



CENTRAL OFFICE

*Contributing to a Safer Minnesota*

August 5, 2010

Legislative Reference Library  
645 State Office Building  
100 Constitution Avenue  
St. Paul, Minnesota 55155

Re: In the Matter of the Proposed Amendments to Rules of the State Department of Corrections Relating to Adult Community-Based Residential Correctional Facilities; *Minnesota* Rules, Chapter 2920; Governor's Tracking Number AR 312

Dear Librarian:

The Minnesota Department of Corrections intends to adopt rule amendments governing adult-community based residential correctional facilities. We plan to publish a Dual Notice in the August 9, 2010, State Register.

The Department has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Department is sending the Library an electronic copy of the Statement of Need and Reasonableness at the same time we are mailing our Notice of Intent to Adopt Rules.

If you have questions, please contact me at 651-361-7152.

Yours very truly,

Diane Grinde

Inspection and Enforcement Unit

Enclosure: Statement of Need and Reasonableness



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## Minnesota Department of Corrections

### STATEMENT OF NEED AND REASONABLENESS

#### Proposed Amendment to Rules Governing Adult Community-Based Residential Correctional Facilities, Minnesota Rules, 2920

#### INTRODUCTION

The proposed Minnesota Department of Corrections Rules Governing Adult Community Based Residential Facilities is an amended version of Minnesota Department of Corrections Rules Governing Adult Halfway Houses, Chapter 2920. The last amendment of the halfway house rules was in 1985. A group, which includes current adult halfway house directors and Minnesota Department of Corrections staff, worked together from 2001-2009 to revise Chapter 2920.

#### ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request, contact Tracy Gerasch at Minnesota Department of Corrections, 1450 Energy Park Drive, Suite 200, St. Paul, MN 55108-5219, phone 651-361-7581, fax 651-306-0036, or TTY users may call the Minnesota Relay Service at 800-627-3529.

#### STATUTORY AUTHORITY

The department's statutory authority to adopt the amendment to these rules is set forth in Minnesota Statutes section 241.021, subdivision 1, which provides:

**“Correctional facilities; inspection; licensing.** (a) Except as provided in paragraph (b), the commissioner of corrections shall inspect and license all correctional facilities throughout the state, whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to law except to the extent that they are inspected or licensed by other state regulating agencies. The commissioner shall promulgate pursuant to chapter 14, rules establishing minimum standards for these facilities with respect to their management, operation, physical condition, and the security, safety, health, treatment, and discipline of persons detained or confined therein....(f) As used in this subdivision, "correctional facility" means any facility, including a group home, having a residential component, the primary purpose of which is to serve persons placed therein by a court, court services department, parole authority, or other correctional agency having dispositional power over persons charged with, convicted, or adjudicated to be guilty or delinquent.”

Under this statute, the department had the necessary statutory authority to adopt the proposed rules and thereby amend those rules. All sources of statutory authority were adopted and effective prior to January 1, 1996 and therefore Minnesota Statutes, section 14.125, does not apply. See Minnesota Laws 1995, Chapter 233, article 2, section 58.

## **REGULATORY ANALYSIS**

Minnesota Statutes, section 14.131, sets out seven factors for a regulatory analysis that must be included in the SONAR. Paragraphs (1) through (7) below quote these factors and then give the agency's response.

**“(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule”**

The classes of people that are most likely to be affected by these rules are the current programs licensed under Chapter 2920 Adult Halfway House Rules. All of these programs have been involved in the rewriting of this rule. In the future if a person or organization wants to open an Adult Community Based Residential Correctional Facility, they would also be affected by the rule. This is a rare occurrence and in 25 years only two new facilities opened. One of the facilities was opened by an existing program and the second is no longer licensed by the department.

**“(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues”**

Since the programs are currently licensed under the present rule, the group does not believe there will be significant costs to the programs under the amended rule. There is no anticipated effect on state revenues.

**“(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule”**

As stated above, if there are any costs they will be minimal.

**“(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule”**

This is an amendment of a current rule. The rule was mandated by statute. Most of the changes in the rule are a benefit or of no significant impact on the facilities.

**“(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals”**

The group does not believe that there will be significant increases in costs under the amended rule.

**“(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals”**

The primary consequences of not modifying the rule would be a continued confusion among facilities in terms of medical costs. Medical costs are not well addressed in the current rule, and this is becoming a much larger issue. Without the amended provisions the rule remains outdated and leads to variance and waiver questions. In addition the current rule has no mandatory standards, even though they are not all weighted the same. This leads to additional confusion that can be eliminated through adoption of the amended rules.

**“(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference”**

The group is not aware of any sections of the rule that are in contrast to federal regulations. Some of the programs that will be licensed under this rule also have federal contracts. The federal regulations were part of our discussion. Not all the programs that are licensed under this rule have federal contracts.

**PERFORMANCE-BASED RULES**

The proposed amendment to the Adult Community-Based Residential Correctional Facilities rule (Minnesota Rules, Chapter 2920) are performance based in that the amended rule provides for a clear delineation of mandatory standards for compliance from those that are essential. For example, the amended rule provides that it is mandatory that the public or private agency operating the facility is a legal entity or part of a legal entity. A facility will not be deemed to be in compliance with the amended rule if this is not the case. The amended rules clearly state when a standard is considered mandatory.

However, flexibility in the rule remains in that adult community-based residential correctional facilities are provided guidance on standards that are considered essential to compliant operation. In order to be in compliance with the rules a facility needs to obtain 90 percent compliance with the essential standards and 100 percent compliance with mandatory standards, unless a mandatory standard is waived.

**ADDITIONAL NOTICE**

We will distribute the amended rules, the Notice of Intent to Adopt and the Statement of Need and Reasonableness to all adult community based residential facility directors (9), most of which participated in the development of these amended rules. The adult community based residential facilities will be instructed to post the notice, SONAR and amended rules inside the facility in a location that is checked frequently by facility residents and staff, to ensure they are aware of the proposed rule amendments.

Our Notice Plan also includes giving notice required by statute. Currently the department does not have anyone registered on a mailing list to receive notice of rulemaking under Minnesota Statutes, section 14.14, subdivision 1a. However, we will mail the amended rules, the Notice of Intent to Adopt and the Statement of Need and Reasonableness to the following parties who may have an interest in this rule revision:

John Klavins  
Minnesota Association of County Probation  
Officers  
Carver County Court Services  
604 East Fourth Street  
Chaska, MN 55318

Minnesota Community Corrections Association  
Suite 101  
1931 West Broadway  
Minneapolis, MN 55411

Minnesota Corrections Association  
Suite S-256  
1821 University Ave. W  
St. Paul, MN 55104

Jeff Pollreis  
Minnesota Jail Programs and Services  
Stearns County Jail  
P.O. Box 217  
St. Cloud, MN 56302

John L. Fossum  
Chairman, Criminal Law Section  
Minnesota State Bar Association  
Suite 103  
516 South Water Street  
Northfield, MN 55057

Jacob Wetterling Resource Center  
Suite 14  
2314 University Ave. W  
St. Paul, MN 55114

Minnesota Association of Criminal Defense  
Lawyers  
Brandt Criminal Defense  
403 Jackson Street  
Anoka, MN 55303

National Alliance on Mental Illness of Minnesota  
Criminal Justice Project Director  
800 Transfer Road, Suite 31  
St. Paul, MN 55114

Minnesota Association of Women in Criminal  
Justice  
P.O. Box 47625  
Plymouth, MN 55447

Minnesota Association of Community  
Corrections Act Counties  
c/o Association of Minnesota Counties  
125 Charles Avenue  
St. Paul, MN 55103

Project Pathfinder  
Griggs Midway Building  
Suite N-385  
1821 University Ave. W  
St. Paul, MN 55104

Central Minnesota Re-Entry Project  
P.O. Box 6064  
St. Cloud, MN 56302

Mark Haase  
Director of Public Policy and Advocacy  
Council on Crime and Justice  
822 South 3<sup>rd</sup> Street  
Minneapolis, MN 55415

The Reentry Clinic at William Mitchell  
Room 254  
875 Summit Avenue  
St. Paul, MN 55105

In addition, we will post the Notice of Intent to Adopt, the SONAR and amended rules on the department's rulemaking page at: <http://www.doc.state.mn.us/publications/rules/default.htm>

We will also give notice to the Legislature per Minnesota Statutes, section 14.116.

#### **CONSULTATION WITH MMB ON LOCAL GOVERNMENT IMPACT**

As required by Minnesota Statutes, section 14.131, the department consulted with the Minnesota Management and Budget (MMB). We did this by sending the MMB copies of the documents that we sent to the Governor's Office for review and approval. The documents included: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The department submitted copies of the correspondence from Minnesota Management and Budget to OAH with the documents it submitted for ALJ review.

## **DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION**

As required by Minnesota Statutes, section 14.128, subdivision 1, the department has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The agency has determined that they do not because these rules deal primarily individual facility standards. All inspections and local requirements are determined by the local entities and the amended rules do not weigh in on those requirements.

## **COST OF COMPLYING FOR SMALL BUSINESS OR CITY**

As required by Minnesota Statutes, section 14.127, the department has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The department has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city.

The department has made this determination based on the probable costs of complying with the proposed rule, as described in the Regulatory Analysis section of this SONAR on pages 2-3. The department asked the directors of the adult community-based residential facilities (the small businesses impacted by these amended rules) whether there would be costs to them in implementing these rule revisions. The directors indicated that the costs would be minimal. The department concurs with the analysis.

## **LIST OF WITNESSES**

If these rules go to a public hearing, the department anticipates having the following witnesses testify in support of the need for and reasonableness of the rules:

1. Staff from the department's Inspection and Enforcement (licensing) unit.
2. Directors of the adult community-based residential correctional facilities involved in crafting these amended rules.

## **RULE-BY-RULE ANALYSIS**

**2920.0100 DEFINITIONS.** Throughout the definitions there are grammatical changes such as changing "is" to "means" or "CCF" to "facility." These do not change the intent of the definitions and have been noted as "minor grammatical changes" for purposes of this analysis.

**Subp. 2 Adult community-based residential correctional facility or facility.** The name was changed from Adult Halfway House to Adult Community Based Residential Correctional Facility. This occurred because it more accurately reflects the nature of the programs licensed under the rule; one of the programs licensed under this rule is an inpatient sex offender program, not a halfway house.

**Subp 3. Adults.** Under the definition of adult we added that an adult is someone who is under the jurisdiction of the adult court. This was done to encompass those juveniles certified as adults.

**Subp. 4. Applicant.** Minor grammatical changes.

**Subp. 5. Commissioner.** Minor grammatical changes.

Subp. 6. **Community correctional facility.** Repealed. This concept is now encompassed as part of Subp. 2 definition of adult community-based residential correctional facility.

Subp. 7. **Community Corrections Advisory Board.** Repealed. This concept is now encompassed as part of Subp. 12 definition of governing board or sponsoring agency.

Subp. 8. **Contraband.** Minor grammatical changes.

Subp. 9. **Corporal punishment.** Repealed.

Supp. 10. **Department of Corrections, department, DOC.** Minor grammatical changes.

Subp. 10a. **Direct service staff.** Added a definition for this group, as the term is used in the rule.

Subp. 11. **Program administrator.** Changed “facility” to “program” in all the appropriate places in the rule. Program administrator more accurately reflects the role of the administrator.

Subp. 12. **Governing board or sponsoring agency.** Separated board/sponsoring into board or sponsoring agency. Removed the wording specifying what the board consists of as the composition of a board is in the rule.

Subp. 13. **License.** Changed a year to up to two years as the inspection unit no longer inspects every year unless there are issues. Minnesota Statute 241.021 allows this.

Subp. 14. **Nonprofit corporation.** Repealed.

Subp. 14a. **Population.** This new definition replaced “target group” as the committee reviewing the rules determined that the term provided a more accurate representation of residents.

Subp. 15. **Private corporation.** Repealed.

Subp. 18. **Renewal license.** Repealed.

Subp. 19. **Residential facility.** Repealed. This concept is not encompassed as part of Subp. 2, definition of adult community-based residential correctional facility or facility.

Subp. 20. **Revocation of license.** Repealed.

Subp. 20a. **Service plan.** The term treatment plan is replaced with service plan, as most of the facilities are not treatment programs.

Subp. 21. **Significant others.** Repealed.

Subp. 22. **Substantially conform.** Repealed. The issue of compliance with the amended rule is moved to Part 2920.0210.

Subp. 23. **Supervising agent.** Repealed.

Subp. 24. **Suspension of license.** Repealed.

Subp. 25. **Target group.** Repealed. Replaced with the term population, see subp. 14a.

Subp. 26. **Treatment plan.** Repealed. Replaced with the term service plan, see subp. 20a.

Subp. 26a. **Variance.** The definition of variance is clarified by providing that a facility has been authorized to comply with a specific rule in a manner other than specified in the rule.

Subp. 26b **Volunteer.** Defined volunteer, a new term used in the amended rule, to encompass the concept of a person who is not employed by the facility, but is providing a service or program to residents on an ongoing basis.

Subp. 27. **Waiver.** Minor grammatical changes.

Subp. 28. **Youth.** Repealed. The concept of juveniles certified as adults is now encompassed in the definition of adults. See subp. 3.

#### **2920.0210 COMPLIANCE WITH RULES**

The current rules rely on a definition of substantial compliance as the standard for compliance with the rules; there are no distinctions for required and discretionary standards. The proposed changes rely on standards that are identified as “mandatory” and the remaining standards become essential. To be deemed compliant a facility must be 100 percent compliant with standards designated as mandatory, unless waived by the commissioner, and at least 90 percent compliant with essential standards. This compliance section now matches the definition for substantial compliance in Department of Corrections Chapter 2911 Rules Governing Adult Detention Facilities. There have been mandatory and essential standards in other Department rules for many years.

#### **2920.0500 APPLICATION FOR LICENSE**

This part defines the process that adult community based residential correctional facilities must go through to have a new license approved. The process is the formal notification that someone wants to open a facility.

Subp. 1. **Filing.** Minor grammatical changes to reflect new definitions.

Subp. 2. **Materials filed.** The proposed changes clarify and add to the materials that must be filed with the application.

- Fire inspection replaces fire-safety approval, as more accurate terminology.
- Addition of required documents by the municipality and the certificate of occupancy. Certificate of occupancy and/or conditional use permits are required by the local jurisdiction and would be needed to open.
- Addition of an organizational chart. The previous standard was not realistic as some programs under this rule belong to nationwide organizations, so the lists of other facilities



that is currently required may not be relevant to the facility that wants to open. An example is the Volunteers of America organization which currently has two halfway houses under the current rule. Volunteers of America also runs nursing homes, a list of these facilities would not be relevant to their application.

**Subp. 3. Relicensing application.** Repealed. Specifics on license renewal and limitations are contained in part 2920.1500 and are clarified there as part of these proposed changes, making this provision obsolete.

#### **2920.0800 CONDITIONS OF LICENSE**

The proposed changes to this part include minor grammatical changes to reflect the new compliance section and definitions. In addition a statement is added that variances and waivers must be listed on the license, which conforms to current practice. As the current part provides, a license is specific to a building, policies and procedures. Changing any of these could affect the number or type of clients that are acceptable. The continuation of this standard ensures that changes will result in a review of the facility. Currently capacity is approved for a certain number of residents based on floor plan and number of staff.

#### **2920.0900 REVOCATION, SUSPENSION, AND DENIAL OF LICENSE**

The proposed changes to this part include minor grammatical changes to reflect the new compliance part and definitions. In addition, the concept of a conditional license is added to conform to what is currently in practice. This allows the Department flexibility between approval and denial of a license.

#### **2920.1000 RESTRICTION OF USE OF ADULT COMMUNITY-BASED RESIDENTIAL CORRECTIONAL FACILITY**

The proposed changes to this part are grammatical to reflect the new compliance and definitional changes.

#### **2920.1100 VARIANCE OR WAIVER OF SPECIFIC RULE**

The proposed changes split this part into subparts governing the granting and the review of variances or waivers, waivers being new to the amended rule terminology. Grammatical changes are also made to reflect the new compliance language and definitions. In addition, language is added clarifying that a variance would not be granted for something that has a substantial negative effect on the public.

Variances and waivers are specific to each facility, as there are a number of items the Department reviews before they are granted. Another facility may not be granted a similar variance/waiver unless they have similar needs. The proposed changes adding subpart 2 on the review of variances or waivers provide that they will be reviewed at inspection to ensure they are still needed and the facility is still meeting the conditions of the variance or waiver.

#### **2920.1200 ON-SITE INSPECTION**

The proposed changes to this part clarify that once an application is received the review of that application will occur as part of an on-site inspection. In addition, the changes provide that the determination of the inspection must be provided to the applicant in writing.

### **2920.1300 NOTICE TO APPLICANT OF COMMISSIONER'S ACTION**

The proposed substantive changes to this part provide that in addition to the license, the Department will include a document containing a summary of the inspection findings.

### **2920.1400 APPEAL PROCEDURE**

The proposed changes clarify the appeal process on the part of both the facility and the department:

- Facilities will have ten *business* days from receipt of the *written* notice of the action taken on the application to appeal the decision. The current rule provides for ten days and is not specific to business days. In addition, the current rule does not provide that the 10 day clock starts from receipt of notice of the action in writing.
- The Department will advise the program administrator of the decision on the appeal no later than 30 days after receipt of the written appeal.
- The program administrator may file an appeal to the Office of Administrative Hearings.
- Following the report of the administrative law judge, the commissioner will make a final decision.
- While the appeal is in process with the Office of Administrative Hearings the facility may continue to operate, unless life, safety, or public safety issues exist.

The current rule only provides that the Department will give the facility reasonable notice and an opportunity for a prompt hearing before an impartial hearing examiner. The three final bullets provide clarifying detail to the appeals process.

### **2920.1500 LIMITATION ON LICENSE RENEWAL**

The changes proposed to this part are grammatical to reflect the new compliance and definitional changes. In addition, the new language clarifies the process of granting a new license if it has been revoked or not renewed.

### **2920.1800 LEGAL STATUS OF AND AUTHORITY FOR ADULT COMMUNITY-BASED RESIDENTIAL CORRECTIONAL FACILITY**

The proposed changes to this part clarify that a facility must be a legal entity as part of the mandatory standards, to protect the individuals who "own" it from personal liability. The facility must identify its mission and population; this allows a determination to be made as to whether the facility should be licensed by the rule. The proposed change also adds as a mandatory the standard that the facility must have a governing board which ensures the mission of the program is maintained. A governing board is required by Minnesota Statutes, Chapter 317A, Nonprofit Corporations. At this point in time all of the facilities licensed under Chapter 2920 are nonprofits.

### **2920.2000 MEETING TO BE HELD**

The proposed change continues to ensure that the governing board is meeting and involved in the policies of the program. The amended rule changes the standard from a quarterly meeting to a biannual meeting. This change was requested by the committee involved in amending this rule. The boards may not be involved enough to explore problems and implement the program, therefore this wording was removed.

#### **2920.2100 RECORD MAINTENANCE**

Minor grammatical changes

#### **2920.2400 ARTICLES OF INCORPORATION OR CONSTITUTION**

The proposed change to this part makes the standard mandatory that the facility have a constitution or articles of incorporation, to protect the facility. All current facilities are incorporated.

#### **2920.2500 MANAGEMENT; GENERAL**

The proposed change to this part makes it mandatory that the facility is managed by a single administrative officer, to provide facilities with clear leadership.

#### **2920.2600 MONITORING SYSTEM**

Minor grammatical changes

#### **2920.2700 OPERATIONS MANUAL**

The proposed changes to this part clarify that an essential standard for facilities is to ensure there are policies and procedures for operating the program. The proposed changes list specific chapters that must be included, subjects that all community corrections residential programs need to deal with. This ensures staff knows what the expectations are. In addition the proposed changes clarify the language related to annual review of the manual, requiring documentation in writing, to ensure that policy is up to date.

#### **2920.2800 BYLAWS**

Minor grammatical changes

#### **2920.3000 ANNUAL WRITTEN BUDGET**

Minor grammatical changes

#### **2920.3200 FINANCIAL AUDIT**

Minor grammatical changes

#### **2920.3400 WRITTEN FISCAL SYSTEM**

Minor grammatical changes

#### **2920.3600 INSURANCE COVERAGE**

The proposed changes make it mandatory that facilities carry professional liability, workers' compensation and physical plant insurance to protect the facility. The types of insurance included were reworded to reflect current insurance policies.

#### **2920.3700 PERSONNEL POLICIES; GENERAL**

The amended rule makes minor grammatical changes to Subparts 1-3, 8 and repeals Subp.4 (benefits language is included in Subpart 1). Subparts 6 and 7 are made mandatory, requiring 24-7 availability of staff and providing a more specific staff ratio, ensuring adequate staff for security and programming.

#### **2920.3800 TRAINING PROGRAM**

The proposed changes ensure staff receives appropriate on-going training. Subparts 1 and 2 are made mandatory to ensure the facility plans for training. Subpart 1 adds to the number of hours of orientation to ensure there is adequate training for new staff. Subpart 2 changes reduce the hours of ongoing training to match other DOC rules and provide that training must be relevant to the staff member's duties, which eliminates the need for subparts 3 and 5 which are repealed. In addition, subpart 2 denotes that training must be documented. Subpart 4 relating to first aid/CPR is clarified by noting that it is required for staff that provides direct services to residents, as staff need to be able to respond to emergencies.

#### **2920.3900 MANTOUX TEST OR CHEST X-RAY REQUIRED**

The proposed change makes it mandatory that staff is screened for tuberculosis, as this is required by Minnesota law.

#### **2920.4000 QUALIFICATIONS OF STAFF**

The proposed changes add specifics to the minimum qualifications of staff, to ensure qualified people are being hired. Subpart 5 is added noting the basic requirements and allowing facilities flexibility to hire individuals who have a criminal record; this is addressed by allowing such an action as long as the prospective staff member is no longer on active correctional supervision. Subpart 6 is added requiring facilities to have written job descriptions on file, ensuring employees know what is required of them

#### **2920.4100 STUDENTS OR VOLUNTEERS**

The proposed changes delineate that facilities must have written policy and procedures in place when students and volunteers are used, including: lines of authority, screening procedures, orientation, student/volunteer written agreement to follow program rules and policies, and notation that administrator may discontinue use of volunteer activity in writing at any time. These changes are made because students and volunteers are individuals that are at high risk of residents attempting to manipulate them; there must be standards in place to protect them.

#### **2920.4300 ADMISSION POLICIES**

The proposed changes require referral sources to provide appropriate information on residents before they arrive at the facility, to ensure standardized records are kept and the facility is accepting appropriate people.

#### **2920.4400 ADMISSION FORM**

The proposed amendment makes minor grammatical changes and adds medications, driver license or state ID, and vehicle title and insurance. These changes are made to account for the fact that more residents are being placed while on medication and to document that a resident has proper ID and vehicle title and insurance to ensure the resident can drive.

#### **2920.4600 RESIDENT ADMISSION**

The proposed changes clarify that upon admission residents are told the general rules and the expectations of them and that this information is documented in writing, ensuring that all residents have access to the same information.

### **2920.4900 RESIDENT RECORDS**

The proposed changes convert this part from a general statement on service plans to how facilities must handle resident records. The part is split into 12 subparts. The proposed changes ensure that records are safely kept and the facility is monitoring service plans so residents are receiving more than just a bed and meals. In addition, the changes ensure that if the facility accepts sex offenders the specific laws governing sex offenders are followed. The changes also specify that residents need to be informed what information is going to be shared and under what circumstances, and that records are kept as required by Minnesota data practices law. In addition, the amended rule addresses the minimum period of time a record must be retained, in case there is a need to go back to the records. Finally, the changes spell out what needs to be on a release of information consent form. Many similar provisions are currently contained in Part 2920.7500, which in the amended rule now deals with medical consent and records.

### **2920.5000 INVOLVEMENT OF RESIDENT IN FAMILY AND COMMUNITY ACTIVITIES**

The proposed changes make minor grammatical corrections to subparts 1 and 2 and add subparts covering visitation, correspondence and telephone use, as they are important elements but were not in the prior rule. In addition, the proposed changes make each of these subparts mandatory standards. Mandatory that there is a visiting plan so that residents are allowed visits. Mandatory there is a correspondence plan so that residents are allowed their mail unless there are specific reasons. Mandatory that they have telephone policy so residents are allowed contact with attorneys and family. These subparts facilitate community support for residents.

### **2920.5100 WORK ASSIGNMENTS**

The proposed changes add that facilities need to have written policy and procedures on work assignments, under the current rule there are no policy and procedure requirements. The proposed changes clarify that residents may not be required to perform staff duties. The proposed changes also remove a vague and unrealistic requirement of staff to check and inform residents of minimum wage law, health and safety laws, social security, labor union fees, and other requirements. The final proposed change comes at the request of committee members, at times residents come in with special skills and this may give them an opportunity to make some extra money. The proposed changes require staff to receive program administrator approval and documentation for business arrangements or financial transactions that involve residents.

### **2920.5200 ADULT COMMUNITY-BASED RESIDENTIAL CORRECTIONAL FACILITY RULES AND GRIEVANCES**

The proposed changes make minor grammatical changes and add an appeals process on the grievance procedures.

### **2920.5300 RELIGION**

The proposed changes implement, as mandatory, a requirement that facility policy establish that residents have a right to freedom of religious affiliation and that programs with religious components have written policies and procedures regarding expectations and programming. Religion can be a significant issue with residents, there is currently a Christian based program and many of the people that want to open programs are Christian based so it will be mandatory that they address this in policy.

### **2920.5400 FOOD SERVICE**

Food service standards are in place to ensure residents receive an adequate amount of nutritious food. The proposed changes reference the health department rules on food service and make it mandatory that facility menus meet recognized dietary standards, requiring a documented biennial review by a registered dietitian or nutritionist. Since the menus do not change very often, the drafting committee determined that the menu must be reviewed if it changes. The changes also provide that if a facility is preparing meals, the health department requires that there be a certified food manager. Food manager certification is fairly easy to get and is not too expensive. The changes also suggest that facilities should have policies to address therapeutic and religious diets. In addition, the facility must keep records of substitutions, so that a dietitian can review what is actually being served. Finally, the proposed changes provide that one of the meals served daily must be hot, as not all residents are allowed to leave.

### **2920.5700 DISCIPLINE AND DISCIPLINARY ACTION**

In addition to making minor grammatical changes, the proposed changes make it mandatory when disciplinary action is taken that the rule requirements are followed, as discipline can affect loss of liberty. The proposed changes include that written policy on room restrictions address the length of time and staff contact, which ensures that residents are not left in their room too long and that they are checked on. In a similar manner, written policy must address restrictions to the facility, since the purpose of these facilities is to allow people more freedom. The committee felt there should be a review if residents are restricted to the house for a period of time. Also included is a supervisory review of major violations and a requirement that disciplinary actions are documented.

### **2920.5900 SECURITY PROCEDURES**

Due to the population of residents, security is an important issue. The old part A, which is removed, was similar to the proposed part A; which requires an accounting of residents at all times. The remaining parts are renumbered accordingly, grammatical/clarification changes are made and part E is removed. Part D is amended to allow law enforcement to bring weapons on the grounds during the course of duties and addresses use of chemical agents by trained staff.

### **2920.6000 PERSONAL POSSESSIONS**

The proposed changes provide for minor grammatical corrections and the addition of language that requires residents to designate a person who may pick up/dispose of property. Property being left behind has become more of an issue, this new provision addresses that issue.

### **2920.6100 PUBLIC REPORTS, STATEMENTS, OR APPEARANCES**

Minor grammatical changes

### **2920.6200 SEARCHES**

Minor grammatical changes are made and a statement is added that facilities must have a policy that addresses searches of visitors. The search of visitors was added as visitors have been known to bring contraband and this gives the facility an option to search visitors if there is a suspicion.

#### **2920.6300 COMPLIANCE WITH LAWS**

Minor grammatical changes are made along with making this part a mandatory standard, to ensure the facility is receiving all of the necessary inspections. Since the health department and fire department do not always require a yearly inspection annual inspections were taken out. In the alternative, the amended rule provides that health and fire inspections must be done as required by these departments.

#### **2920.6400 FIRE SAFETY; POLICY AND PROCEDURES**

Staff at facilities can change regularly and many times there is only one staff on duty, therefore the proposed changes provide that new staff be trained on emergency procedures during orientation. The amended rule also clarifies that fire drills should be done annually and that facility procedure should require that there is one staff that is knowledgeable about fire hazards and monthly inspections are completed and documented.

#### **2920.6500 DISASTERS AND EMERGENCIES; PLANS AND PROCEDURES**

Currently the rule provides that facilities should have plans and procedures for handling emergencies and disasters. However there was no requirement in the rule that facilities report unusual or serious incidents to the department. The proposed change requires facilities to report on any incident listed in the rule. This is done by facilities under the department's other rules. Adding this ensures that every facility is treated the same. The current facilities are already reporting much of this information.

#### **2920.6600 BUILDINGS AND GROUNDS**

Minor grammatical changes are made and a reference is provided that facilities should have a maintenance budget for ongoing repair and replacement of equipment. These standards and changes are necessary to ensure the facility is physically safe and has a budget to maintain its grounds. Most of these programs are in older renovated buildings so maintenance is an ongoing issue.

#### **2920.6700 BEDROOMS; REQUIREMENTS**

Currently subpart 4 provides that male and female residents may not occupy the same bedrooms, nor may youth and adults. This subpart is amended, striking the youth component and referencing parenting programs. A new subpart 6 is then added to provide that adults and children may not share bedrooms, and an exception is added for the parenting program. Currently one female halfway house has a parenting program.

#### **2920.6800 FURNISHINGS PROVIDED EACH RESIDENT**

The proposed changes take the chair out of the required furnishings, as facilities have a hard time keeping chairs in rooms.

#### **2920.6900 COUNSELING SPACE AND VISITING ROOM**

Minor grammatical change

#### **2920.7200 TRANSPORTATION**

Minor grammatical changes

### **2920.7300 ENVIRONMENT**

Minor grammatical changes are made and language relating to concurrent licensing for family day care or group care is removed, which is not relevant to this rule.

### **2920.7400 HEALTH CARE AND MEDICAL SERVICES**

Medical issues are becoming more and more of an issue at the facilities and more residents are coming to facilities with medications. The facility must have a system to handle health issues. Therefore, subpart 1 is amended to provide that it is a mandatory standard for facilities to have written policies and procedures regarding medical, dental and psychological emergencies. Subpart 3, regarding medication, is amended to provide more detail and mandatory standards regarding use, storage, disbursement, and destruction of medication as well as requiring policies regarding over-the-counter medications. Subpart 4, on involvement in research, is amended to provide that it must be voluntary involvement with informed consent. Subpart 5 is amended to provide that it is mandatory that first aid equipment is available, as this could help save someone's life. In addition language regarding staff training in cardiopulmonary resuscitation is added.

### **2920.7500 RECORDS AND EVALUATION OF RESIDENTS**

Medical records are private, so the facility has to have a system to be able to look at medical records when necessary and deal with life threatening illnesses. Subparts 2 and 3 relating to medical consent and records are simplified and retained in this part. Many of the other records provisions in the amended rule are repealed here and moved to 2920.4900, Resident Records.

### **2920.7600 PERSONNEL RECORDS**

Minor grammatical changes are made. In addition, the proposed changes take out reference letters, as requiring these is a facility decision. Also removed are annual evaluations, which is an organizational decision. Added to this part are Tuberculosis screening records, which are needed to determine if the law is being followed, and criminal record checks which are a resource available to facilities.