

8840.5800 ENFORCEMENT: VIOLATIONS, SUSPENSIONS, REVOCATIONS, AND CANCELLATIONS.

Subpart 1. **Notice and opportunity for correction.** When a provider is found in violation of parts 8840.5100 to 8840.6300 or Minnesota Statutes, section 174.30, and the violation is not likely to cause a breakdown or accident, the provider must be given a 15-day written notice to correct the violation.

A. When a provider is found to be operating a vehicle that is in violation of a provision of Minnesota Statutes, sections 169.46 to 169.75, and is likely to break down or cause an accident, the provider shall remove the vehicle from operation immediately. The provider shall correct the defect before returning the vehicle to service.

B. If the provider is violating the prohibition against providing ambulance service without a license issued under Minnesota Statutes, section 144E.10, the commissioner shall direct the provider to stop the violation immediately and shall report the violation to the commissioners of health and human services.

C. The commissioner shall direct a provider that is found to be using a driver or attendant who has not completed the training required by part 8840.5910 or a driver or attendant who does not meet the standards provided in part 8840.5900 and Minnesota Statutes, section 174.30, to cease doing so, and the provider shall stop using the driver or attendant immediately. Before returning the driver or attendant to service, a provider must give the commissioner written evidence that the driver or attendant meets the requirements of parts 8840.5900 and 8840.5910.

D. The commissioner shall direct a provider that is found to be using any other person associated with the organization in a way that violates parts 8840.5100 to 8840.6300 or Minnesota Statutes, section 174.30, to cease doing so, and the provider shall stop using that person immediately. Before returning the person to service, the provider must give the commissioner written evidence that the person meets the requirements of parts 8840.5100 to 8840.6300 and Minnesota Statutes, section 174.30.

E. When a provider is found to be using a vehicle equipped with a wheelchair lift, ramp, or securement system that does not meet the requirements of part 8840.5925, the provider shall not use that vehicle to provide transportation of passengers that require the use of such equipment until the provider submits written evidence to the department that the vehicle meets the requirements of part 8840.5925.

Subp. 2. **Violation determination.** After 15 days, the commissioner may conduct an inspection to determine whether the violation has been corrected. The provider may mail, deliver, or email evidence of compliance to the department or mail, deliver, or email notice that the vehicle has been removed from service. If an inspection report was issued, providers must mail, deliver, or email a copy of the inspection report when providing evidence of compliance.

Subp. 3. Suspension.

A. No provider may provide special transportation service or operate a special transportation service vehicle without correcting a violation of parts 8840.5100 to 8840.6300 or Minnesota Statutes,

section 174.30, as provided in subpart 1 or providing notice that a defective vehicle has been removed from service as provided in subpart 2. The commissioner may suspend a provider's certificate of compliance until the provider complies with parts 8840.5100 to 8840.6300 and Minnesota Statutes, section 174.30, if the commissioner determines a provider has:

- (1) failed to correct a violation within 15 days of receiving written notice;
- (2) operated a special transportation vehicle after the provider has been directed to remove the vehicle from service unless the defect has first been corrected;
- (3) used a driver or attendant after the provider has been directed by the commissioner to stop using the driver or attendant;
- (4) failed to permit an inspection as provided in part 8840.5700;
- (5) failed to maintain insurance as provided in part 8840.6000; or
- (6) failed to pay a decal fee after the commissioner has sent notice.

B. In determining whether to suspend a provider's certificate of compliance under this subpart, the commissioner shall consider the severity of the violations, the ease or burden of remedying the violations, the number of violations found, the provider's history of the same types of violations, and the provider's history of other violations. The commissioner shall develop violation history review criteria and guidelines and post them on the department's website.

Subp. 3a. **Revocation.** The commissioner shall revoke the certificate of compliance of a provider who:

- A. provides special transportation service after the provider's certificate of compliance has been suspended or canceled;
- B. provides ambulance service without a license issued under Minnesota Statutes, section 144E.10; or
- C. has committed a pattern of violating the standards contained in parts 8840.5100 to 8840.6300 or Minnesota Statutes, section 174.30, which shows a disregard for the health and safety of persons who use special transportation service.

Subp. 3b. **Consideration in determining revocation.** In making a determination under subpart 3a, the commissioner must consider:

- A. the willfulness of the violations;
- B. the seriousness of the violations including whether they resulted in, or were likely to result in, passenger injuries or vehicle accidents;
- C. the provider's history of violations including the time elapsed since the last violation, the number of previous violations, and the response of the person to the most recent violation identified; and

D. other factors as justice may require if the commissioner specifically identifies the additional factors in the commissioner's order.

Subp. 3c. **Cancellation.** The commissioner shall cancel the certificate of compliance of a provider who:

A. failed to renew a certificate of compliance as provided in part 8840.5525, subpart 5;

B. knowingly made a material statement that was false or fraudulent regarding the standards provided in this chapter or Minnesota Statutes, section 174.30; or

C. failed to maintain insurance after a notice of suspension was issued as provided for in part 8840.6000.

Subp. 3d. **Application for another certificate after revocation.** If the commissioner revokes a provider's certificate, the provider may not apply for a new certificate for at least 180 days from the date of revocation.

Subp. 3e. **Application for another certificate after a false or fraudulent statement.** If the commissioner cancels a provider's certificate for knowingly having made a material statement that was false or fraudulent under subpart 3c, the provider is prohibited from reapplying for a new certificate for at least 180 days from the date of the cancellation.

Subp. 4. [Repealed, 28 SR 1578]

Subp. 5. **Administrative orders and penalties.** The commissioner may issue an order requiring violations of the standards to be corrected or assessing monetary penalties as provided in Minnesota Statutes, section 174.30, subdivision 8. Minnesota Statutes, section 221.036, applies to orders issued under this part and a person who wishes to contest an order must follow the procedures in that section.

Subp. 6. **Notice of suspension, revocation, or cancellation.** The commissioner shall mail notice of suspension, revocation, or cancellation of a certificate of compliance under this chapter to the address listed on the provider's certificate of compliance by certified mail. The notice must include:

A. a concise statement of the facts alleged to constitute a violation;

B. a reference to the section of the statute, rule, or order that has been violated;

C. a statement of the person's right to review of the order pursuant to part 8840.6400; and

D. the effective date of the suspension, revocation, or cancellation.

Statutory Authority: *MS s 174.30*

History: *17 SR 634; L 1997 c 199 s 14; 28 SR 1578; 48 SR 155*

Published Electronically: *September 14, 2023*