

March 10, 1987

Frank Milczark, Chief Executive Officer
Moose Lake Regional Treatment Center
1000 Lakeshore Drive
Moose Lake, MN 55767

Dear Mr. Milczark:

CORRECTION ORDER

On January 26 - 30, 1987, the Moose Lake Regional Treatment Center, was reviewed to determine compliance with the provisions of Minnesota Rules, parts 9525.0210 through 9525.0430 and 9555.8000 through 9555.8500, which govern the licensure of residential services and day programs for mentally retarded persons. The licensed capacity of the program was 101 adults. At the time of the review 94 adults were receiving services. The scope of this review included Buildings SDC2, and SDC8, and day programs for persons with mental retardation.

VIOLATIONS AND CORRECTION ORDERS

The following violation(s) of state and (or) federal laws and rules were observed. Corrective action for each violation is required by Minnesota Statutes, section 245.805, and is hereby ordered by the Commissioner of Human Services. Failure to correct the violations within the prescribed amount of time may result in fines and/or action against your license, as provided for in Minnesota Statutes, sections 245.801 and 245.803.

To assist you in complying with the correction orders, a "suggested method of correction" may be included for any or all of the violations cited. Please be advised that a "suggested method of correction" is only a suggestion and you are not required to follow the "suggested method of correction." Failure to follow the "suggested method of correction" will not result in a fine or an action against your license. However, regardless of the method used, you are required to correct the violation(s) within the prescribed amount of time.

1. Citation: Minnesota Rules, part 9555.8200, subpart 3.

Violation: The facility program abuse prevention plan does not adequately assess the population, environment, and physical plant of each building where living arrangements are provided. The assessment of the population does not include a description of age, sex, and the knowledge of previous abuse that is relevant to minimizing the risk of abuse to clients. The assessment of the physical plant does not include a description of the condition and design of the building and areas of the building which are difficult to supervise. The assessment of the environment does not include the location of the program in a particular neighborhood or community, the type of grounds surrounding the buildings, the type of internal programming, and the program's staffing patterns.

Time Frame for Correction: By May 1, 1987, submit a copy of a program abuse prevention plan for each building which includes all required assessment factors.

2. Citation: Minnesota Rules, part 9555.8300, subpart 2.B.

Violation: The individual abuse prevention plans are inadequate to address the assessed vulnerabilities of individual residents. There is an over-reliance on the program abuse prevention plans for the measures to be taken to minimize the risk of abuse to individuals. For example:

- a. The individual abuse prevention plan for resident #01-91-60 stated that schizophrenia was an assessed area of vulnerability. The individual abuse prevention plan referenced the program abuse prevention plan for measures to minimize the risk of abuse. However, the program plan was not specific, and did not define or address this resident's specific vulnerabilities related to mental status.
- b. The individual abuse prevention plan for resident #01-45-65 stated that sexual relationships are an area of vulnerability. The vulnerability was described as "naive regarding sex and sexual relationships, has approached people for sexual gratification." The individual abuse prevention plan referenced the program abuse prevention plan and the individual program plan for measures to minimize the risk of abuse. However, the program abuse prevention plan did not specifically address this resident's vulnerability, and the individual program plan only refers to a goal which is to prevent pregnancy.
- c. The individual abuse prevention plan assessment for resident #01-91-42 identified sexual naivete as an area of vulnerability. No individual abuse prevention plan was developed nor was this area of vulnerability addressed in the program abuse prevention plan.

Time Frame for Correction: By June 1, 1987, submit evidence that 25 percent of the resident records have been reviewed for identification of all vulnerabilities not addressed by the program abuse prevention plan. All residents must be reviewed and revised by the Interdisciplinary Team (IDT) by March 1, 1988. Submit a report which lists the residents for whom plans have been revised every 90 days.

3. Citation: Minnesota Rules, part 9555.8300, subparts 3 and 4.

Violation: The client did not always participate in the development of the individual abuse prevention plan or have a client representative participate with the client in the development of the plan. The reasons the client did not participate were not documented by the team in the plan. For example: During the interdisciplinary team meeting for resident #02-52-30, on January 28, 1987, neither the resident or a representative participated in the review of the individual abuse prevention plan. The program director asked for additions or changes to the plan, but never addressed the resident or specifically asked for input from a resident representative.

Time Frame for Correction: Beginning May 1, 1987, and on a continuing basis, persons responsible for the content of the IDT reviews shall elicit input of the client or representative in developing or reviewing individual abuse prevention plans.

4. Citation: Minnesota Rules, part 9555.8400, subpart 8.

Violation: The program did not post a copy of the current internal reporting policies and procedures in a prominent location in the facility. The procedures posted were the October 1985 version, without the addendum of December 1986. The 1985 procedures do not inform reporters that reports may be made directly to outside investigative authorities. In Building SDC2, the reporting procedures were locked behind glass and not accessible except with the use of the key kept in the office.

Time Frame for Correction: By May 1, 1987, submit evidence that the December 1986 addendum to the reporting procedures has been posted, and that all posted information is readily accessible. Also submit evidence that all mandated reporters have been informed of the changes.

5. Citation: Minnesota Rules, parts 9555.8500, subpart 1, and 9525.0400, subpart A.

Violation: In 3 of 14 personnel files reviewed, orientation was not documented regarding (a) the philosophy, organization, program, practices, and goals of the residential program; (b) requirements of Minnesota Statutes, section 626.557, Minnesota Rules, parts 9555.8000 to 9555.8500, and all internal policies and procedures related to clients.

Time Frame for Correction: By July 1, 1987, submit evidence that all employees have received the required orientation, and that the facility has developed a procedure for continued monitoring.

6. Citation: Minnesota Rules, part 9555.8500, subpart 2.

Violation: Of the 14 employee training records viewed, five did not contain evidence, in 1986, of annual training on Minnesota Statutes, section 626.557, Minnesota Rules, parts 9555.8000 through 9555.8500, and all internal policies and procedures related to clients.

Time Frame for Correction: By July 1, 1987, submit evidence of completed training for all mandated reporters, including volunteers.

7. Citation: Minnesota Rules, part 9555.8500, subpart 3.

Violation: The program does not have a current list of persons who provide services in the program, and who meet the definition of a mandated reporter.

Time Frame for Correction: By May 1, 1987, develop and submit a list of all mandated reporters, including employees, consultants, and volunteers including providing services to residents.

8. Citation: Minnesota Rules, parts 9525.0260, subpart 2 and 9525.0290, subpart 2.

Violation: Residents were not consistently allowed free use of all space within the living unit; residents did not consistently have access to personal possessions and individual toilet articles because of locked or inaccessible storage. For example:

- a.) In Building SDC2, apartment 2, the majority of the clothing storage cabinets are locked; grooming supplies are locked in both tubrooms and bathrooms; supplies for activities were locked in cabinets.
- b. In Building SDC2, apartment 3, grooming supplies were locked in the bathroom; supplies for activities were locked in cabinets.
- c. In Building SDC3, all exterior doors were locked; program and activity and grooming supplies were locked in cabinets; televisions were enclosed in boxes with plexiglass fronts; the stereo in apartment D was too high for residents to reach; shower and tubrooms were locked. According to staff, showers and tubrooms were locked because one resident had a water fixation, and although a program plan was developed, the 26 other residents did not have free access to these areas.

- d. The facility abuse prevention plan states that the use of electrical equipment (e.g., coffee-makers, stoves, toaster-ovens) is restricted to staff.

Time Frame for Correction: Identify all areas where locked doors are being used and evaluate the current need for these locked doors. Either remove locks, or, if locked doors are required to protect the health or safety of residents, develop individual program plans to address the behaviors that make the continued use of locked doors necessary. New individualized programs must be incorporated into each resident's individual program plan by September 1, 1987. Submit the results of the evaluation by June 1, 1987.

Suggested Method of Correction: Access to equipment and supplies could be provided by allowing residents possession and use of keys to unlock private storage areas.

9. Citation: Minnesota Rules, part 9525.0280, subparts 2 and 4.

Violation: The living unit staff did not consistently devote their attention to the care and development of the residents as their primary responsibility. Living unit staff were not consistently maintaining a warm, family, or home-like environment conducive to the achievement of optimal development by the resident. Living unit staff were not consistently training residents in activities of daily living and in the development of self-help and social skills. The rhythm of life in the living unit did not consistently resemble the cultural norm for the residents' handicapped peers. For example:

- a. In Building SDC8, apartment A, on the evening of January 28, 1987, two staff were on break and one staff was in charge of the living unit. The staff in charge was doing clerical work while the residents watched T.V. One resident chewed on a towel or bib and the zipper for his pants was open. There was no intervention or staff interaction observed.
- b. In Building SDC2, apartment 3, on the same evening, one resident was lying on the living room floor and masturbating; there was no intervention.
- c. In Building SDC8, apartment A, at 7 p.m. in the evening, five of approximately 14 residents were in their pajamas. By 8 p.m., all but four residents were in bed. In apartment B, all but three of approximately 14 residents were in their beds by 8:15 p.m. In apartment C, all but six of 16 residents were in pajamas or in bed by 8:20 p.m. In apartment F, all but two residents were in their beds by 8 p.m. Interviews with staff revealed that usually all residents were in bed by 8:30.

- d. In Building SDC8, apartment A, one resident wore her nightgown backwards during the evening activities. In apartment B, one resident had crumbs down the front of her clothing; one resident was sitting in her wheelchair wearing only a diaper and a top. In apartment F, one resident's pants hung excessively low revealing his buttocks; one resident sat in his wheelchair in the hall with only a towel over his lap.

In Building SLC2, apartments 2 and 3, two residents were walking with untied, dragging shoelaces.

There was no intervention in any of the above cases.

- e. In Building SDC8, apartment F, all residents were having their teeth brushed in the living room.
- f. There were strong urine odors in the following areas: Building SDC2, apartment 2, room 220 and N's room; Building SDC8, apartment A, men's bathroom and rooms A07 and A08; apartment B, living room; apartment C, rooms C05 and hallway; apartment D, rooms D04, D06, and hallway.

Time Frame for Correction: By July 1, 1987, submit (a) an evaluation of residential programs using criteria related to rhythm of life, cultural norms for non-handicapped persons, and more productive use of staff time, (b) evidence of staff training in the normalization principle and incidental learning, (c) a timetable to correct the violations above, and as well as violations identified in the evaluation.

10. Citation: Minnesota Rules, part 9525.0280, subpart 9 and 9525.0430.

Violation: The facility did not consistently provide for the prompt recognition of behavior problems and appropriate management of behavior in the living unit; behavior programs were not always directed to the goal of maximizing the growth and development of the residents. Recorded information was not consistently adequate to plan and evaluate the resident's program, or provide a means of communication among all persons contributing to the resident's program. For example:

- a. A behavior program was developed by the IDT to address maladaptive behaviors. Although the objective targeted two maladaptive behaviors, the program methodology targeted six behaviors for modification, and the data collection system targeted four behaviors for charting.
- b. A behavior program was developed for resident #01-91-60 over five years ago to reduce aggression, including headbanging. Lack of consistent application of the program may be preventing the opti-

mal growth of the resident. The program is implemented only from 3 p.m. to 8 p.m. weekdays and from 9 a.m. to 8 p.m. weekends. Staff stated the program is not followed at the day program because it is "not necessary." If this is accurate, similar strategies should be used in the residence, eliminating the need for the program. However, no changes were made in the program to address this inconsistency; the only change noted at the monthly meeting in January 1987, was "Banging head is considered property destruction, not self-injurious behavior. No other changes were noted."

Further, another program objective for this resident requires a performance criterion of 95 percent. For five consecutive months, the performance level was above 95 percent, but there was no program change.

- c. A behavioral program to reduce aggression and self-injurious behavior has been implemented for resident #02-52-30. Data have not been collected on self-injurious or aggressive behaviors occurring as a result of the consequence (manual restraint). The resident record indicates that the majority of behaviors may occur as a result of the restraint. To adequately assess the effectiveness of the behavioral program in reducing aggressive or self-injurious behaviors data should be collected on all occurrences of the behavior. If the behavior increases as a result of the treatment plan, the plan should be revised.
- d. For resident #01-45-65, there are data being collected on putting dirty clothes in the laundry room hamper each evening; however, the program plan data November 19, 1986, does not list this goal.
- * e. In resident records reviewed, objectives were not time limited, e.g., for resident #01-94-77, one objective developed in 1984 and one objective developed in 1985 were still being implemented with no rationale for continuation. *

Time Frame for Correction: Beginning May 1, 1987, and on a continuing basis as annual reviews occur, the IDT of each resident shall: (a) develop data collection systems consistent with targeted behaviors, (b) document review of consistency of application, (c) discontinue or revise programs already mastered, (d) develop complete criteria with specifically defined levels of performance, (e) require actual baseline data before developing behavioral programs, and (f) review all phases of program treatment plans for positive outcomes. By July 1, 1987, submit copies of three programs which reflect these requirements.

11. Citation: Minnesota Rules, part 9525.0280, subpart 13.

Violation: When behaviors required the use of chemical restraint

(behavior controlling medications), the facility did not consistently record a description of the behavior to be modified, expected behavioral outcome, possible side or secondary effects, date for review or termination, and actual behavioral outcome.

For example:

- a. A review of the records for residents #01-91-60 and #01-45-65 showed that target behaviors were not specific; the behaviors were stated as "agitation," "aggression," and "self-injurious behavior." The expected behavioral outcome was not specific; the outcome was defined as "decrease." There was no documentation of the actual behavioral outcome in either record.
- b. For resident #02-05-53 a medication, Lorazepam, is given for agitation. There was no evidence of a record of possible side effects. Also, the record shows that Chlorpromazine was discontinued in 1983, but references to the drug are currently found on the medication sheets and in the day program record.

Time Frame for Correction: By June 1, 1987, submit evidence that all records for residents receiving behavior controlling medications have been reviewed and revised to include a specific description of the behaviors to be modified, the expected and actual behavioral outcomes, possible side effects, and date for review or termination. Submit evidence that the inconsistency in resident record #02-05-53 has been clarified.

12. Citation: Minnesota Rules, part 9525.0280, subpart 14.

Violation: Behavior modification programs involving the use of time-out devices or the use of noxious or aversive stimuli did not have the consent of the affected resident's parent/guardian.

The required consents were not present in the records for residents #02-52-30, #01-65-49, #01-91-60, #01-45-65, #02-12-03, and #01-45-65.

Time Frame for Correction: By May 1, 1987, submit evidence that proper consents have been obtained for behavior modification programs involving the use of time-out devices, or the use of noxious or aversive stimuli.

13. Citation: Minnesota Rules, part 9525.0320, and parts 9525.0330, subparts 1 and 2.

Violation: Not all residents were provided with an adequate annual individual assessment, including behavioral and physical status. Assessments did not consistently include the resident, parents, and living unit staff. For example:

- a. The Minnesota Developmental Programming System (MDPS) assessment completed on resident #01-94-77 had 360 of 440 items that were blank, indicating a need for an assessment tool for lower functioning people. The MDPS assessment for some other residents, e.g., resident #01-91-60, appeared to be inadequate to assess skills for higher functioning people.
- b. There were no dates on the assessments for residents #01-94-38 and #01-45-65, thus making it impossible to know if the assessment was current.
- c. In the records for resident D., SDC8, apartment A, resident #01-45-65, resident #01-91-60, resident #01-52-30, and resident #01-62-83 there was no documentation that they were included or in the assessments (or documentation they were capable of participating) or that data were supplied by parents, as appropriate; there was no documentation that the living unit staff or program staff participated in the assessment.

Time Frame for Correction: By May 1, 1987, complete alternative assessments for residents #01-91-60 and #01-94-77 and submit the results. On a continuing basis, prior to the annual review, use an adequate assessment for all individuals; date all assessments; document participation of resident, parents, and living unit or program staff.

14. Citation: Minnesota Rules, part 9525.0280, subpart 5 and parts 9525.0210, subpart 4.

Violation: There is evidence that resident views and opinions are not elicited and given consideration in defining the processes and structures that affect them. There was not adequate participation by required team members. For example:

- a. There is no recorded evidence of team discussion, resident participation, relative or other concerned person's participation on behalf of the resident, or resident likes and dislikes.
- b. In the interdisciplinary team meetings observed on January 28, 1987, for resident #02-52-30 and resident D. SDC8, apartment A, the residents' opinions and views were not solicited, nor was discussion held by the team to determine in what form the residents' opinions or views could be elicited.

Time Frame for Correction: By May 1, 1987, submit a report of methods that will be used to provide for meaningful participation of all interdisciplinary team members.

15. Citation: Minnesota Department of Human Services Rule 3 (1968) VII.

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Violation: Not all equipment and furniture was designed for the age group in the adult day programs. For example:

- a. In Building SDC2, first floor, there were children's puzzles, blocks, games and activities.
- b. In DAC #191 there were child-like decorations and peg boards.
- c. In DAC #184 adults were working on puzzles, coloring in catalogs, and using colored pegs.
- d. In DAC #181 equipment included "Lite Brite," finger paint and children's puzzles.
- e. In DAC #195E child-like arts and crafts were observed e.g., coloring pictures of snowmen, and rice/macaroni glued to paper in the shape of cats/stars).

Time Frame for Correction: By June 1, 1987, submit a plan that will result in the replacement of the facility's age-inappropriate equipment and activities by January 1, 1988.

16. Citation: Minnesota Rules, parts 9525.0270, subpart 2 and 9525.0280, subparts 2 and 7.

Violation: There were not, consistently, provisions made for residents to mount pictures on bedroom walls, or to have personal possessions. There was not consistently a home-like environment. For example:

- a. In Building SDC2, all but one bedroom had bare walls in apartment 2; both apartments lacked evidence of personal possessions in bedrooms. Only one picture was on the living room wall.
- b. In Building SDC8, most bedrooms lacked personal possessions and pictures and did not appear personalized; bedrooms had facility-owned pictures, plaques, etc. which were sometimes age-inappropriate; some pictures were too high (for example: a small plaque with a verse was too high to read); there were resident names taped on the walls above the beds in at least 4 rooms; there were no dressers or nightstands in room D03.

Time Frame for Correction: By May 1, 1987, evaluate the decorations in residents' bedrooms and submit a plan of correction to be accomplished no later than August 1, 1987.

17. Citation: Minnesota Rules, part 9525.0270, subpart 3.

Violation: Toilets, bathtubs, and showers did not provide for individual privacy. For example:

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In both bathrooms in Building SDC8, apartment A, the shower curtains were too narrow to afford privacy. Doors were observed to be half-open when toilet stalls were being used by physically handicapped residents.

Time Frame for Correction: By May 1, 1987, submit evidence that privacy in all bathroom areas has been provided.

18. Citation: Minnesota Rules, parts 9525.0280, subpart 8., 9525.0430 and 9525.0420.

Violation: The program is charging each resident approximately \$10 a month for food services, which are appropriately included in the daily rate. These services are not listed on a written schedule of rates and charge policies.

The facility has not adequately maintained a record of resident's use of personal funds. For example:

- a. The facility has used resident funds for food and beverages utilized for positive reinforcers;
- b. The facility has used resident funds for food (strained fruit) utilized to give medications;
- c. Resident funds are co-mingled; this does not allow for a reliable record of individual expenditures.

Time Frame for Correction: By May 1, 1987, submit a procedure for tracking individual resident's funds, and evidence that the facility no longer charges residents for routine food services.

Suggested Method of Correction: It is recommended that the facility closely evaluate the resident's possession and use of money. Residents of other facilities have more flexibility in the use of their \$40 personal needs allowances for activities, clothing, and personal possessions.

19. Citation: Minnesota Rules, part 9525.0300, subpart 1.

Violation: Observations indicated that not all residents have an adequate allowance of neat, clean, fashionable, and reasonable clothing. For example: Many residents wore clothes with outdated styles and fabrics; one resident had his pants held together with a safety pin; because of ill-fitting pants; one resident had to keep pulling up his pants; there were many articles of clothing with split seams; one resident wore dirty pants; one resident wore pants that were too short.

Time Frame for Correction: By May 1, 1987, submit a plan to update and repair clothing of residents on a continuing basis.

20. Citation: Minnesota Rules, part 9525.0310, subpart 3.

Violation: In Buildings SDC2 and SDC8, dining and serving arrangements do not provide for a variety of eating experiences. For example: With the exception of three residents in Building B, apartment C, who sometimes eat family style, all residents receive individual trays from the central kitchen. Generally, the dishes are left on the tray and the trays are placed on the table in front of the individuals.

Time Frame for Correction: By June 1, 1987, evaluate the possibility of different eating experiences (for example: family style, cafeteria style, eating self-prepared meals or snacks) and submit a plan for implementing the evaluation by September 1, 1987.

21. Citation: Minnesota Rules, part 9525.0340, subpart 1.B.

Violation: The residents' individualized program and treatment plans did not contain evidence that the residents' and parents' civil or legal rights were reviewed, for the following residents: #02-52-30, #01-94-77, #01-62-83, #01-97-96, #01-45-65, #01-91-60, #02-12-03, #02-05-53, #01-91-42, and resident D., SDC8, apartment A.

Time Frame for Correction: By June 1, 1987, submit evidence that a revised format has been developed.

Suggested Method of Correction: The IDT could discuss any limitations of access to personal possessions, personal funds, community resources, freedom of movement and other constraints due to program implementation.

22. Citation: Minnesota Rules, part 9525.0340, subpart 1.E. and F.

Violation: The IDT team has not consistently documented the rationale for its decision on the resident remaining in the facility or the rationale for the need for (continued) guardianship or conservatorship or restoration to capacity of residents.

Time Frame for Correction: Beginning April 1, 1987, and on a continuing basis, as annual reviews occur, the IDT for each resident shall document the rationale for the need for guardianship, conservatorship, or restoration to capacity of the resident and the rationale for the need for remaining in the facility.

RECOMMENDATIONS

The following recommendations are not requirements of Minnesota Rules or laws governing your services or facility. These recommendations are provided to call your attention to areas where your facility or service is in

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minimum compliance with the requirements of rules or laws but it would be advisable to strengthen your efforts in these areas.

Failure to follow these recommendations will not result in a fine or action against your license at this time. However, should failure to follow recommendations result in a violation of rules or laws at a future date, you will be cited for noncompliance and may be subject to fines or action against your license.

1. Minnesota Rules, part 9525.0400, requires continuing training to update and improve the skills and competence of employees. Four of 14 employee training records reviewed contained evidence of less than 20 hours of formal training in 1986, which is minimal. It is recommended that an assessment of training needs be completed and a training plan be implemented appropriate to the needs of the population.
2. It is recommended that a stove and refrigerator be furnished in apartments 2 and 3, Building SDC2, to allow greater flexibility in types of eating experiences and that staff are encouraged to eat with residents.

Provide a copy of this letter to each local social service agency that has clients placed at your facility.

If you have any questions concerning this Correction Order, contact Judy Bass at 612/296-4145.

Sincerely,



William T. Fink, Ph.D.
Director
Division of Licensing

SBTR/80.0

cc: Sandra Gardebring, Commissioner
Margaret Sandberg, Assistant Commissioner
Al Hanzal, Assistant Commissioner
Maria Gomez, Assistant Commissioner
Beverly Baydinger, Assistant Attorney General
Julie Brunner, Welsh Compliance Unit