 30 days. At any time during the deferral period, the applicant may request the Commissioner to change the applicant status to disapproval; the Commissioner shall comply within 14 days of receipt of this written request. The applicant shall not be considered an approved clinic or center, or eligible for insurance reimbursement as such during the deferral period.

e. An approved center or clinic may submit claims for insurance reimbursement for services provided on or after the date the completed application is received by DPW, except for applicants deferred or disapproved during the review process. A deferred applicant may submit claims for insurance reimbursement for services provided on or after the date the Commissioner signs a letter notifying applicant of approval. No center or clinic shall submit claims for insurance reimbursement as an approved clinic or center until receipt of written notice of approval by the Commissioner, except as provided in Sections F.3.f. and F.3.g.

f. The currently approved mental health center and clinic under Department of Public Welfare Rule #28 shall continue as an approved center or clinic for 180 days after the date this rule is effective provided that the center or clinic submits a completed application within 45 days after the date this rule is effective. Centers and clinics not submitting a completed application within 45 days shall lose their approval status effective 60 days after the effective date of this rule.

g. Each completed application received from a Rule 28 approved mental health center or clinic within the 45 days shall be reviewed. If the written application appears to meet all minimal standards, a letter of provisional approval by the Commissioner shall be issued. The provisional approval shall enable the center or clinic to submit claims for insurance reimbursement as an approved center or clinic for a time period not to exceed 30 days after the on-site review. If the application does not appear to meet minimal standards, the applicant shall be notified of the deficiencies. The applicant shall lose approval status effective 180 days after the date this rule is effective if the deficiencies have not been corrected.

h. The Department of Public Welfare shall maintain an administrative file on each applicant for five (5) years, including:

(1) application and attached documentation;

(2) on-site survey report, or statement why it was not conducted;

(3) reviewer's report and recommendation to the Commissioner;

(4) letters of approval, deferral and/or disapproval sent to applicant;

(5) appeal documents;

(6) reports of agency changes in policy, staff and/or services;

(7) other related correspondence.

i. The Commissioner may accept as documentation for a specific standard, evidence of licensure or accreditation through another regulating body when the required minimum standards are the same as or higher than that of a specific provision of the rule.

4. Appeals:

If a mental health center or clinic is disapproved, a contested case hearing and judicial review may be requested by an applicant organization as provided in Minn. Stat. §§15.0418-15.0425. A mental health center or clinic which is disapproved, or whose approval is withdrawn due to noncompliance, may reapply with a new formal application not sooner than ninety (90) days after notification of disapproval.

G. Application Fee

An application fee, not to exceed $1,000, shall be established by the Commissioner. The fee shall be based on the estimated cost of the application procedure and number of applicants; it shall be revised periodically as the Commissioner deems necessary to ensure related expenditures are not in excess of fees collected.

H. Duration of Approval

1. Initial approval by the Commissioner shall be valid for twelve (12) months from the effective date. Subsequent approvals may be valid for up to twenty-four (24) months. If an approved mental health center or clinic has met the conditions of this rule, including reapplication when required, its status as an approved mental health center or clinic shall continue in effect pending Department processing of the reapplication.

2. The approval shall be issued only for the location(s) and mental health center or clinic named in the application, and shall not be transferable or assignable to another location or center or clinic. no provision for removal in case of lease loss or fire

3. Changes in mental health center or clinic staffing, treatment or quality assurance procedures that may effect the ability of the center or clinic to comply with the minimum standards of this rule shall be reported in writing to the Commissioner within two weeks of occurrence. Review of the change shall be conducted within two weeks of notification. Organizations with changes resulting in deficiencies in minimum standards for approval shall be notified, and may have up to six months to correct deficiencies before losing approval status. Interim procedures to resolve the deficiency on a temporary basis shall be developed and submitted in writing to the Commissioner for his approval. Nonreporting of change that results in deficiency, failure to develop an approved interim procedure, or nonresolution of the deficiency within six months, shall result in loss of approved status.

DR-F

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT Public Welfare

Office Memorandum

TO : Office of the Attorney General
Administrative Division

DATE: March 17,1981

FROM : Trudy Dunham
Mental Health Bureau

PHONE: 296-4503

SUBJECT: Adopted Department of Public Welfare Temporary Rule 29, Standards of Approval of Mental Health Centers and Clinics for Insurance Reimbursement

Enclosed please find:

-Order Adopting Temporary Rule, original and three copies, signed by Commissioner of the Department

-Adopted Temporary Rule, with strikeovers and underlining showing changes from the proposed rule, original and three copies

-Proposed Temporary Rule, copy of the State Register publication, one copy

-Findings of Fact and Conclusions, original, signed by the Commissioner of the Department

-Written comment received by the Department within twenty days of publication in the State Register of the proposed rule

-Certificate of Compliance, original, signed by the Special Assistant to the Attorney General

Please contact me if you require any further information or material on the Adopted Temporary Rule 29, at the above phone number.

PRINTED ON RECYCLED PAPER

RECEIVED
MAR 17 1981
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

STATE OF MINNESOTA

DEPARTMENT OF Public Welfare

In the Matter of the Proposed Adoption of Rules of the State Department of Public Welfare Governing Standards of Approval of Mental Health Centers and Clinics for Insurance Reimbursements DPW Temporary Rule 29 (12 MCAR 2.029)

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter was published in the State Register on February 23, 1981, as a proposed temporary rule pursuant to Minnesota Statutes section 15.0412, subdivision 5.

After affording interested and affected persons an opportunity to submit written data and views witin twenty days of the publication date, reviewing and considering the data and views, and determining that the above-captioned rules are needed and reasonalble, I find the following:

in D.18: change "E.3.f" to "E.3.g" to correct a typographical error;

in d.20: change "and" to "or", as mental illness can occur without necessarly involving all three listed components (physiological, psychological, and social);

omit the phrase "For purposes of reimbursement under the terms of this rule, mental illness shall mean a condition" and add "and is", as the Department was not given the authority in Minn. Stat. 245.69 Subd. 2 to interpret what is reimbursable under Minn. Stat. 62A.152;

in E.1.b: change a) b) c) d) to i. ii. iii. iv., to correct confusing notation: add ly to sufficient;

in E.1.c: transfer "Clinical services shall be provided in accordance with existing professional codes of ethics." to Section E.2.h, as this phrase is a quality assurance standard rather than treatment standard;

add " Appropriateness of clinical service is subject to review through quality assurance standards (Section E.2).", to provide a guideline for the applicant and reviewer to document appropriateness;

In the Matter of the Proposed Adoption
of Rules of the State Department of
Public Welfare Governing Standards of
Approval of Mental Health Centers and
Clinics for Insurance Reimbursements
DPW Temporary Rule 29 (12 MCAR 2.029)

FINDINGS OF FACT
AND CONCLUSIONS

in E.1.d: change "shall make" to "may facilitate" and insert "with the consent of the client", to clarify the client's right to refuse referral or treatment;

in E.2.e: reorganization of the two sentences, to clarify staff organization is not equivalent to staff supervision;

in E.2.f, F.2, F.2.b, F.2.c.(1), F.2.c.(7): change "agency" to "center or clinic", to clarify that minimum standards and procedures are only required of the mental health center or clinic, and not of an entire facility or agency if the clinic is a unit within a larger facility;

in E.2.h: insertion of phrase omitted from E.1.c.;

in E.2.j: revision of section excluding reference to statute as a result of clarification that although all staff of Rule 29 clinics are mandated reporters, not all clinics are mandated reporters;

in e.2.k: correct the spelling of the word "system";

in E.3e, E.3.g: change from "one (1) hour per week" to "forty (40) hours per year" of supervision, in recognition that vacation, illness, holidays and emergencies do prevent some weekly supervision from occurring.

in E.2.c: insert "member(s)" after multidisciplinary staff, to clarify this term can be singular or plural.

STATE OF MINNESOTA

COMMISSIONER OF PUBLIC WELFARE

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

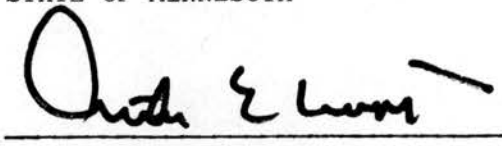
In the Matter of the Proposed Adoption
of Rules of the State Department of Public Welfare
Governing Standards for Approval
of Mental Health Centers and
Clinics for Insurance Reimbursements
DPW Temporary Rule 29 (12 MCAR 2.029)

ORDER ADOPTING
TEMPORARY RULES

The above-entitled matter was published in the State Register on February 23, 1981, as a proposed temporary rule pursuant to Minnesota Statutes section 15.0412, subdivision 5. After affording interested and affected persons an opportunity to submit written data and views within 20 days of the publication date, reviewing and considering the data and views, and determining the above-captioned rules are needed and reasonable,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Department of Public Welfare Temporary Rule 29 are adopted this 16 day of March, 1981, pursuant to authority vested in me by Minnesota Statutes section 245.69, Subd. 2.

STATE OF MINNESOTA



COMMISSIONER OF PUBLIC WELFARE

teams in each sport, (e) the number of coaches assigned each sport, (f) the number of students by sex participating in each sport, (g) the dollar expenditure per sport and, (h) the total unduplicated count of student participation in the athletic program by sex.

5 MCAR § 1.0672 Duties of the Commissioner of Education. Upon receipt of an educational institution's athletic program report, the Commissioner of Education shall:

A. Evaluate the data contained in the report.

B. Forward reports requiring additional attention to the Commissioner of Human Rights, pursuant to Minn. Stat. § 124.15, subd. 2a.

Energy Agency
Alternative Energy Development Division

Proposed Temporary Rule Governing Certification of Solar Collectors to Qualify Renewable Energy Source Expenditures for the Minnesota Individual Income Tax Residential Energy Credit

Temporary Rule as Proposed

6 MCAR § 2.1500 Solar collector certification. Any solar collector included in a renewable energy source expenditure after December 31, 1980, shall be deemed certified by the Minnesota Energy Agency for purposes of Minn. Stat. § 290.06, subd. 14 (1980), so long as the expenditure qualifies for the federal renewable energy source residential credit of Section 44C of the Internal Revenue Code of 1954 (26 U.S.C. § 44C), as amended through December 31, 1978, and any regulation promulgated pursuant thereto. **[A Request for Public Comment on this proposed temporary rule appears in this issue, at page 1305.]**

Department of Public Welfare
Mental Health Bureau

Proposed Temporary Rule Governing Approval of Mental Health Centers and Clinics for Insurance Reimbursement

Request for Public Comment

Notice is hereby given that the Department of Public Welfare has proposed the following temporary rule for the purpose of implementing the provisions of Laws of Minnesota, 1980, Chapter 506, standards for approval of mental health agencies for insurance reimbursement; as authorized by Minn. Stat. § 15.0412, subd. 5 (1977), pending completion of a full hearing and adoption of a permanent rule.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rule for 20 days immediately following publication of this material in the State Register by writing to Trudy Dunham, Insurance Reimbursement Specialist, Mental Health Bureau, Department of Public Welfare, 4th Floor, Centennial Office Building, Saint Paul, Minnesota 55155. The temporary rule may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the temporary rule.

Arthur E. Noot
Commissioner of Public Welfare

Temporary Rule as Proposed (all new material)

DPW Temporary Rule 29

A. Statutory Citation

B. Purpose

C. Applicability

D. Definitions

E. Minimum Standards

1. Treatment

2. Quality Assurance

3. Staffing

F. Approval Procedures

1. Application

2. Review

3. Method of Approval/Disapproval

4. Appeals

G. Application Fee

H. Duration of Approval

DPW Temporary Rule 29 (12 MCAR § 2.029) Standards for approval of mental health centers and clinics for insurance reimbursement.

A. Statutory citation. The authority for this rule is Chapter 506, Laws of Minnesota, 1980, codified as Minn. Stat. § 245.69, subd. 2.

B. Purpose. The purpose of this rule is to establish minimum standards for approval of public and private mental health centers and public and private mental health clinics in accordance with the authorizing statute and with Minn. Stat. § 62A.152, subd. 2, which requires certain group insurance policies and plans to provide benefits to covered persons for outpatient mental illness consultative, diagnostic, and treatment services.

C. Applicability.

1. This rule applies to those public and private mental health centers and public and private mental health clinics which seek the approval of the Commissioner of Public Welfare for purposes of group health insurance or subscriber contract reimbursement under the terms and provisions of this rule. This rule does not apply to the individual office practice of physicians or licensed consulting psychologists, or to licensed hospitals.

2. The provisions of this rule shall be severable. If any clause, sentence, or provision is declared illegal or of no effect, the validity of the remainder of this rule and its applicability shall not be affected.

3. Any provision of this rule inconsistent with any applicable state or federal law is superseded by that law.

4. Approval of a mental health center or mental health clinic under this rule does not convey or imply approval of a staff member of such facility to claim reimbursement from Medical Assistance or other third party payors when practicing privately. Approval of a mental health center or mental health clinic under this rule does not convey or imply approval of such facility to claim reimbursement from Medical Assistance.

5. Approval of a mental health center or mental health clinic under this rule constitutes approval only for purposes of Minn. Stat. § 62A.152, subd. 2. Approval shall not be construed as endorsement or accreditation by the Department of Public Welfare.

D. Definitions.

1. Application: The formal request by a mental health center or mental health clinic to the commissioner on the forms created for this purpose, to be recognized as meeting the requirements of Minn. Stat. § 245.69, subd. 2 and this rule, and therefore eligible to claim reimbursement for outpatient clinical services to persons with mental illness covered by group health insurance policies or subscriber contracts under the terms of Minn. Stat. § 62A.152.

2. Approval: The determination by the commissioner and written notice to the applicant that the applicant mental health center or mental health clinic has met the minimum standards of this rule and Minn. Stat. § 245.69, subd. 2.

3. Case review: A process of consultation which specifically addresses a client's condition and treatment, including issues of presenting problems, diagnosis and assessment, measurable treatment goals and objectives, treatment strategy, the appropriateness of the treatment and its duration, the outcomes of treatment, etc.

4. Clinical services: Services provided to a specific person or persons, to diagnose and prognosticate the recipient's status relative to a disabling condition or problem; and, where indicated, to treat the recipient to reduce impairment due to mental illness. This includes time spent in treatment planning, record keeping required for treatment, and quality assurance mechanisms.

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5. Commissioner: Commissioner of the Minnesota Department of Public Welfare or a designated representative.

6. Competent: Having qualifications and abilities to provide certain mental health services, based on experience, education, training and personal characteristics; having qualifications in assessment, diagnosis and treatment strategies, and the ability to work well with certain categories of clients.

7. Consultation: The process of imparting information or advice by one person or persons to another person or organization.

8. Continuing education: The process of planned augmentation of job related knowledge, understanding, and skills for the staff of a mental health center or clinic to assist staff in acquisition of the skills needed to update or enhance their competencies in the delivery of clinical services.

9. Deferral: The determination by the commissioner and written notice to the applicant that the applicant mental health center or clinic does not meet the minimum standards of this rule, a listing of the specific deficiencies and providing up to six (6) months to make needed changes as a prerequisite for approval.

10. Disapproval: The determination by the commissioner and written notice to the applicant that the applicant mental health center or clinic does not meet the minimum standards of this rule.

11. Documentation: Automatically and/or manually produced and stored evidence that will attest to the compliance with requirements of this rule.

12. Fee: The non-refundable charge for processing each application for approval under this rule.

13. Discipline: A particular field of study and training, e.g., psychiatry, psychology, clinical social work, psychiatric nursing and allied mental health field.

14. Group Health Insurance: An insurance policy providing insurance reimbursement for health-related services for persons enrolled with the insurance carrier as part of a covered group.

15. Legally constituted person: An organization that is constituted by at least one of the following: 1) charter, 2) articles of incorporation, 3) partnership, or 4) legislative or executive action; and that has a governing body that sets policy and is fully responsible for the operation and performance of the organization.

16. Mental health center: An outpatient mental health facility which offers clinical services and indirect services such as consultation, prevention, and community education; and is a legally constituted person.

17. Mental health clinic: An outpatient mental health facility or clearly identifiable outpatient mental health unit within an organization, which offers primarily clinical services; and is a legally constituted person.

18. Mental health practitioner: A staff member not in E.3.d, E.3.e, or E.3.f, providing clinical services under the direct supervision of a mental health professional, with identifiable training and areas of competence, and either a) bachelor's degree in a mental health field from an accredited college or university and one year of supervised clinical experience; b) three years of supervised clinical experience; c) a graduate student formally assigned to the center or clinic by their accredited college or university; or d) a masters or other graduate degree in a mental health field from an accredited college or university.

19. Mental health professional: A staff member listed in E.3.d., E.3.e., or E.3.g. providing clinical services including all Minnesota licensed psychologists and psychiatrists.

20. Mental illness: A condition with physiological, psychological, and social components, which results in an inability to interpret the environment realistically and in an impaired functioning in primary aspects of daily living such as personal relations, living arrangements, work, and recreation. For purposes of reimbursement under the terms of this rule, mental illness shall mean a condition listed in the International Classification of Diseases (ICD-9-CM) whose classification category and code is included in the range 290.0-302.99 or 306.0-315.99, or the corresponding code in the American Psychiatric Association Diagnostic and Statistical Manual (DSM-III), Axes I, II or III.

21. Multidisciplinary staff: All mental health professionals and mental health practitioners providing outpatient clinical services for mentally ill persons and employed by the center or clinic.

22. Subscriber contract: A contract, agreement, or other arrangement between a nonprofit health service organization and the subscriber (or an employer for the benefit of the subscriber) under the terms and conditions of which health service or reimbursement therefor is provided.

23. Treatment strategy: Particular form(s) or modality(s) of service delivery, appropriate to problems of mental illness and client characteristics which delineate the process for achievement of client goals.

E. Minimum standards.

1. Treatment standards.

a. Each mental health center or clinic shall establish a diagnostic and assessment process that provides services appropriate to the individual needs of clients for whom services are reimburseable through group health or subscriber contract. The diagnosis shall be by or under the direct supervision of and signed by a psychiatrist and/or licensed consulting psychologist, or by and signed by a licensed psychologist in collaboration with a licensed consulting psychologist.

b. Each mental health center or clinic shall have a case record and individual treatment plan for each client for whom treatment services are reimburseable through group health insurance or subscriber contract. The case record shall include a) the DSM/III or ICD-9-CM diagnosis; b) indications of clinical services received by the client, including peer review and consultation notes; c) the treatment plan; and d) at the closing of the case, a statement of treatment outcome. Case records shall be maintained sufficient to determine good practice. The individual treatment plan, based upon a diagnostic assessment of mental illness, shall be jointly developed by the client and mental health professional. The plan shall include a) client or family history; b) statement of the presenting problem as seen by the client; c) measurable treatment goals; and d) treatment strategy. Clinical services shall be provided in accordance with the plan, and updated as needed with the client. A mental health professional shall be responsible for the treatment of each client.

c. Clinical services shall be appropriate to the presenting problem, age, sex, socioeconomic and ethnic background of the client, and provided in the least restrictive manner. Clinical services shall be provided in accordance with existing professional codes of ethics.

d. If the appropriate treatment and/or the client desired treatment is not available at the mental health center or clinic, the facility shall make appropriate referrals for the client.

e. Each mental health center or clinic shall ensure clinical services are available to clients on an emergency basis.

f. Each mental health center or clinic shall have access to hospital admission for psychiatric inpatient care, and provide as needed by a client. This is not to be interpreted as requiring direct hospital admission privileges on the part of qualified personnel.

2. Quality assurance standards. Each applicant mental health center or clinic shall have established mechanisms for quality assurance and shall provide at the Commissioner's request, documentation of the maintenance and ongoing nature of at least the following:

a. Each mental health center or clinic shall document that staff providing clinical services function in a multidisciplinary manner. There shall be an integral and ongoing involvement of psychiatry, psychology and clinical social work or psychiatric nursing in the provision of clinical services, including diagnosis and assessment, treatment and quality assurance mechanisms.

b. The multidisciplinary staff shall meet at least twice monthly for a minimum of four (4) hours per month for multidisciplinary case reviews, peer consultations, treatment plan development and in-depth case discussions. Each mental health center or clinic shall develop and implement procedures which set standards for case review and encourage the ongoing consultation among multidisciplinary staff. Written minutes of the twice monthly consultation meetings shall be retained at the center or clinic for a period of at least three years.

c. Each mental health clinic or center shall ensure that the client has been informed by the multidisciplinary staff of the staff's assessment of the problem; treatment alternatives; possible outcomes and side effects of treatment modalities; staff recommendations for treatment; approximate length, cost and hoped for outcome of treatment; the prospective client's rights and responsibilities if (s)he consents to the treatment plan; staff rights and responsibilities; the Government Data Practices Act; and procedures for reporting alleged violations of client rights. If the client is considering chemotherapy, hospitalization, or other medical treatment, the appropriate medical staff member shall inform the client of the treatment alternatives, action of the medication or medical procedure, and its possible side effects.

d. Each mental health center or clinic shall have a multidisciplinary peer review system which shall include review of a randomly selected sample of at least 5% or 6 cases, (whichever is more) of the annual active treatment caseloads of each mental health professional. The purposes of peer review shall minimally include assurance that recorded clinical information is sufficient for purposes of clinical care and evaluation; and that diagnosis and treatment provided are appropriate, necessary and sufficient, and of good quality. Each center or clinic shall develop standards and criteria for multidisciplinary peer review of

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cases by mental health professional staff. Minutes of all peer review meetings shall be retained at the center or clinic for at least three years.

e. Each mental health center or clinic shall have an established staff supervision procedure. A staff organization chart and documentation of the ongoing nature and existence of supervisory activity shall be required.

f. Each mental health center or clinic shall have an established internal utilization review system. The system shall permit periodic examination of an agency's operations to determine if resources are being used effectively and efficiently, and review of the cost and quality of clinical services delivered. Utilization data is to be compiled and documentation of the application of such information to agency operations shall occur annually.

g. Each mental health center or clinic shall solicit client input regarding satisfaction with the quality of clinical services.

h. Each mental health center or clinic shall ensure that assignment for treatment is made to an appropriate staff member, competent in the recommended treatment strategy and in treating the individual client characteristics.

i. Each mental health center or clinic shall have a continuing education policy. All multidisciplinary staff shall continue their education as required by rule or statute, or in the absence of any requirement shall attend or otherwise participate in thirty-six (36) clock hours every two years of academic or practical course work and training approved by the governing body of the clinic or center and which is relevant to the identified training needs of the staff. In the event any continuing education requirements are developed pursuant to Minn. Stat. § 214 for any human services occupations which are part of the staff, this portion of this rule is hereby deemed amended to adopt the standards later developed pursuant to Minn. Stat. § 214.

j. Each mental health clinic or center shall develop procedures for the investigation and/or reporting of abuse of clients in accordance with the Vulnerable Adults Act, Minnesota Laws, 1980, Chapter 542; Reporting of Maltreatment of Minors, Minn. Stat. § 626.556; and existing professional codes of ethics.

k. Client information compiled by a mental health center or clinic, including case records and minutes of staff case-specific consultation, shall be protected as private data on individuals within the welfare system as provided in Minn. Stat. §§ 15.1611-15.1698, the Government Data Practices Act.

3. Staffing standards.

a. Each applicant mental health center and clinic shall employ a multidisciplinary staff in psychology, psychiatry and related disciplines consistent with any personnel standards developed pursuant to Minn. Stat. § 214 for any human services occupation now credentialed or which may be credentialed by the state. Employment records shall be maintained sufficient to determine the clinical services qualifications and terms and conditions of employment for each multidisciplinary staff person.

b. Each mental health center and clinic shall designate a mental health professional responsible for ensuring compliance with the rule standards.

c. The multidisciplinary staff shall be composed of at least four (4) mental health professionals. At least two (2) of the mental health professionals shall be employed full-time (minimally 35 hours a week) by the mental health center or clinic and shall be of different disciplines.

d. The mental health professional staff shall include a psychiatrist, board certified or eligible for board certification and licensed under Minn. Stat. § 147; and a licensed consulting psychologist, licensed under Minn. Stat. § 148.88-148.99.

e. The mental health professional staff shall include a clinical social worker with a masters degree in social work from an accredited college or university or its equivalent with at least two (2) years of post-masters supervised experience in direct clinical services and/or a clinical psychiatric registered nurse with a masters degree from an accredited college or university or its equivalent who is licensed under the Section Minn. Stat. §§ 148.171-148.285 with at least two years of post-masters supervised experience in direct clinical services. A minimum of one (1) hour of supervisory contact per week is required to classify clinical experience as supervised.

f. The mental health professionals required in E.3.d. and E.3.e. shall each be employed by the clinic or center in the form of an individual who is on-site and providing clinical services at least eight (8) hours every two weeks. This standard shall be considered minimal for the smallest clinic or center permissable under E.3.c. Larger clinics and centers shall employ or contract with these required professionals in similar proportion to ensure and document their ongoing presence and availability in the provision of clinical services.

g. The mental health professional staff may also include clinical, counseling, or health care psychologists with a master's degree from an accredited college or university or its equivalent with at least two (2) years of post-master's supervised experience in direct clinical services or who is licensed under Minn. Stat. §§ 148.88-148.99; and/or a person with a masters degree from an accredited college or university or its equivalent in an allied mental health field, which degree is established by

the person's official transcript to minimally include 36 semester hours of graduate course work in clinical theory and supervised clinical work, with at least two (2) years of post-masters supervised experience in direct clinical services. A minimum of one (1) hour of supervisory contact per week (35 hours of clinical services) is required to classify clinical experience as supervised.

h. No discipline shall be represented in a full-time equivalent proportion of the mental health professional staff greater than 60%. This provision does not apply to mental health centers and clinics with less than six (6) full-time equivalent mental health professional staff, though compliance with all other staffing standards is required. In determination of full-time equivalence, only time spent in clinical services shall be considered.

i. Mental health practitioners may be employed by a mental health center or clinic to provide clinical services in their documented area of competence for purposes of reimbursement. A center or clinic employed mental health professional shall be responsible for supervision of the practitioner, including a minimum of one (1) hour of face-to-face, case-specific consultative supervisory contact each week. All practitioners shall minimally attend two case-specific consultation meetings a month, and continue their education as required by E.2.i. All client cases receiving clinical services from a practitioner shall be reviewed at least once each two (2) months by the clinical supervisor; in addition, such cases are subject to the same agency peer review mechanism as all other cases. Mental health practitioners shall not comprise more than twenty-five (25) percent of the full-time equivalent total of all the multidisciplinary staff. In determination of full-time equivalence, only time spent in clinical services shall be considered. In the event practitioner standards are developed pursuant to Minn. Stat. § 214 which are not consistent with this section, those provisions of the rule are superceded by Minn. Stat. § 214.

F. Approval procedures.

1. Application.

a. An organization seeking approval as a mental health center or mental health clinic for insurance reimbursement of its outpatient mental illness services shall make formal application to the commissioner for such approval. The application forms for this purpose shall be obtained from the Mental Illness Program Division of the Minnesota Department of Public Welfare. The application forms shall require only such information as is required by statute or rule.

b. Payment of a nonrefundable application fee, established by the commissioner, shall accompany each application. A fee shall be required for reapplication following disapproval of a previous application.

2. Review. When a completed application has been received, the commissioner shall begin the formal review, including the on-site survey. Documentation of standards, as agency policy and as procedures implemented in the provision of clinical services, shall be reviewed. If implementation of a procedure is too recent to be reliably documented, a written statement of the planned implementation shall be accepted as documentation on the initial application. The review shall minimally include the following:

a. Review of documentation provided by the applicant organization of its multidisciplinary staff, education and training credentials, and areas of competence of both mental health professional and mental health practitioner staff.

b. Review of written agency policy and procedures for provision of clinical services in a multidisciplinary manner, and documentation of how the procedures are actually in effect on an ongoing basis.

c. Review of documentation provided by the applicant organization of its quality assurance procedures, including:

(1) A written agency policy on continuing education for all multidisciplinary staff providing clinical services, and an assessment of staff professional education and training needs, with the agency responsible for showing the relevancy of the continuing education to the identified training needs of its staff.

(2) The written policy and procedures to protect clients and inform them of their rights and the treatment process, including reporting and/or investigation of alleged violations of client rights and documentation on how the policy and procedures are actually in effect on an ongoing basis.

(3) Organizational structure including written procedures for multidisciplinary staff interaction and supervision.

(4) Written multidisciplinary case-specific consultation standards, criteria, policy and procedures.

(5) Written multidisciplinary peer review system standards, criteria, policy and procedures.

(6) Written client satisfaction assessment procedures.

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(7) Internal utilization review written policy and procedures, including the annual application of information to agency operations.

d. Review of written applicant organization policy and procedures for intakes, case assignment and diagnosis and assessment; referral policy; emergency service procedure, case termination procedure; and documentation on how the procedures are actually in effect on an ongoing basis.

e. Review of case record and treatment plan format and procedure.

f. Interview with a random sample of multidisciplinary staff of the organization.

g. Review of a random sample of treatment plans and case records.

h. The Department of Public Welfare shall ensure that the use and disclosure of information on applicants, their employees, and their clients in the approval process be safeguarded and in compliance with the Government Data Practices Act, Minn. Stat. § 15.1611-15.1699.

i. Unannounced site visits of the mental health center or clinic may occur during approval and deferral periods to verify continuing compliance with the rule. Any such visit shall occur only during normal working hours of the center or clinic, and shall not disrupt the normal functioning of the facility.

3. Method of approval/disapproval.

a. Upon completion of the on-site review, the reviewer(s) shall submit to the commissioner the survey findings with a recommendation to approve, defer or disapprove the application, and the reasons for the recommendation.

b. The commissioner shall send the applicant organization a letter of approval, deferral or disapproval within 30 days of the completion of the on-site review. If the decision is deferral or disapproval, the commissioner's letter to the applicant organization shall state the specific deficiencies.

c. The commissioner shall disapprove an applicant organization or withdraw approval when a mental health center or clinic is not in compliance with the authorizing statute and with this rule.

d. If an applicant is deferred, the length of deferral shall not exceed six months. If deficiencies stated in the deferral letter are not satisfactorily corrected by the end of the deferral period, the application is disapproved. At any time during the deferral period, the applicant may submit documentation indicating correction of such deficiencies; the commissioner shall then approve or disapprove the applicant within 30 days. At any time during the deferral period, the applicant may request the commissioner to change the applicant status to disapproval; the commissioner shall comply within 14 days of receipt of this written request. The applicant shall not be considered an approved clinic or center, or eligible for insurance reimbursement as such during the deferral period.

e. An approved center or clinic may submit claims for insurance reimbursement for services provided on or after the date the completed application is received by DPW, except for applicants deferred or disapproved during the review process. A deferred applicant may submit claims for insurance reimbursement for services provided on or after the date the commissioner signs a letter notifying applicant of approval. No center or clinic shall submit claims for insurance reimbursement as an approved clinic or center until receipt of written notice of approval by the commissioner, except as provided in F.3.f. and F.3.g.

f. The currently approved mental health center and clinic under Department of Public Welfare Rule 28 shall continue as an approved center or clinic for 180 days after the date this rule is effective provided that the center or clinic submits a completed application within 45 days after the date this rule is effective. Centers and clinics not submitting a completed application within 45 days shall lose their approval status effective 60 days after the effective date of this rule.

g. Each completed application received from a Rule 28 approved mental health center or clinic within the 45 days shall be reviewed. If the written application appears to meet all minimal standards, a letter of provisional approval by the commissioner shall be issued. The provisional approval shall enable the center or clinic to submit claims for insurance reimbursement as an approved center or clinic for a time period not to exceed 30 days after the on-site review. If the application does not appear to meet minimal standards, the applicant shall be notified of the deficiencies. The applicant shall lose approval status effective 180 days after the date this rule is effective if the deficiencies have not been corrected.

h. The Department of Public Welfare shall maintain an administrative file on each applicant for five (5) years, including:

(1) application and attached documentation;

(2) on-site survey report, or statement why it was not conducted;

(3) reviewer's report and recommendation to the commissioner;

(4) letters of approval, deferral and/or disapproval sent to applicant;

(5) appeal documents;

(6) reports of agency changes in policy, staff and/or services;

(7) other related correspondence.

i. The commissioner may accept as documentation for a specific standard, evidence of licensure or accreditation through another regulating body when the required minimum standards are the same as or higher than that of a specific provision of the rule.

4. Appeals. If a mental health center or clinic is disapproved, a contested case hearing and judicial review may be requested by an applicant organization as provided in Minn. Stat. §§ 15.0418-15.0425. A mental health center or clinic which is disapproved, or whose approval is withdrawn due to noncompliance, may reapply with a new formal application not sooner than ninety (90) days after notification of disapproval.

G. Application fee. An application fee, not to exceed $1,000, shall be established by the commissioner. The fee shall be based on the estimated cost of the application procedure and number of applicants; it shall be revised periodically as the commissioner deems necessary to ensure related expenditures are not in excess of fees collected.

H. Duration of approval.

1. Initial approval by the commissioner shall be valid for twelve (12) months from the effective date. Subsequent approvals may be valid for up to twenty-four (24) months. If an approved mental health center or clinic has met the conditions of this rule, including reapplication when required, its status as an approved mental health center or clinic shall continue in effect pending department processing of the reapplication.

2. The approval shall be issued only for the location(s) and mental health center or clinic named in the application, and shall not be transferable or assignable to another location or center or clinic.

3. Changes in mental health center or clinic staffing, treatment or quality assurance procedures that may effect the ability of the center or clinic to comply with the minimum standards of this rule shall be reported in writing to the commissioner within two weeks of occurrence. Review of the change shall be conducted within two weeks of notification. Organizations with changes resulting in deficiencies in minimum standards for approval shall be notified, and may have up to six months to correct deficiencies before losing approval status. Interim procedures to resolve the deficiency on a temporary basis shall be developed and submitted in writing to the commissioner for his approval. Nonreporting of change that results in deficiency, failure to develop an approved interim procedure, or nonresolution of the deficiency within six months, shall result in loss of approved status.

Energy Agency
Alternative Energy Development Division

Proposed Temporary Rule Governing Certification of Solar Collectors to Qualify Renewable Energy Source Expenditures for the Minnesota Individual Income Tax Residential Energy Credit

Request for Public Comment

The Minnesota Energy Agency proposes to adopt a temporary rule for the certification of solar collectors for income tax credit, pursuant to Minn. Stat. § 290.06, subd. 14 (1980). The proposed temporary rule provides that, until the agency promulgates permanent rules for the certification of solar collectors, solar collector expenditures which qualify for the federal renewable energy source residential tax credit shall be deemed certified by the agency for purposes of the Minnesota tax credit. Written comment, data and views will be accepted through March 16, 1981, and should be directed to John R. Dunlop, Manager, State Solar Office, Minnesota Energy Agency, 980 American Center Building, 150 East Kellogg Boulevard, Saint Paul MN 55101. The proposed temporary rule may be modified if the modifications are supported by the data and views submitted to the agency. **[The text of the above-referenced proposed temporary rule appears in this issue at S.R. 1298.]**

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA

Department of Public Welfare

Mental Health Bureau

PROPOSED TEMPORARY RULE GOVERNING APPROVAL OF MENTAL HEALTH CENTERS AND CLINICS FOR INSURANCE REIMBURSEMENT

REQUEST FOR PUBLIC COMMENT

Notice is hereby given that the Department of Public Welfare has proposed the following temporary rule for the purpose of implementing the provisions of Laws of Minnesota, 1980, Chapter 506, standards for approval of mental health agencies for insurance reimbursement; as authorized by Minn. Stat. §15.0412, Subd. 5 (1977), pending completion of a full hearing and adoption of a permanent rule.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rule for 20 days immediately following publication of this material in the State Register by writing to Trudy Dunham, Insurance Reimbursement Specialist, Mental Health Bureau, Department of Public Welfare, 4th Floor, Centennial Office Building, Saint Paul, Minnesota 55155. The temporary rule may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the temporary rule.

ARTHUR E. NOOT
COMMISSIONER OF PUBLIC WELFARE

Temporary Rule as Proposed (all new material)

STATEMENT OF COMPLIANCE WITH

RULEMAKING PROCEDURES

I, Special Assistant Attorney General Allen E. Giles, do hereby declare that I have examined the proposed rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Allen E. Giles

Special Assistant
Attorney General

Dated: March 16, 1980