REPORT TO THE 1987 LEGISLATURE ON THE TRANSFER OF LICENSING OF MENTAL HEALTH PROGRAMS TO THE DEPARTMENT OF HEALTH

MINNESOTA STATE PLANNING AGENCY

INTRODUCTION

In 1986 the Legislature directed the State Planning Agency to examine "methods of unifying mental health licensing functions ... address methods to improve quality assurance ... and to make recommendations regarding the transfer of ... licensing and quality assurance activities to the Commissioner of Health."

This report examines the current licensing of mental health programs and the issues related to quality assurance. It also addresses the issue of transferring the licensing of mental health programs to the Department of Health.

LICENSI F MENTAL HEALTH PROGRAMS

As more community programs have been established to assist in the deinstitutionalization of persons from state hospitals, licensure of programs has evolved as a major state agency activity. Three agencies have a role in licensing: the Departments of Human Services, Health and Public Safety.

The Department of Human Services has authority to license a wide variety of state-regulated programs. The Department licenses child care programs and programs which serve the developmentally disabled, the chemically dependent, the mentally ill and the physically handicapped.

Both the Department of Human Services and the Department of Health promulgate rules to establish licensing standards for mental health services. The Department of Human Services establishes program rules; the Department of Health establishes health and safety rules. Program specialists within the Department of Human Services and in other state agencies, relatives of service users, advocacy groups and relevent professionals in the public and private sector consult on the development of program rules. Progam rules regulate the specifics of a program or service, such as the number and type of personnel or the type of service or level of care provided. The Department of Health, on the other hand, oversees the regulation of the safety and sanitation of the physical plant, the proper handling of food, and laundry requirements. The Health Department's

rules may also govern specific personnel who must be available, as well as specific items of personal care which must be provided. Some of the licensing done by the Department is necessary in order that programs meet eligibility requirements for federal and state funds. A noteable example of this is the licensing and certification of nursing homes needed to qualify for Medical Assistance reimbursements.

Another participant in licensing of programs is the State Fire Marshall's Office in the Department of Public Safety. This office sets standards related to fire safety and, either on its own or through local fire departments, inspects buildings.

Because three state agencies are involved in the licensure of programs, there is potential for confusion and conflict. These issues are by no means confined to programs that serve the mentally ill. In the past few years we have seen confusion in the child care area over various fire safety rules and their relationship to Department of Human Services child care rules.

Ten years ago, a study group at the Office of Human Services looked at organizational issues in the human services area. They pointed out potential problems in licensing of programs, such as confusion on the part of providers seeking to establish new facilities. They also pointed out the need for separating licensing and enforcement from the programs that set the standards. As a solution, they recommended the establishment of a single office or bureau, outside of any human services agency, to perform all licensing activities.

They further recommended that there be increased interagency involvement in setting licensing standards and that terminology used in licensing rules be standardized as much as possible. The recommendation to create an independent licensing office was never adopted by the Legislature and attempts at interagency coordination have been infrequent.

During 1985, the State Planning Agency convened a small group from the Department of Health and the Department of Human Services to examine issues related to licensure of mental health programs. This activity came in response to complaints by providers and potential providers about confusion over the number and type of licenses which were needed by programs serving the mentally ill. The group met on several occasions and began to catalog problems and discuss potential solutions. Changes in agency personnel and priorities kept this work from being completed, but the potential for this approach achieving results is still high.

QUALITY ASSURANCE

In 1986, the State Planning Agency engaged a consultant to review quality assurance mechanisms as they relate to mental health services, and to research what other states were doing in the area. These reports, Mental Health Services and Quality Assurance (Contract #30000-16131) and Quality Assurance Monitoring in Florida, Massachusetts, New York, Oregon, Pennsylvania and

Wisconsin (Contract #30000-16070) are available from the State Planning Agency.

A review of these two documents shows:

- Published literature does not reveal a general agreement on an appropriate definition of quality assurance in mental health services.
- Minnesota has begun to develop a quality assurance system that includes mental health programs.
- More extensive record keeping or tracking systems need to be developed for use in quality assurance in mental health.
- Quality assurance reviews need to take into account discharge planning as a measure of effective programs.
- Strengthening of case management services for the mentally ill will enhance the quality of services by having programs designed to meet the needs of an individual instead of making the individual fit into available programs.
- A progressive approach to quality assurance would include a measure of the "process" (whether services described in plans match up with what is actually being delivered) and a measure of the "outcome" (such as improvement of client functioning and level of client satisfaction). Traditionally states have focused on "input" measures such as number of staff, size of rooms and cleanliness, for example, to measure performance.
- Adherence to licensing or regulatory standards is not synonymous with quality.
- Minnesota has many elements in place which are essential for a strong quality assurance program. Some needed elements are currently in the design stage and will need attention as the state moves to develop a stronger mental health system.

The review of other state's experiences shows that no one has yet developed the "perfect" system of assuring quality and that Minnesota's interest and involvement in the topic is about on par with other states.

TRANSFER OF MENTAL HEALTH LICENSURE TO THE DEPARTMENT OF HEALTH

One way to unify mental health licensing functions would be to transfer the responsibility and staff for licensing mental health services to one state agency. The legislative charge to the State Planning Agency regarding this study specifically mentions transfer to the Department of Health.

In another report to the 1987 Legislature, the State Planning Agency explored strengths and weaknesses related to transferring all mental health activities, not just licensing, to the Department of Health. It also examined the relative merits of creating a separate mental health department or leaving the program in the Department of Human Services. That report, the Report to the 1987 Legislature on the Administrative Location of Mental Health Programs, concludes that there is no compelling reason to transfer responsibilties for mental health programs to the Department of Health and that many mental health issues which have been of concern to consumers, advocates and providers are currently receiving a great deal of attention by the Department of Human Services.

If a transfer of mental health licensure is desired by the Legislature, a number of questions arise:

- Should only mental health licensure be transferred, or should other licensing responsibilities (e.g. for child care programs and programs for the developmentally disabled) also be transferred?

- If only mental health licensure is transferred, what will the impact be on other licensure programs remaining in the Department of Human Services?
- If only licensing is transferred and not the entire mental health program, will new coordination problems be encountered?

Answers to these questions are needed in order to explore any potential benefits of transferring licensure of mental health to the Department of Health.

CONCLUSIONS

The present system of dividing licensure responsibilities between the Department of Health and the Department of Human Services creates some confusion for service providers, possibly at times even creating conflicting standards. However, the problems which could be solved by a unified system raise an equal set of concerns.

Any change in licensing responsibilities for mental health programs should recognize the needs of all human service programs licensed by the state. In unifying the mental health system, the fragmentation of the state's overall licensing responsibilities must be avoided.

A decision to transfer mental health licensing is not warranted at this time. Other options should be pursued before taking any such

action. These include:

- Re-examination of the Office of Human Services study on creating an independent licensing bureau to determine its current validity: and

- Renewal of the Departments of Health and Human Service efforts to deal with conflicts and gaps in the licensing of mental health programs through an interagency committee process.

While Minnesota's efforts in quality assurance are about equal to those of other states, stronger quality assurance programs should be pursued. Emphasis should be given to improving record-keeping and establishment of a client tracking system. An approach to quality assurance involving both "process" and "outcome" measure should be pursued.

The issues in the debate over how the State of Minnesota should organize its licensing activities are not new. Neither are the considerations in establishing quality assurance programs. The anlysis of the associated issues does not lead to the conclusion that there is currently an optimum solution. The State of Minnesota should continue to pursue improved mental health licensing and quality assurance through the incremental approach recommended above. Major changes cannot be justified at this time.