

CHAPTER 7404
DEPARTMENT OF PUBLIC SAFETY
DRIVER LICENSING AGENTS

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7404.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the following terms have the meanings given them.

Subp. 2. **Agent.** "Agent" means an individual appointed under this chapter and Minnesota Statutes, section 171.061.

Subp. 3. **Applicant.** "Applicant" has the meaning given in Minnesota Statutes, section 171.061, subdivision 1, clause (1).

Subp. 4. **Application.** "Application" has the meaning given in Minnesota Statutes, section 171.061, subdivision 1, clause (2).

A. An application must be in a paper, electronic, or other format as prescribed by the commissioner.

B. An application includes the supporting documents provided by the applicant.

Subp. 5. **Approved office location.** "Approved office location" means a location that has been approved by the commissioner as meeting the requirements of part 7404.0300 but for which an agent appointment has not been made.

Subp. 6. **Bureau.** "Bureau" means a county licensing bureau established under Minnesota Statutes, section 373.33. A bureau includes all approved office locations established under the bureau to accept applications.

Subp. 7. **Certificate of appointment.** "Certificate of appointment" means the documents appointing the agent.

Subp. 8. **Collected or collection.** "Collected" or "collection" means:

A. the receipt of application and reinstatement fees and other related fees paid by an applicant less the filing fee specified in Minnesota Statutes, section 171.061, subdivision 4, paragraph (c); and

B. the receipt by the agent from the applicant of any required application or form.

Subp. 9. **Commissioner.** "Commissioner" means the commissioner of public safety.

Subp. 9a. **Convenience fee.** "Convenience fee" means an additional amount charged to a person's credit card or debit card when the person chooses to pay for a transaction by credit card or debit card.

Subp. 10. **County board.** "County board" means the county board governed by the provisions in Minnesota Statutes, chapter 375.

Subp. 11. **Conviction of crime.** "Conviction of crime" means conviction of a felony, gross misdemeanor, or misdemeanor reasonably related to the function of an agent.

Subp. 12. **Deputy registrar.** "Deputy registrar" means a person appointed under chapter 7406 and Minnesota Statutes, section 168.33.

Subp. 13. **Discontinuance or discontinued.** "Discontinuance" or "discontinued" means the immediate suspension, suspension, or revocation of an appointment.

Subp. 14. **Existing office.** "Existing office" means an agent office for which the location has been approved and the appointment of the agent has been made by or approved by the commissioner, as specified in a certificate of appointment. An existing office does not include state-operated application or examination sites.

Subp. 15. **Inventory.** "Inventory" means state-issued or required supplies and equipment necessary to process applications such as forms, vision-testing equipment, and photo identification equipment.

Subp. 16. **Metropolitan county.** "Metropolitan county" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 4.

Subp. 17. **Municipality.** "Municipality" means a statutory city, home rule charter city, town, or township.

Subp. 18. **Next working day.** "Next working day" means the 24-hour period following the daily close of the agent's office. A working day does not include:

A. a Saturday, Sunday, or legal holiday listed in Minnesota Statutes, section 645.44, subdivision 5;

B. a nonbanking day of approved state depositories;

C. a holiday authorized under Minnesota Statutes, section 373.052, subdivision 1, for agents who are county officers or employees; or

D. a day that an office is not open for business, upon approval from the commissioner.

Subp. 19. **Office.** "Office" means an existing office unless otherwise specified.

Subp. 20. **Proposed office location.** "Proposed office location" means a location that has been submitted to the commissioner for consideration as an approved office location under part 7404.0300, or a move of an existing office location under part 7404.0330.

Subp. 21. **Qualified newspaper.** "Qualified newspaper" means a newspaper that meets the requirements of Minnesota Statutes, chapter 331A.

Subp. 22. **Sufficient cause to believe.** "Sufficient cause to believe" means grounds that are put forth in good faith; that are not arbitrary, irrational, unreasonable, or irrelevant; that make the proposition asserted more likely than not; and that are based on at least one of the following sources:

- A. written information from an identified person;
- B. facts or statements by an applicant for appointment as an agent, or by an appointed agent;
- C. court documents, state records, and police records; or
- D. facts of which the commissioner or commissioner's employees have personal knowledge.

Statutory Authority: *MS s 14.06; 14.386; 171.06; 171.061; 373.35*

History: *23 SR 1454; 32 SR 1283; 37 SR 239*

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7404.0200 PURPOSE.

The purpose of this chapter is to carry out the mandate of the legislature as set forth in Minnesota Statutes, section 171.061, with respect to the appointment and regulation of driver's license agents.

Statutory Authority: *MS s 171.061*

History: *23 SR 1454*

Published Electronically: *February 18, 2008*

OFFICE LOCATION

7404.0300 LOCATION OF AGENT OFFICE; PROPOSED BY THIRD PARTY.

Subpart 1. **General.** This part applies to the establishment of an agent office not in existence when the location of the office is proposed by a party other than the commissioner.

Subp. 2. [Repealed, 32 SR 1283]

Subp. 3. **Metropolitan counties.** The conditions listed in this subpart must be met before the commissioner considers a proposed office location for an agent in a metropolitan county.

A. The proposed office location must not be within a ten-mile radius of an existing office or a state-operated application site.

B. The estimated number of applications a proposed office location processes annually must be at least 12,000 within two years after the establishment of the office. The commissioner shall estimate the number of applications as 30 percent of the applications processed within the preceding calendar year by existing offices and state-operated application sites located within a radius of the proposed office location of over ten miles and less than 19 miles.

C. The commissioner shall not consider the proposed office location if the use of the percentage of applications processed by an existing office or state-operated application site to establish a proposed office would reduce the number of applications to less than:

(1) 24,000 for an existing office or state-operated application site located in a metropolitan county;

(2) 13,000 for an existing office located in an area under subpart 4; or

(3) 2,500 for an existing office located in an area under subpart 5.

D. If a percentage of applications processed by an existing office or state-operated application site was used to establish a new office, that percentage may not be used again in consideration of another proposed office within a two-year period. The two-year period starts from the date the agent was appointed.

E. The commissioner shall not consider a proposed office location if the proposed office location is within a 20-mile radius of an existing office or state-operated application site established within the last two years. The two-year period starts from the date the agent was appointed or the state-operated site was established.

Subp. 4. **Municipalities with over 50,000 population.** The conditions listed in this subpart must be met before a proposed office location is considered by the commissioner in a municipality with a population exceeding 50,000, not including municipalities in a metropolitan county.

A. The proposed office location must not be located within a ten-mile radius of an existing office or state-operated application site.

B. A maximum of two licensing agent offices may exist in any municipality with a population exceeding 50,000.

C. The estimated number of applications a proposed office location processes annually must be at least 6,500 within two years after the establishment of the office. The commissioner shall estimate the number of applications as 30 percent of the applications processed within the preceding calendar year by existing offices and state-operated application sites located within a radius of the proposed office location of over ten miles but less than 19 miles.

D. The commissioner shall not consider a proposed office location if the use of a percentage of applications processed by an existing office or state-operated application site to establish a proposed office would reduce the number of applications to less than:

(1) 24,000 for an existing office or state-operated application site located in an area under subpart 3;

(2) 13,000 for an existing office or state-operated application site located in an area under this subpart; or

(3) 2,500 for an existing office or state-operated application site located in an area under subpart 5.

E. If a percentage of applications processed by an existing office or state-operated application site was used to establish a new office, that percentage may not be used again in consideration of another proposed office within a two-year period. The two-year period starts from the date the agent was appointed or the state-operated site was established.

F. The commissioner shall not consider a proposed office location if the proposed office location is within a ten-mile radius of an existing office or state-operated application site established within the last two years. The two-year period starts from the date the agent was appointed or the state-operated site was established.

Subp. 5. **Other areas.** The conditions listed in this subpart must be met before a proposed office location is considered by the commissioner in all other municipalities not included in subpart 3 or 4.

A. The proposed office location must not be located within a 25-mile radius of an existing office or state-operated application site.

B. The proposed office location must not be located in a municipality of less than 25,000 population if there is an existing office or state-operated application site in that municipality.

C. The estimated number of applications that a proposed office location will process annually must be at least 2,500 within two years after the establishment of the office. The number of applications must be estimated as follows:

(1) 20 percent of the applications processed within the preceding year by existing offices and state-operated application sites located within a 30-mile radius of the proposed office location; or

(2) if there is no existing office or state-operated application site located within a 30-mile radius of the proposed office location, 25 percent of the population of the municipalities that are closer to the proposed office location than to other existing offices and state-operated application sites.

D. The commissioner shall not consider a proposed office location if the use of the percentage of applications processed by an existing office or state-operated application site, to establish a proposed office, would reduce the number of transactions to less than:

(1) 24,000 for an existing office or state-operated application site located in an area under subpart 3;

(2) 13,000 for an existing office or state-operated application site located in an area under subpart 4; or

(3) 2,500 for an existing office or state-operated application site located in an area under this subpart.

E. If a percentage of applications processed by an existing office or state-operated application site was used to establish a new office, that percentage may not be used again in consideration of another proposed office within a two-year period. The two-year period starts from the date the agent was appointed or the state-operated site was established.

F. The commissioner shall not consider a proposed office location if the proposed office location is within a 30-mile radius of an existing office or state-operated application site established within the last two years. The two-year period starts from the date the agent was appointed.

Subp. 6. **Restriction on processing proposed office location.** When a request for a proposed office location is submitted to the commissioner, no other requests for a proposed office location shall be considered for any location or a location within a 30-mile radius of the proposed office location until:

A. the commissioner either approves the proposed office location or all appeals associated with a disapproval have been resolved; and

B. the appointment of an agent for the approved office location under this chapter is completed.

Statutory Authority: *MS s 14.06; 171.06; 171.061; 373.35*

History: *23 SR 1454; 32 SR 1283*

Published Electronically: *February 18, 2008*

7404.0305 ADDITIONAL OFFICE LOCATION CONSIDERATIONS.

Subpart 1. **Factors considered.** Before appointing an agent, the commissioner must approve a proposed location for an agent office. In addition to the information and conditions specified in part 7404.0300, the commissioner shall consider the factors described in this part when considering a proposed office location:

A. the accessibility of the office location to the public;

B. the cost to the state to audit, monitor, and train the agent and staff at the office; and

C. whether the office location will best serve the public convenience.

Subp. 2. **Disapproval of proposed office location.** If a request for an office location is not approved, the commissioner shall notify the individual proposing the office location in writing and provide a statement of the reason for the disapproval. The statement must notify the individual that, within 30 days from the day the notice was mailed, the individual may appeal the disapproval to the Office of Administrative Hearings for a contested case hearing under Minnesota Statutes, chapter 14, if a factor in subpart 1 was cited for disapproval and disapproval was not due to a failure to meet the distance or transaction requirements for office location.

Statutory Authority: *MS s 14.06; 171.06; 373.35*

History: *32 SR 1283*

Published Electronically: *February 18, 2008*

7404.0307 OFFICE LOCATION PROPOSED BY COMMISSIONER.

Subpart 1. **Commissioner's initiative; criteria.** Part 7404.0300 notwithstanding, the commissioner may propose an office location to be overseen by a licensing agent. The office location may be proposed to:

A. meet an emerging or demonstrated application site need;

B. address an emerging or demonstrated population need; or

C. improve public access or service delivery.

Subp. 2. **Notice.** When the commissioner proposes an office location, notice of the proposed office location must be made to existing licensing agents.

A. If the proposed office location complies with the distance and projected application numbers in part 7404.0300, the commissioner shall publish notice of the proposed office location once in a qualified newspaper in the county where the proposed office is located. The notice must specify the:

(1) site of the proposed office;

- (2) commissioner's intent to appoint an agent at that location and request applications;
- (3) responsibility of the agent to accept applications;
- (4) commissioner's authority under statute and rule to make the appointment;
- (5) name, address, telephone and facsimile numbers, and e-mail address of the individual to contact about the appointment; and
- (6) deadline, at least 14 days after the date the notice appears, for submitting the application to the commissioner.

B. The process for appointing an agent at the proposed office location shall follow the applicable procedures in parts 7404.0360 and 7404.0370.

C. If the commissioner's proposed office location is within the distances specified in part 7404.0300 from an existing licensing agent's office, the commissioner shall:

- (1) notify each existing licensing agent with an approved office within the distance radius that the commissioner has proposed to accept applications at the proposed office location; and
- (2) request the existing licensing agent to either operate the new office location or move to the site.

D. If more than one existing licensing agent is within the distance radius of the commissioner's proposed office location, the commissioner shall consider appointment of a licensing agent in order of the agent office closest to the proposed location.

E. If all agents within the distance radius decline the appointment to operate the new office location, then the commissioner shall proceed to appoint an agent for the office following the procedures in item A.

F. Nothing in this part prevents a state-operated application site from opening at a location for public convenience or the efficient and effective delivery of state services.

Statutory Authority: *MS s 14.06; 171.06; 373.35*

History: *32 SR 1283*

Published Electronically: *February 18, 2008*

7404.0310 EXCEPTIONS.

Subpart 1. **One agent per county bureau.** Pursuant to Minnesota Statutes, sections 373.33 and 373.35, if the county board designates the county license bureau director as a licensing agent, the license bureau director is responsible for all bureau sites where applications are accepted in the county. Each bureau site where applications are accepted must meet the criteria for establishment of an office as specified in part 7404.0300.

Subp. 2. **Low-volume existing office; county board decision.** Notwithstanding part 7404.0300, an agent may be appointed at an existing office location upon the death, resignation, discontinuance, or retirement of an existing agent whose office does not comply with the application numbers for the establishment of an office specified in part 7404.0300, plus or minus two percent of the average application numbers in the preceding three years, only if:

A. the county board notifies the commissioner within one week after the next regularly scheduled county board meeting or within 60 days after the death, resignation, discontinuance, or retirement of the existing agent, that the county board wants to designate an agent for appointment by the commissioner and maintain that existing office location;

B. the county board designates a new agent for appointment by the commissioner and verifies to the commissioner that the individual meets the requirements for an agent specified in part 7404.0360 within 60 days from the time the vacancy occurred;

C. there is not another existing office or state-operated application site located within the distances specified in part 7404.0300; and

D. the county board or the new agent agrees to procure and maintain:

- (1) the photo identification equipment, unless the office was in existence on January 1, 2000;
- (2) the vision-testing equipment unless the office was in existence before January 5, 1999; and
- (3) any other equipment or inventory necessary to process applications.

Subp. 3. **Low-volume location; commissioner's appointment.** If the county board declines to designate an agent for appointment by the commissioner at the existing low-volume location described in subpart 2, the appointment of the agent and all state-provided inventory and equipment reverts to the commissioner.

A. The commissioner shall decide whether to appoint another agent at the existing low-volume office within six months after notice by the county board that it will not designate another agent for appointment by the commissioner.

B. The commissioner shall appoint an agent at the existing office with a low application volume and procure and maintain the photo identification, vision-testing equipment, and any other equipment or inventory necessary to process applications for the site only if the office is not in a metropolitan county and there is not another application site, including state-operated application sites, within 35 miles of the existing low-volume office.

Subp. 4. **Minimum distance exception.** Notwithstanding part 7404.0300, a new agent may be appointed at an office location in existence as of January 1, 1999, which does not meet the minimum distance in part 7404.0300, if the number of applications accepted by the office meet or exceed the minimums specified in part 7404.0300 during each of the three years preceding the date of application for a new agent appointment.

Statutory Authority: *MS s 14.06; 171.06; 171.061; 373.35*

History: *23 SR 1454; 32 SR 1283*

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7404.0330 MOVE OF EXISTING OFFICE LOCATION.

Subpart 1. **In general.** A move of an existing office must meet the requirements of part 7404.0300, be within the same county, and be approved by the commissioner before the move. This part does not apply to the location of state-operated application or examination sites.

Subp. 2. **Variance.** An agent may apply to the commissioner for a variance from the requirements of subpart 1, except that no existing office is allowed to move to a different county.

- A. An agent may apply for a variance by submitting a written request to the commissioner.
- B. The variance request must specify and the commissioner shall consider the following factors when reviewing the variance request:
 - (1) each rule part from which the variance is requested and why the proposed office location does not meet requirements of part 7404.0300;
 - (2) the reasons for the request to move from the existing office location;
 - (3) the distance of the proposed office location from the agent's existing office;
 - (4) whether the proposed office location would serve the same community or neighborhood and is in close proximity to the original location;
 - (5) whether the proposed office location is in another county;
 - (6) any comments in opposition or support from other existing agent offices of the proposed office location;
 - (7) building considerations of the proposed office location including:
 - (a) parking space; and
 - (b) compliance with part 7404.0400;
 - (8) destruction or other loss of the existing office building, including loss of building lease;
 - (9) the number of previous moves of the existing office and the reasons for the moves;
 - (10) whether the proposed move is a result of or in connection with misfeasance or malfeasance on the part of the agent; and
 - (11) other information requested by the commissioner or supplied by the agent.

Subp. 3. **Commissioner's decision.** The commissioner shall review the request for a variance and grant or deny it within 60 days after its receipt or within 60 days after the date of the commissioner's request for additional information, whichever is later.

- A. The commissioner shall give the agent written justification for a decision to deny the variance.
- B. Failure to submit the required information under this subpart within 30 days of the commissioner's request for information is cause to deny an agent's request for a variance.

Subp. 4. **Right to review commissioner's decision.** An agent may contest the denial of a variance of the commissioner by requesting a hearing.

- A. The agent shall submit, within 15 days of the receipt of the commissioner's decision, a request for a hearing.
- B. The request for a hearing must set forth in detail the reasons why the agent contends the decision of the commissioner should be changed.
- C. The hearing must follow the hearing procedures in parts 7406.1100 to 7406.2600.

Statutory Authority: *MS s 14.06; 171.06; 171.061; 373.35*

History: *23 SR 1454; 32 SR 1283*

Published Electronically: *February 18, 2008*

7404.0340 DEPUTY REGISTRAR AS LIMITED LICENSING AGENT.

Subpart 1. **Deputy registrar as limited licensing agent.** Notwithstanding part 7404.0300, as of January 22, 2008, all deputy registrars appointed by the commissioner under chapter 7406 and Minnesota Statutes, section 168.33, must also be appointed by the commissioner to assume the duties of a limited licensing agent as specified in this part.

Subp. 2. **Limited licensing agent.** A limited licensing agent shall accept applications only for a duplicate driver's license or duplicate Minnesota identification card.

A. The duties of a limited licensing agent must not require the use of equipment to capture the image or signature or to test the vision of an applicant.

B. A limited licensing agent shall accept an application for a duplicate driver's license or duplicate state identification card if:

(1) the state document is lost, stolen, destroyed, illegible, or mutilated beyond recognition during the period of validation; or

(2) the applicant is required to change the residence address on the state-issued document.

C. The procedures in part 7410.0450 for issuance of a duplicate driver's license or duplicate identification card apply.

D. The applicant's digital image and signature must be on file with the department and the technology to retrieve that information must be available at the application site.

E. No information on file with the department, except the applicant's residence address, may be changed when applying for a duplicate document under this part.

Subp. 3. **Designation of individual as agent.** Only an individual may be appointed as the limited licensing agent. If the deputy registrar is a corporation, the individual must be the corporate officer who executed the certificate of appointment under part 7406.0370, subpart 2.

Subp. 4. **Training.** The limited licensing agent must complete initial and ongoing training provided by the commissioner pertinent to the limited licensing agent's duties.

Subp. 5. **Financial responsibility.** A deputy registrar acting as a limited licensing agent shall pay all taxes and fees due and owed the state for applications made under this part.

Statutory Authority: *MS s 14.06; 171.06; 373.35*

History: *32 SR 1283*

Published Electronically: *February 18, 2008*

7404.0345 DEPUTY REGISTRAR AS LICENSING AGENT.

Part 7404.0300 notwithstanding, as of January 22, 2008, a deputy registrar appointed under chapter 7406 may apply to the commissioner for appointment also as a licensing agent under this chapter.

- A. The applicant must be an individual and the office must meet the requirements specified in this chapter.
- B. The appointment must be for licensing agent application duties that are not limited.
- C. Any deputy registrar who is not a licensing agent as of January 22, 2008, and who applies to be a licensing agent must complete initial and ongoing licensing agent training.
- D. If the deputy registrar is not currently also an appointed licensing agent with image- and signature-capture and vision-testing equipment, the agent shall obtain the equipment necessary to accept and process applications from vendors approved by the commissioner.

Statutory Authority: *MS s 14.06; 171.06; 373.35*

History: *32 SR 1283*

Published Electronically: *February 18, 2008*

APPOINTMENT PROCEDURES

7404.0350 AGENT APPOINTMENT PROCEDURE; REFERRAL TO COUNTY BOARD.

Subpart 1. **In general.** When the commissioner approves a proposed office location, the commissioner shall begin the appointment process for the approved office location.

- A. The request for appointment must be referred by the commissioner first to the county board in the same county as the approved office location.
- B. This part does not apply to the move of an existing office.

Subp. 2. **County board.** When the commissioner refers the approved office location to the county board, the county board shall choose one of the options listed in items A to C.

- A. If the county board has established a county licensing bureau under Minnesota Statutes, sections 373.33 to 373.38, the county board shall designate the director of the bureau to be appointed by the commissioner as the agent or, if the bureau director is already an agent, make the bureau director responsible for the administration of the approved office location.
- B. If the approved office location is a county-administered office but is not a county licensing bureau, the county board shall designate an employee or equivalent officer of the county to be appointed by the commissioner.
- C. The county board shall decline to designate an individual for appointment as an agent.

Subp. 3. **Notice to commissioner required.** The county board shall notify the commissioner, in writing, of the option chosen under subpart 2 within 60 days of referral to the county board.

Subp. 4. **Failure to notify commissioner; consequences.** If the county board declines to appoint an agent or fails to notify the commissioner within 60 days of referral of the request for appointment to the county board, the appointment of the agent must then be considered by the commissioner under part 7404.0360.

Subp. 5. [Repealed, 32 SR 1283]

Subp. 6. [Repealed, 32 SR 1283]

Subp. 7. [Repealed, 32 SR 1283]

Statutory Authority: *MS s 14.06; 171.06; 171.061; 373.35*

History: *23 SR 1454; 32 SR 1283*

Published Electronically: *February 18, 2008*

7404.0360 COMMISSIONER'S APPOINTMENT PROCEDURE.

Subpart 1. **In general.** An agent appointment cannot be transferred to another individual without following the procedure in part 7404.0350 or this part.

A. The commissioner shall appoint an agent designated by a county board, as specified in part 7404.0350, if the individual meets the criteria of subparts 3 to 6.

B. If the county board does not designate an individual for appointment, or fails to provide timely notice to the commissioner under part 7404.0350, the commissioner shall consider appointment of an agent at the approved office location as specified in this part.

Subp. 1a. **Office administered by municipality.** If the approved office location is an office administered by a municipality, the commissioner may refer the request for appointment to the municipality's governing authority.

A. If the commissioner refers the designation of a municipal employee or official to the municipality, the municipality's governing authority, within 30 days of the date of the referral, shall either:

(1) designate an employee or equivalent officer of the municipality to be appointed by the commissioner; or

(2) decline to designate an individual for appointment.

B. The municipality's governing authority shall notify the commissioner, in writing, of the option chosen under item A within 30 days of referral to the municipality.

C. If the municipality's governing authority declines to designate an individual for appointment by the commissioner as an agent or fails to notify the commissioner of the municipality's chosen option under this subpart within 30 days of referral to the municipality, the commissioner shall consider the appointment of the agent under this part.

D. When designating an individual for appointment, the municipality's governing authority shall follow the procedures in subparts 3 to 6.

E. The commissioner shall appoint the designee when the municipality's governing authority verifies to the commissioner that the individual meets the qualifications for an agent specified in subparts 3 to 6.

Subp. 2. **Publication of vacancy notice.** If a county or municipal employee is not appointed, the commissioner shall publish notice of the agent vacancy for the approved office location.

A. The notice must be published once in a qualified newspaper in the county where the approved office location is located.

B. The notice must be published within 30 days after the county board or the municipality declines to designate an individual for appointment or 30 days after the deadline for the county board or the municipality to respond to the commissioner.

C. The notice of agent vacancy must specify the:

- (1) approved office location;
- (2) commissioner's intent to appoint an agent at that location;
- (3) responsibility of the agent to accept applications;
- (4) authority under statute and rule to make the appointment;
- (5) name, address, telephone and facsimile numbers, and E-mail address of the individual to contact about the appointment; and
- (6) deadline for submitting the application to the commissioner, which must be 14 days after the date the notice appears.

Subp. 3. **Appointment application.** The individual seeking appointment shall submit an appointment application to the commissioner in a paper, electronic, or other format as prescribed by the commissioner. The application must specify:

- A. the individual's full name, address, states of residency for the last five years, date of birth, and telephone number;
- B. whether the individual has or had any other license with a federal, state, or municipal government agency; the current status of that license; and an explanation of any cancellation, revocation, suspension, or other disciplinary proceeding in connection with the license;
- C. whether the individual owns or is a partner, officer, or five-percent shareholder in an entity that:
 - (1) operates a driver training program or driver improvement clinic; or
 - (2) sells vehicle insurance;
- D. the address of the approved office location;
- E. a floor plan of the proposed office, including the area and dimensions of the space allocated to process applications, public service area, and storage area;
- F. information about the individual's prior education, work experience, and training;
- G. a history of prior appointments as an agent, deputy registrar, or public official and the reasons for the denial, suspension, revocation, or cancellation of any prior appointment;
- H. whether the individual owes any delinquent taxes, penalties, or interest;
- I. whether the individual is currently the subject of bankruptcy proceedings;
- J. a certified copy of the individual's criminal history, including a certified copy of a criminal records check of the national criminal records repository criminal justice data communications network; and
- K. the signature of the individual verifying that the information on the application is true. The signature must be notarized.

Subp. 4. **Age of agent.** The agent must be 18 years of age or older.

Subp. 5. **Criminal history check.** The commissioner may conduct a criminal history check at any time while an individual is serving as an agent.

Subp. 6. **Change in agent application conditions.** An agent shall report to the commissioner changes or anticipated changes of the information in subpart 3.

A. The changes must be reported ten calendar days before the date the change is to occur or within ten calendar days of the date the agent learns the changes will occur, whichever occurs first.

B. A change is cause for discontinuance of an appointment if the change violates this chapter or Minnesota Statutes, section 171.061.

Subp. 7. **Reasons to deny agent appointment.** An agent appointment must be denied for any of the reasons listed in this subpart.

A. The appointment application or an item filed with the appointment application does not meet the requirements of subpart 3.

B. The individual applying is a partner, officer, or five-percent or greater shareholder in an entity that:

- (1) operates a driver training program, or driver improvement clinic; or
- (2) sells vehicle insurance.

C. The individual has been convicted of a crime in Minnesota or in another jurisdiction that, if committed in Minnesota, would be a violation of a Minnesota statute of the following type:

- (1) affects a public officer or employee;
- (2) is theft or a related crime;
- (3) is forgery or a related crime; or
- (4) is reasonably related to the position of an agent.

D. The office does not meet the requirements under part 7404.0400 and a variance has not been granted by the commissioner.

E. The commissioner of revenue notifies the commissioner, or the commissioner has sufficient cause to believe, that the individual owes delinquent taxes, penalties, or interest.

F. The individual is in the midst of bankruptcy proceedings.

G. The individual's application for appointment is incomplete or contains a statement that is false, misleading, fraudulent, or otherwise constitutes misrepresentation.

Statutory Authority: *MS s 14.06; 171.06; 171.061; 373.35*

History: *23 SR 1454; 32 SR 1283*

Published Electronically: *February 18, 2008*

7404.0370 APPOINTMENT OF AGENT.

Subpart 1. **In general.** An appointment must be based on information contained in the appointment application, an interview, an inspection of the office or review of a floor plan for compliance with part 7404.0400, and other relevant information or documentation.

A. The individual must possess, and ensure that all employees of the agent who have contact with the public possess, communication and customer service skills.

B. The individual must possess or demonstrate knowledge or experience in the laws and rules pertinent to the acceptance of applications, office management, accounting, and record keeping.

C. The individual must indicate a willingness to successfully complete initial and annual training provided by the commissioner as specified in part 7404.0500, subpart 1a.

Subp. 2. **Certificate of appointment.** The commissioner shall execute and sign a certificate of appointment that specifies the individual appointed as an agent, the approved office location, and the responsibility of the agent to accept applications.

A. The certificate of appointment must be signed by the individual appointed.

B. When an appointment is made by the commissioner of an individual designated by the county board or a municipal authority, the certificate must also be signed by the authorized representative of the county board or municipal authority.

C. The commissioner shall cancel a certificate of appointment if the appointed agent fails to provide an operational office that meets the requirements of this chapter within 12 months of the date of the initial appointment by the commissioner.

Subp. 3. **Bond.** If an agent appointed under this chapter is not an officer or employee of a county or municipality, the agent shall give a surety bond to the state to cover the application receipts accepted on behalf of the commissioner, and equipment and inventory provided and maintained by the commissioner.

A. The bond must be conditioned upon the faithful discharge of duties as an agent.

B. If an agent is also a deputy registrar or a registrar for the Minnesota Department of Natural Resources, the bond must be in addition to the bond required to be held to cover the deputy registrar vehicle title and registration or Department of Natural Resources transactions.

C. The bond must be a continuous bond in the amount of:

(1) \$1,000 or the value of all state-issued inventory, whichever amount is greater; plus

(2) \$3,000 for every \$50,000 of annual application receipts or portion thereof.

D. The amount of application receipts for an initial bond must be based on the highest projected amount of annual application receipts in the five years after an agent is appointed as the number of applications for a new office is estimated under part 7404.0300.

E. For an initial appointment, the bond shall be adjusted after the first 24 months of office operation.

F. The continuous bond must be adjusted every five years, starting with the date of initial issuance for an existing office, or starting with the date after the 24-month adjustment for a new office, to reflect the total annual application receipt amount and inventory value of the previous calendar year.

Subp. 4. **Change in agent designated by county or municipality.** An agent designated by a county board shall notify the county board and commissioner, in writing, no less than 30 days before the agent resigns, retires, or discontinues service. If the office is vacated upon the death or discontinuance of the agent, an official authorized by the county board or municipality must notify the commissioner within ten days of the vacancy.

Subp. 5. **Transfer of appointment.** An agent appointment may not be transferred to another individual or office without the approval of the commissioner.

Statutory Authority: *MS s 14.06; 171.06; 171.061; 373.35*

History: *23 SR 1454; 32 SR 1283*

Published Electronically: *February 18, 2008*

OFFICE REQUIREMENTS

7404.0400 AGENT OFFICE REQUIREMENTS.

Subpart 1. **In general.** An approved office location must comply with this part.

A. For an existing office when there is a discontinuance of the agent appointment or death, resignation, or retirement of an agent, and for which a new appointment is requested, the requirements of this part apply.

B. An existing agent must have an office that complies with this part.

Subp. 2. **Variance.** An existing agent may apply to the commissioner for a variance from compliance with subpart 5, if compliance constitutes a substantial hardship.

A. The agent may apply for a variance to the commissioner. The commissioner shall consider the following factors when reviewing the variance request:

- (1) why the office does not meet the requirements;
- (2) the options available to the agent to bring the office into compliance;
- (3) the financial cost for meeting the options, estimated with reasonable efforts; and
- (4) other information requested by the commissioner or supplied by the agent.

B. The variance must expire upon the discontinuance, death, retirement, or resignation of the agent or a period specified within the variance, whichever period is less.

C. The commissioner's decision and the right to review of the decision must follow the procedures in part 7404.0330, subparts 3 and 4.

Subp. 3. **Area for applications.** An agent:

A. must have an office that contains a separate and distinct area used exclusively for taking, processing, and storing applications;

B. may not use the application area for living space or for transacting any other business, except that a deputy registrar authorized by the commissioner may process vehicle title and registration transactions, Department of Natural Resources transactions, and additional county transactions as specified under Minnesota Statutes, section 373.33;

C. must install a counter or divider within the application area to separate the public from the secure application review and processing areas of the office; and

D. must position the application equipment so the applicant can review and verify in a private manner that the application information is correct.

Subp. 4. **Inventory and equipment.** Inventory and equipment must be maintained in a secure manner during and after business hours.

A. The agent shall procure and maintain a secure dedicated telephone line as specified by the commissioner for the transmission of license application data at each office site.

B. Any agent appointed after January 5, 1999, shall procure or lease and maintain at least one dedicated vision-testing machine per office from a vendor specified by the commissioner. The agent is responsible for the maintenance of the vision-testing equipment in the agent's office.

C. Any agent establishing an office that did not exist as of January 1, 2000, shall procure or lease, and maintain, photo identification equipment from a vendor specified by the commissioner. This equipment includes a dedicated computer and all software and security features provided by the vendor, and signature-capture equipment.

D. For an agent appointed as of January 1, 2000, who has photo identification and signature-capture equipment provided by the commissioner, the commissioner shall continue to provide and maintain the equipment.

E. If equipment or inventory is provided or maintained by the commissioner at an existing office under Minnesota Statutes, section 171.061, subdivision 4, paragraph (b), and the agent dies, retires, or discontinues service, the equipment and inventory must revert to the commissioner unless an agent is appointed to the existing office by the commissioner under parts 7404.0350 and 7404.0360. All offices operated by a county licensing bureau, county, or municipality, with the commissioner's written permission, may retain the equipment and remain in operation during the appointment process.

F. At a licensing agent office where the agent is responsible for the procurement of photo identification equipment, the agent is responsible for the procurement of any additional photo identification equipment.

G. Where photo identification or vision-testing equipment provided by the commissioner reverts back to the commissioner, the equipment must be distributed according to subitems (1) and (2).

(1) The equipment must be used at a state-operated examination or application site if initial or additional equipment is needed at that location.

(2) If there is no need for the equipment at a state-owned or state-operated examination or application site, the equipment must be sold or sublet to another approved office.

H. The agent must be able to communicate electronically with the department using methods such as e-mail, instant messaging, or text messaging.

I. The agent must have an office that is equipped with the technological infrastructure required to process credit card data or debit card data using a card-processing terminal or other hardware provided by the commissioner. "Technological infrastructure" means the physical hardware used to interconnect computers and users. It includes the transmission media and other devices that control transmission paths, and includes the software used to send, receive, and manage the signals that are transmitted. The agent is responsible for the cost for the technological infrastructure.

Subp. 5. **Size of office area.** The size of the office area includes the application area, the public service area, and the inventory storage area.

A. The size of the office area must contain a minimum of 300 square feet of which no less than 100 square feet shall be dedicated as the public service area.

B. If the agent office is adjacent to another nonconflicting use, the other use may not encroach on the office space of the agent office.

- C. The agent office must be separate and distinct from any other business.
- D. The office of a licensing agent that is also a deputy registrar office must contain no less than 500 square feet.

Subp. 6. **Accessibility.** The office must be accessible to the disabled.

Subp. 7. **Identification.** An indoor or outdoor sign must be prominently displayed to identify the office as a location where applications are taken.

Subp. 8. **Conflicting interests.** An agent may not be employed by, own, or have a financial interest as a partner, officer, or five percent shareholder in, an entity that sells vehicle insurance or operates a driver training program or driver improvement clinic.

A. An agent's office may not be located in the same office area with an entity that sells or serves alcoholic beverages, issues vehicle insurance, or operates a driver training or driver improvement clinic.

B. An agent office that is located adjacent to an entity described in item A must be separated from that entity by floor-to-ceiling walls.

C. The agent's office must have:

- (1) an entrance that is separate from the conflicting entity; and
- (2) a door that can be shut and locked to close off the entire entrance.

Statutory Authority: *MS s 14.06; 14.386; 171.06; 171.061; 373.35*

History: *23 SR 1454; 32 SR 1283; 37 SR 239*

Published Electronically: *September 26, 2012*

7404.0450 REPORTING AND DEPOSITING PRACTICES.

Subpart 1. **Reporting applications; fees.** A report of the applications collected and all application and reinstatement fees due and owed the state must be transmitted by the agent to the commissioner each day the agent's office is open to the public, before the end of the next working day, in an electronic format or other means approved by the commissioner.

A. The report must:

- (1) indicate the applicant's full name and date of birth, or the applicant's Minnesota driver's license, permit, or state identification card number;
- (2) specify the type of application;
- (3) list the application and reinstatement fees collected; and
- (4) include the completed applications.

B. The report must contain a financial statement listing the total amount of application and reinstatement fees collected and deposited under subparts 2 and 2a. The financial statement must provide the office location identification number, report number, report date, and total amount of the deposit for that report.

C. The report must be transmitted or delivered to the commissioner, before the end of the next working day following the collection of any applications or fees, by electronic transfer or other alternative means approved by the commissioner.

D. All applications and fees collected in an agent's office must be included on the report for the day the applications and fees were collected in the office.

E. A minimum of one summary report must be completed for all applications and fees collected during each working day.

F. More than one report may be submitted for a working day with prior approval from the commissioner.

G. If an agent's office does not collect any applications or fees on a working day the office is scheduled to be open, a report must still be filed with the commissioner indicating that no applications or fees were collected that day.

H. Supporting documents for applications listed on the report must be delivered electronically or by other means approved by the commissioner such as:

- (1) United States mail;
- (2) a package delivery service;
- (3) electronic transfer;
- (4) hand delivery; or
- (5) another method approved by the commissioner.

I. An agent must file with the commissioner reports of the agent's credit card and debit card transactions for application and reinstatement fees.

Subp. 1a. Processing credit card and debit card transactions.

A. At the daily close of office records on each working day, the agent shall settle the batch containing all credit card and debit card transactions conducted that day according to procedures prescribed by the commissioner.

B. The agent shall store all signed merchant copies of the credit card and debit card receipts for the transaction amount and the convenience fee at the agent's office location and shall maintain all signed merchant copies of the credit card and debit card receipts for the transaction amount and the convenience fee according to subpart 3.

C. The agent is responsible for all credit card and debit card chargebacks when a person successfully disputes a transaction charged to the person's credit card or debit card.

Subp. 2. Depositing application fees. Before the end of each working day, each agent shall deposit an amount equal to the total of all application and reinstatement fees collected the previous working day, excluding the filing fees collected under Minnesota Statutes, section 171.061, subdivision 4.

A. The agent shall make all deposits according to the requirements in subpart 2a.

B. The amount listed for the total of all application and reinstatement fees collected must cover any shortages for any applications processed and stamped as paid, including any unsettled credit card and debit card transactions.

C. The agent shall process credit card and debit card transactions through the bank designated by the commissioner.

D. The agent shall authorize the designated bank to deposit the proceeds of the credit card and debit card transactions to the agent's business or personal bank account.

E. The agent shall transfer an amount equal to all application and reinstatement fees collected the previous working day that were paid for using a credit card or debit card to the state-designated depository, or to a depository approved under subpart 2a.

Subp. 2a. **Reporting deposits to commissioner.** On the date the deposit of fees is due, the agent shall ensure that a financial statement of the deposits made is reported to the commissioner according to the procedures and in a format as specified in this part.

A. All deposits must be made in a depository that meets the requirements in this subpart.

B. The depository must be authorized by the agent to allow the state to electronically withdraw funds from the agent's account in an amount equal to the application and reinstatement fees reported to the state. This item affects only those agents that received authorization before October 1, 2009, for automatic deposit of funds from the agent's bank account to the state depository.

C. Any depository used for the deposit of fees due and owed the state must either:

(1) be a state-designated depository; or

(2) meet the depository and collateral requirements in Minnesota Statutes, section 9.031.

D. Any funds collected on a working day in excess of the total fees listed on the report described in subpart 1, minus filing fees and imprest cash, must be deposited as application or reinstatement fees.

Subp. 2b. **Reconciling reported excesses.** If any agent documents the need for a refund of a reported payment of excess funds, the commissioner shall refund or credit the reported excess funds if the submitted documentation substantiates the reported excess.

Subp. 3. **Maintaining records.** At the agent's office, the agent shall keep complete records for deposits made to approved state depositories and the daily reports prepared under subpart 1.

A. The records must be maintained for three years.

B. Once an application is received by the agent, the application and the information contained on the application and any attached documents become the property of the state of Minnesota and are subject to the terms of the Data Practices Act under Minnesota Statutes, chapter 13.

C. The application, any attached documents, and the information contained on the application or documents may not be released by the agent without prior approval from the commissioner, except when authorized by statute for law enforcement personnel and by court order.

Subp. 3a. **Destroying private or confidential data.** Use, storage, or destruction of any media with private or confidential information must be done in such a way that the information is irretrievable and cannot be revealed to anyone not entitled to see it.

Subp. 4. **Warning notice.** On discovering a violation of subpart 2 or 2a, the commissioner shall send a warning notice, by certified mail, to the agent warning of the violation. The warning notice must identify the violation and tell the agent that if the agent violates subpart 2 or 2a again within 180 days of the date on the notice, a late payment charge will be imposed.

Subp. 4a. **Late payment charge; calculation.** For each subsequent violation of subpart 2 or 2a, the commissioner shall impose a late payment charge of \$30 or an amount computed by the following formula, whichever is greater.

A. The number of calendar days for which payment is late begins on the date on the late payment charge notice. The late payment notice must be issued by certified mail and contain the information specified in subpart 5.

B. Calendar days late x delinquent amount x daily rate = late payment charge, where:

(1) calendar days late = actual number of calendar days each deposit is delinquent;

(2) delinquent amount = actual amount each deposit is delinquent; and

(3) daily rate = interest on all state funds without authority to be invested separately, as determined by the Minnesota Department of Management and Budget, for the month the deposit was due, divided by 365 days.

C. In determining the number of calendar days a deposit or report is late, weekends and holidays shall be included only if the deposit is determined by the commissioner to be already at least two calendar days late.

D. The commissioner shall continue to impose monthly late payment charges until the agent no longer is in violation of this part.

Subp. 5. **Notice of late payment charge.** The late payment charge notice must:

A. identify the violations of subparts 2 and 2a and Minnesota Statutes, section 171.061 for which the late payment charge is imposed; and

B. inform the agent when the late payment charge is due, how the late payment charge must be paid, and how to obtain a review of the late payment charge.

Subp. 6. **Unpaid late payment charges.** If a late payment charge remains unpaid for 30 days from the date the commissioner mailed the notice of late payment charge and if no review is requested, the commissioner shall make a claim for payment against the agent's bond, or in the case of a public official or employee serving as an agent, the commissioner shall demand payment from the county treasurer or municipality.

Subp. 7. **Administrative review.** When the commissioner notifies an agent that a late payment charge has been imposed, the agent may ask the commissioner to review the late payment charge.

A. The agent may request a review by submitting a statement, together with written materials showing that the agent processed the applications in compliance with this chapter and Minnesota Statutes, chapter 171.

B. The request for review must be submitted within ten days from the date the notice of late payment charge was issued.

C. The commissioner shall review the request and notify the agent within ten days of receipt of the request for review, whether the late payment charge will be affirmed or rescinded.

D. An agent may withhold the late payment charge during the review period but must pay the late payment charge to the state depository account by the end of the working day following notice that the late payment charge is affirmed.

E. The commissioner shall affirm the late payment charge only if the charge was calculated correctly and the late deposit was the result of foreseeable circumstances within the control of the agent.

Subp. 8. **Discontinuance.** An agent who fails to comply with a late payment charge notice is subject to discontinuance of the agent's appointment under part 7404.0800.

Statutory Authority: *MS s 14.06; 14.386; 171.06; 171.061; 373.35*

History: *23 SR 1454; 32 SR 1283; L 2009 c 101 art 2 s 109; 37 SR 239*

Published Electronically: *September 26, 2012*

7404.0475 AUDIT.

Subpart 1. **Biennial audit.** At the request of the commissioner, an agent shall make available for audit, for each office of an agent, all applications and fees due and owed the commissioner and records for all applications occurring during the state's biennial fiscal cycle. If the commissioner has reasonable cause to believe another audit is necessary in addition to the biennial audit, the commissioner may order that another audit be conducted at cost to the agent to address areas of the agent's biennial audit in which the commissioner was not able to determine compliance.

Subp. 2. **Scope of audit.** The audit must cover the application and reinstatement fees collected by the agent for the previous two years. The audit report must include:

- A. the auditor's opinion as described in subpart 3;
- B. a report on internal controls as described in subpart 4;
- C. a verification of imprest cash as required by subpart 5;
- D. any material weakness as described in subpart 6;
- E. a response to the auditor's report by the agent; and
- F. other information as noted by the auditor.

Subp. 3. **Auditor's opinion; compliance and corrective action; administrative sanctions.** The auditor's opinion must describe areas of compliance, noncompliance, and corrective action and show a timetable for corrective action. Failure to undertake corrective action or to meet timelines is cause for subsequent administrative action, including suspension or revocation.

Subp. 4. **Internal controls.** The internal controls are the internal procedures of the agent designed to ensure compliance with the reporting and depositing requirements of this chapter. The audit of internal controls must assess whether:

- A. applications have been properly recorded and accounted for;
- B. reliable state reports have been prepared; and
- C. control measures are in place that assure that accountability over all application and reinstatement fees is maintained by the agent.

Subp. 5. **Verify imprest cash.** The audit must include a verification of the proper use of imprest cash as specified in part 7404.0500, subpart 8, and report any discrepancies.

Subp. 6. **Material weakness.** The audit report must state whether any material weaknesses were detected. Material weaknesses include:

- A. inadequate safeguarding of state inventory, fees, or other state assets;
- B. repeated overages or shortages;
- C. delinquent fees or reports due to the state;
- D. failure to maintain proper reports and records;

- E. material underreporting or overreporting of application or reinstatement fees;
- F. failure to report the loss of equipment, inventory, or fees due and owed the state; and
- G. inattention to or lack of correction to previously reported material weaknesses.

Statutory Authority: *MS s 14.06; 171.06; 373.35*

History: *32 SR 1283*

Published Electronically: *February 18, 2008*

7404.0500 GENERAL OPERATING PRACTICES.

Subpart 1. **Management of office.** An agent shall manage the agent's office according to this part.

- A. The agent:
 - (1) shall not delegate to another individual the authority or responsibility of operating the office; and
 - (2) shall designate a manager for the office.
- B. The agent shall provide written notice to the commissioner of the name of the manager and of a change in the manager within ten calendar days of the change.
- C. The manager must be an individual who is at least 18 years of age, actively participates in the acceptance of applications, and is in the office on a full-time basis.
- D. The manager shall act as a liaison between the commissioner and the agent's office to discuss and address problems or questions that may arise on a daily basis.
- E. The agent shall ensure that only authorized employees of the agent have access to data on the application, supporting documents, and state records that are not public data. The agent shall ensure that a record of the authorized employees is kept in the office records on site.

Subp. 1a. Training.

- A. Each agent or the agent's designated representative shall complete annual training when provided by the commissioner and any additional training deemed necessary by the commissioner to accept or process applications.
- B. Each agent shall ensure that any staff in the agent's office who accept or process applications are subsequently trained by the agent or the agent's designated representative.
- C. A record of all training to accept and process applications completed by the agent and agent's staff must be maintained for three years by the agent in the agent's office.

Subp. 1b. **Customer service policy.** The licensing agent must have a customer service policy approved by the commissioner that is applicable to each office operated by the agent.

- A. The policy must ensure that all staff who accept or process applications are properly trained and competent to perform their duties.
- B. The agent shall ensure that the public is treated with courtesy, consideration, and respect and that the customer's property is treated with respect.
- C. The agent shall ensure that the public is provided with complete, current, and accurate information.

- D. The agent shall ensure that the applicant's personal and private information is protected.
- E. If an investigation by the commissioner in response to a complaint indicates customer service training is necessary, the agent or the agent's designated representative shall complete customer service training provided by or approved by the commissioner. The agent shall ensure that any staff who accept or process applications are subsequently trained by the agent or the agent's representative. A record of the subsequent customer service training must be maintained on site and indicate the date of training and all individuals who completed the training.
- F. Each office operated by the agent must have a system to receive, investigate, and resolve customer complaints.
- (1) The agent must provide for a mechanism for customer comment or feedback about service.
 - (2) The office policy must indicate whom to contact within the office with a complaint.
 - (3) When requested, the customer must be provided with the address and telephone number of an individual at the Minnesota Department of Public Safety to contact with a complaint.
 - (4) The customer must be assured there will be no retaliation for making a complaint.
 - (5) The customer must be assured there will be a timely written response made by the agent about a written complaint, if a written response is requested by the complainant or the state.
 - (6) A record of each written complaint and the licensing agent's response to it must be maintained by the agent at the office location for at least three years.

Subp. 2. **Days and hours of operation.** An agent's office must be open to the public at least 40 hours each week.

A. The legal holidays listed in Minnesota Statutes, section 645.44, subdivision 5, and holidays authorized under Minnesota Statutes, section 373.052, subdivision 1, for county offices are included in the 40-hour calculation.

- B. At the time of appointment, the agent shall provide the commissioner:
- (1) with an accurate written schedule of the days and hours the office is open to the public;
- and
- (2) the time of the daily close of office records.

C. A written request for a change in the days and hours the office is open to the public must be made to the commissioner at least ten calendar days before the change is expected to occur.

D. The commissioner must approve changes in the days and hours the office is open to the public before the change becomes effective.

E. The time of the daily close of office records may not be changed without prior written notice to the commissioner at least 15 calendar days before the effective date of the change.

Subp. 3. **Closure of office; variance procedure.** An office must be open for at least 40 hours each week unless the commissioner grants a variance to allow an office to be closed for a specified period of time.

A. To request a variance for closure of an office for two working days or more, the agent must submit a written request to the commissioner.

B. The commissioner shall consider the following factors before allowing an office to close:

- (1) reason the closure is requested;
- (2) length of time the closure is requested;
- (3) day of the month and time of the year that the closure is requested;
- (4) number of applications that an office processes on an annual basis and number of applications processed at the requested time of closure, if known;
- (5) ability to keep the office open with current, additional, or temporary staff; and
- (6) the number of variances granted that calendar year.

C. The commissioner shall review the information submitted with the variance request and grant or deny the variance within two working days after receipt of the request.

D. If a variance is granted for office closure, the agent must provide notice to the public at the agent's office of the dates and times of the office closure.

E. If the office is to be closed for four working days or less, the agent must post notice in a conspicuous place inside and outside the office for up to two consecutive weeks before closure.

F. If the office is to be closed for five or more working days, the notice must be posted at the office and also published in a qualified newspaper or aired on a radio station in the county or city in which the office is located.

(1) The notice must be published at least two weeks before the closing for two consecutive weeks, or a shorter time as approved by the commissioner.

(2) The notice of closure must contain the dates and times that the office will be closed and the location and address of the nearest office where alternative service may be obtained.

Subp. 4. **Emergency and short-term closure of office.** For requests of an office closure that is for one day or that is due to an emergency situation or illness, the agent must notify the commissioner by telephone or other means at the earliest opportunity to request a variance from the 40-hour work week.

A. The commissioner shall follow the criteria in subpart 3 when deciding to grant or deny the variance.

B. If a variance is granted for closure of an office, the agent must provide notice to the public, as soon as practicable, at the office of the dates and times of the office closure.

C. If the closure of an office is for more than one day, the agent must follow the variance procedures in subpart 3.

Subp. 5. **Application fees.** An agent shall charge and receive the full application fees specified by Minnesota Statutes, chapter 171.

A. Rebates are prohibited.

B. No application or filing fees may be charged for a document returned for a refund or correction due to an error made by the department or an agent.

Subp. 6. **Telephone use charges.** An agent may not charge a customer for long-distance telephone calls, unless:

A. the charge is for the exact per-minute charge of the telephone call and does not include any charges for other basic or optional telephone services;

- B. the long-distance telephone call was made at the request of the customer; and
- C. the agent maintains a record of the long-distance telephone calls made each day, which includes the charges assessed and the name and address of the customer for whom the telephone call was made.

Subp. 7. **Cash register.** A separate cash register or cash receptacle must be maintained for application funds.

A. No other funds from other activities may be kept with application funds, except funds from deputy registrar vehicle title and registration transactions, Department of Natural Resources transactions, or county license bureau transactions.

B. The agent must be able to determine at all times which funds are attributable to agent applications, deputy registrar vehicle transactions, Department of Natural Resources transactions, and county license bureau transactions.

C. Funds from other sources are permitted in the cash register other than those funds listed in items A and B if the agent's fee receipt system can differentiate funds from various sources and the agent has received written approval from the commissioner to use such a system.

Subp. 8. **Imprest cash.** An agent shall maintain a verifiable and identical amount of start-up funds in the cash register or cash receptacle on a daily basis.

A. The agent shall inform the commissioner, in writing, of the amount of money that will be used during the day for start-up funds.

B. The amount of the start-up funds must not be changed without prior written notification to the commissioner.

Subp. 8a. **Credit card acceptance; general requirements.**

A. An agent shall accept credit cards and debit cards as a method of payment for application and reinstatement fee transactions, unless a variance is granted under subpart 8b. The commissioner shall specify the types of credit cards and debit cards that the agent can accept for payment.

B. Ordinarily, an agent shall operate at least one card-processing terminal in the office at which driver's license transactions are conducted, but an agent may operate a point-of-sale information system, or other similar information system used to process and manage business transactions, if:

- (1) the convenience fee rate that is charged to credit or debit card transactions is the same rate that all agents charge for such transactions;
- (2) the information system meets the requirements of the state's credit card vendor; and
- (3) there is no cost to the commissioner for the operation and maintenance of the agent's information system.

C. The commissioner shall:

- (1) provide card-processing terminals at no cost to the agent; and
- (2) replace defective card-processing terminals at no cost to the agent.

D. The agent shall provide the technological infrastructure as specified in part 7404.0400, subpart 4, item I.

E. The commissioner shall provide the agent with signage in an electronic format that states:

(1) the types of credit cards that the agent must accept for payment of application and reinstatement fees; and

(2) a convenience fee is added to a transaction paid by a credit card or debit card.

The agent shall display this signage in a prominent location within the public viewing area of the office.

F. The agent shall inform a person who chooses to pay by credit card or debit card of the amount of the convenience fee and shall obtain the person's consent to the convenience fee before completing the transaction.

G. An agent is responsible for chargebacks as specified in part 7404.0450, subpart 1a, item C.

Subp. 8b. **Credit card acceptance; variance procedure.** An agent may apply to the commissioner for a variance from the provision in subpart 8a requiring acceptance of credit cards and debit cards. A variance to subpart 8a does not include a variance to the technology requirements in part 7404.0400, subpart 4, item I. Application for a variance may be made by submitting a written request to the commissioner according to this subpart. The commissioner shall consider the following factors when reviewing the request for a variance:

A. the agent's written statement of reasons why credit card and debit card acceptance would impose serious economic hardship;

B. bank statements from the agent's office for the preceding three months;

C. the average number and average amount of driver's license transactions conducted in the agent's office during the preceding year; and

D. additional information requested by the commissioner or supplied by the agent.

Subp. 8c. **Credit card acceptance; commissioner's review.** The commissioner shall review the agent's request for a variance under subpart 8b and grant it or deny it within 30 calendar days of its receipt, or within 30 calendar days from the date of the commissioner's request for additional information, whichever is later. The commissioner shall give the agent written justification for a decision to deny the variance. Failure of the agent to submit the additional information requested under subpart 8b within 15 calendar days of the request is cause for the commissioner to deny a request for a variance. This procedure is not a contested case hearing as defined in Minnesota Statutes, chapter 14.

Subp. 9. **Inventory to remain in office.** Inventory assigned to the agent by the commissioner must remain in the office, except in the following authorized circumstances:

A. return of inventory to the commissioner;

B. destruction or removal of inventory that is obsolete; or

C. other removal or transfer of inventory that is authorized by the commissioner such as approval to reassign inventory to another office or approval to remove inventory through other means such as through newly established technology.

Subp. 10. **State-issued property; accountability.** State-issued property provided to an office must be accounted for by submitting the property to the commissioner. If state-issued property is unaccounted for, the agent is responsible for the replacement cost of the state property.

Subp. 11. **Displays.** An agent shall exhibit, as directed by the commissioner, any displays, notices, or other information relating to applications that are provided by the commissioner.

Statutory Authority: *MS s 14.06; 14.386; 171.06; 171.061; 373.35*

History: *23 SR 1454; 32 SR 1283; 37 SR 239*

Published Electronically: *September 26, 2012*

ADMINISTRATIVE SANCTIONS; INDEMNIFICATION

7404.0800 ACTIONS FOR FAILURE TO COMPLY WITH LAWS OR RULES.

The failure of an agent or employee of an agent to comply with applicable laws or rules governing the appointment of an agent and the operation of an office is cause for discontinuance of the agent appointment using the grounds specified for a deputy registrar under parts 7406.0900 to 7406.1000 and following the procedures specified in parts 7406.1100 to 7406.2600. The commissioner may issue a correction order according to the procedures in part 7406.1000. The grounds for discontinuance of an agent appointment or issuance of a correction order as specified in part 7406.1000 also include:

- A. a violation or failure to comply with a provision of this chapter; Minnesota Statutes, chapter 171; or a correction order issued by the commissioner;
- B. misappropriation, conversion, or illegal withholding of application fees required to be deposited in accordance with this chapter and Minnesota Statutes, chapter 171;
- C. grounds for denial of an appointment under part 7404.0360, subpart 7;
- D. failure to successfully complete training required by the commissioner;
- E. loss of an appointment as a deputy registrar under chapter 7406 or Minnesota Statutes, section 168.33;
- F. conviction for a felony; and
- G. allowing unauthorized persons access to records, files, or data.

Statutory Authority: *MS s 14.06; 171.06; 171.061; 373.35*

History: *23 SR 1454; 32 SR 1283*

Published Electronically: *February 18, 2008*

7404.0900 INDEMNIFICATION.

The agent and any agency or employee of the agent shall hold the commissioner harmless from any and all claims or causes of action against the agent or any employee or agency of the agent, including all attorney fees incurred, arising from performance or actions not in accordance with this chapter, Minnesota Statutes, or written instruction from the commissioner.

Statutory Authority: *MS s 14.06; 171.06; 373.35*

History: *32 SR 1283*

Published Electronically: *February 18, 2008*