

1 Department of Veterans Affairs  
2 Minnesota Veterans Homes Board

3

4 Adopted Permanent Rules Relating to Veterans Homes Admissions,  
5 Discharges, Cost of Care Calculations, and Maintenance Charges

6

7 Rules as Adopted

8 9050.0010 SCOPE.

9 Chapter 9050 applies to all veterans homes facilities  
10 presently owned or controlled by the state of Minnesota and  
11 operated by the Minnesota Veterans Homes Board, to all  
12 facilities that are or may be developed in the future for  
13 ownership or control by the state of Minnesota and operation by  
14 the Minnesota Veterans Homes Board, and to all individuals  
15 residing in or conducting activities in the facilities unless  
16 otherwise indicated.

17 9050.0020 APPLICABILITY.

18 Parts 9050.0010 to 9050.0900 govern the operation of the  
19 Minnesota veterans homes and establish the standards used to  
20 determine:

- 21 A. an applicant's eligibility and suitability for
- 22 admission to a board-operated facility;
- 23 B. a resident's eligibility for participation in
- 24 programs at a board-operated facility;
- 25 C. appropriateness of a resident's continued care in
- 26 a board-operated facility;
- 27 D. services to be provided in connection with
- 28 residence in a board-operated facility;
- 29 E. procedures to be used in effecting admissions and
- 30 discharges;
- 31 F. standards of resident care and conduct; and
- 32 G. charges to be paid by or on behalf of a resident
- 33 for care in the home.

34 Parts 9050.0010 to 9050.0900 must be interpreted to give  
35 effect to Minnesota Statutes, chapters 196, 197, and 198.

1 9050.0030 COMPLIANCE WITH STATUTES, RULES, AND CODES.

2 The Minnesota Veterans Homes Board shall ensure compliance  
3 by the facility and staff with applicable statutes, with  
4 applicable rules of the Minnesota Department of Health and the  
5 Minnesota Department of Human Services, and with applicable  
6 health, safety, sanitation, building, zoning, and operations  
7 codes, including the following:

8 A. Minnesota Department of Health licensure and  
9 operations requirements in chapters 4655 and 4660 and Minnesota  
10 Statutes, sections 144.50 to 144.56 and 144A.02 to 144A.10;

11 B. chapter 4605 about communicable diseases;

12 C. chapter 4620 about clean indoor air;

13 D. chapter 4638 governing health care facilities  
14 generally;

15 E. chapter 4642 about medical records;

16 F. the fire code in chapter 7510 and Minnesota  
17 Statutes, section 299F.011;

18 G. the Department of Labor and Industry safety code  
19 in chapter 5205;

20 H. the building code in chapters 1300 to 1365 and  
21 Minnesota Statutes, section 16B.59;

22 I. the plumbing code in parts 4715.0100 to 4715.6000  
23 and Minnesota Statutes, sections 326.37 to 326.45;

24 J. the vulnerable adults act in parts 9555.7100 to  
25 9555.7700 and Minnesota Statutes, section 626.557;

26 K. the health care facilities grievance provisions in  
27 Minnesota Statutes, sections 144A.51 to 144A.53; and

28 L. the patient's bill of rights in Minnesota  
29 Statutes, section 144.651 and the complaint and resident's  
30 rights provisions of Minnesota Statutes, section 144A.13; and

31 M. the United States Veterans Administration Code  
32 M-1, part 1, chapter 3.

33 9050.0040 DEFINITIONS.

34 Subpart 1. Scope. The definitions in this part apply to  
35 parts 9050.0010 to 9050.0900.

1           Subp. 2. **Absence with notice; absence without notice.**  
2 "Absence with notice" or "absence without notice" means when a  
3 resident removes himself or herself from the particular area or  
4 level of care specified in the individual care plan with or  
5 without informing the Minnesota veterans home facility  
6 administration or staff of departure, intended destination, and  
7 anticipated return.

8           Subp. 3. **Administrator.** "Administrator" has the meaning  
9 given it in Minnesota Statutes, section 198.001, subdivision 4.

10          Subp. 4. **Admission.** "Admission" means the act that allows  
11 an eligible applicant to officially enter a Minnesota veterans  
12 home facility as a resident.

13          Subp. 5. **Admissions agreement.** "Admissions agreement"  
14 means a written contract entered into by the resident or the  
15 resident's legal representative or spouse, if any, or both, and  
16 the board or its designated representative at the time of  
17 admission of the resident to a board-operated facility. The  
18 agreement must:

19           A. identify the service obligations of the facility  
20 with respect to the resident, as determined by the board  
21 according to licensure requirements and applicable statutes and  
22 rules, as specified in part 9050.0030;

23           B. identify the responsibilities of the resident with  
24 respect to the facility and other residents; and

25           C. if applicable, detail the amount to be paid as  
26 maintenance charge by or on behalf of a resident toward the cost  
27 of care, subject to a change in financial status of the person  
28 responsible for payment.

29          The agreement must be signed by the person responsible for  
30 paying any charges.

31          Subp. 6. **Against medical advice.** "Against medical advice"  
32 means a resident has left the particular area or level of care  
33 at the Minnesota veterans home facility or campus specified in  
34 the individual care plan, or has chosen to terminate resident  
35 status contrary to the recommendations of the attending  
36 physician.

1 Subp. 7. **Annual financial status review.** "Annual  
2 financial status review" means the annual verification and  
3 assessment of income, property, and expenses used to calculate  
4 the ability of a resident or the resident's legal representative  
5 or spouse acting on the resident's behalf, if any, to pay an  
6 amount toward the resident's cost of care.

7 Subp. 8. **Applicant.** "Applicant" means a person seeking  
8 admission to a board-operated facility.

9 Subp. 9. **Application.** "Application" means the applicant's  
10 written request for admission as provided in part 9050.0055.

11 Subp. 10. **Assessment.** "Assessment" means determination of  
12 an applicant's or resident's need for services by identifying  
13 the person's skills and behaviors and the environmental,  
14 physical, medical, and health factors that affect development or  
15 remediation of the person's skills and behavior.

16 Subp. 11. **Attending physician.** "Attending physician"  
17 means a physician licensed to practice medicine under Minnesota  
18 Statutes, chapter 147 who is an applicant's or resident's  
19 primary treating or supervising physician. An attending  
20 physician may be a Minnesota veterans home facility staff  
21 physician.

22 Subp. 12. **Basic needs.** "Basic needs" means food,  
23 clothing, shelter, utilities, personal hygiene items, and other  
24 subsistence items.

25 Subp. 13. **Bed change.** "Bed change" means a resident is  
26 assigned to a different bed in the same room, to another room,  
27 or to another building at the same level of care.

28 Subp. 14. **Bed hold.** "Bed hold" means a particular bed  
29 occupied by a Minnesota veterans home resident, or a comparable  
30 bed, that is held open for the resident during the resident's  
31 absence from a board-operated facility for medically necessary  
32 treatment at another health care facility, for a rehabilitation  
33 program, or during the resident's absence, with notice, from a  
34 board-operated facility.

35 Subp. 15. **Board.** "Board" means the board of directors of  
36 the Minnesota veterans homes or its designee created by

1 Minnesota Statutes, section 198.022, and defined in Minnesota  
2 Statutes, section 198.001, subdivision 6.

3 Subp. 16. **Boarding care.** "Boarding care" means board,  
4 room, laundry, personal services, supervision over medication  
5 that can be safely self-administered, and a program of  
6 activities and supervision required by persons who are not able  
7 to properly care for themselves. Boarding care is the state  
8 equivalent of domiciliary care as that term is used by the  
9 United States Department of Veterans Affairs.

10 Subp. 17. **Boarding care facility.** "Boarding care facility"  
11 means a facility or unit of a facility licensed by the  
12 commissioner of health under chapters 4655 and 4660 and under  
13 Minnesota Statutes, sections 144.50 to 144.56.

14 Subp. 18. **Board-operated facility.** "Board-operated  
15 facility" means a building located on a Minnesota veterans home  
16 campus in which nursing care or boarding care is provided.

17 Subp. 19. **Business expense.** "Business expense" means the  
18 cost of producing income from a business, excluding capital  
19 expenditures and depreciation.

20 Subp. 20. **Campus.** "Campus" means the property owned or  
21 controlled by the state of Minnesota on which a Minnesota  
22 veterans home facility is located.

23 Subp. 21. **Care plan review.** "Care plan review" means an  
24 assessment of a resident's physical and mental condition and  
25 treatment needs. Care plan review includes:

26 A. a review of the resident's reason for seeking  
27 admission and treatment;

28 B. a review of the resident's diagnoses and  
29 assessments;

30 C. a review of the resident's individual care plan;

31 D. a review of the appropriateness, duration, and  
32 outcome of treatment and care provided at the board-operated  
33 facility; and

34 E. a review of the treatment and care recommendations  
35 of the multidisciplinary staff.

36 Subp. 22. **Chemical.** "Chemical" means alcohol, solvents,

1 and other mood altering substances including controlled  
2 substances as defined in Minnesota Statutes, chapter 152.

3 Subp. 23. **Chemical abuse.** "Chemical abuse" has the  
4 meaning given it in part 9530.4100, subpart 5.

5 Subp. 24. **Chemical dependency counselor.** "Chemical  
6 dependency counselor" means a staff person who meets the  
7 qualifications in part 9530.4270, subpart 4.

8 Subp. 25. **Chemical dependency treatment program.**  
9 "Chemical dependency treatment program" means an in-patient,  
10 residential treatment program operated in a licensed hospital or  
11 licensed facility under parts 9530.4100 to 9530.4450.

12 Subp. 26. **Chemically dependent; chemical dependency.**  
13 "Chemically dependent" or "chemical dependency" has the meaning  
14 given it in part 9530.4100, subpart 6.

15 Subp. 27. **Conservator.** "Conservator" has the meaning  
16 given it in Minnesota Statutes, section 525.539, subdivision 3.

17 Subp. 28. **Contract.** "Contract" means a legally  
18 enforceable agreement entered into by the board and an  
19 applicant, resident, or the resident's legal representative or  
20 spouse, if any, or a provider or by a provider and a  
21 subcontractor, that sets forth the rights and responsibilities  
22 of the parties.

23 Subp. 29. **Cost effective.** "Cost effective" means a result  
24 that is economical in terms of the goods and services received  
25 for the money spent, given feasible alternatives or a result in  
26 which the cost is less than the value of the benefit received.

27 Subp. 30. **Cost of care.** "Cost of care" means the average  
28 daily per resident cost of providing care, calculated separately  
29 for a resident of a boarding care facility or nursing home  
30 facility. The cost must be calculated according to part  
31 9050.0500.

32 Subp. 31. **Dependent.** "Dependent" means an individual whom  
33 a person is entitled to claim as a dependent on the Minnesota or  
34 United States income tax return. An individual may not be  
35 claimed as a full unallocated dependent by more than one  
36 person. When two or more persons are entitled to claim the

1 dependent, the dependent must be allocated equally among the  
2 persons unless the persons choose another allocation.

3 Subp. 32. **Detoxification program.** "Detoxification  
4 program" has the meaning given it in Minnesota Statutes, section  
5 254A.08, subdivision 2.

6 Subp. 33. **Diagnostic and Statistical Manual of Mental  
7 Disorders; DSM-MD.** "Diagnostic and Statistical Manual of Mental  
8 Disorders" or "DSM-MD" means the current edition of the American  
9 Psychiatric Association's Diagnostic and Statistical Manual of  
10 Mental Disorders (DSM-MD). This publication is incorporated by  
11 reference, is not subject to frequent change, and is available  
12 at the State Law Library, Ford Building, 117 University Avenue,  
13 Saint Paul, Minnesota 55155.

14 Subp. 34. **Dietician.** "Dietician" means a dietician  
15 registered with the National Commission on Dietetic Registration.

16 Subp. 35. **Direct cost.** "Direct cost" has the meaning  
17 given it in part 9050.0500, subpart 2, item A.

18 Subp. 36. **Discharge.** "Discharge" means a termination of  
19 residence in the nursing home or boarding care home that is  
20 documented in the discharge summary signed by the attending  
21 physician. A discharge includes the movement of a resident from  
22 the campus of one board-operated facility to another, whether to  
23 the same or to a different level of care. For purposes of this  
24 definition, a discharge does not include:

25 A. transfer or bed change within a particular nursing  
26 or boarding care home;

27 B. a transfer from one licensure level to another at  
28 the same Minnesota veterans home campus; or

29 C. an absence from the nursing home or boarding care  
30 home for hospitalization, treatment purposes, or personal  
31 reasons when the resident is expected to return to the same  
32 nursing home or boarding care home and complies with the bed  
33 hold requirements of part 9050.0150.

34 Subp. 37. **Earned income.** "Earned income" means  
35 compensation from lawful employment or lawful self-employment,  
36 including salaries, wages, tips, gratuities, commissions,

1 earnings from self-employment, earned income tax credits,  
2 incentive payments from work or training programs, payments made  
3 by an employer for regularly accrued vacation or sick leave,  
4 employee bonuses and profit sharing, jury duty pay, picket duty  
5 pay, and profit from other lawful activities earned by the  
6 individual's effort or labor. Earned income does not include  
7 returns from capital investment or benefits that accrue as  
8 compensation for lack of employment. Earned income must be  
9 determined according to parts 9050.0700 to 9050.0740.

10 Subp. 38. **Educational expenses.** "Educational expenses"  
11 means the amounts paid for a person's tuition, mandatory fees,  
12 transportation to and from school, supplies and equipment  
13 required for coursework, and child care while the person is in  
14 school or in transit.

15 Subp. 39. **Emergency.** "Emergency" means a life-threatening  
16 medical condition that if not immediately diagnosed and treated  
17 could cause a person serious physical or mental disability,  
18 continuation of severe pain, or death.

19 Subp. 40. **Equity.** "Equity" means the amount of equity in  
20 real or personal property owned by a person. Equity is  
21 determined by subtracting any outstanding encumbrances on fair  
22 market value.

23 Subp. 41. **Goal.** "Goal" means the desired behavioral  
24 outcome of an activity that can be observed and reliably  
25 measured by two or more independent observers.

26 Subp. 42. **Gross income.** "Gross income" means all earned  
27 and unearned income before any deduction, disregard, or  
28 exclusion.

29 Subp. 43. **Guardian.** "Guardian" has the meaning given it  
30 in Minnesota Statutes, section 525.539, subdivision 2.

31 Subp. 44. **Health care facility.** "Health care facility"  
32 means a hospital, nursing home, boarding care home, or  
33 supervised living facility licensed by the Minnesota Department  
34 of Health under Minnesota Statutes, sections 144.50 to 144.56 or  
35 144A.01 to 144A.17.

36 Subp. 45. **Health care professional.** "Health care



1 professional" means a licensed health professional as defined in  
2 Minnesota Statutes, section 144.4172, subdivision 7.

3 Subp. 46. **Health care service.** "Health care service"  
4 means a diagnostic, preventive, or corrective procedure provided  
5 in a health care facility, or by or under the supervision of a  
6 health care professional, or by or under the auspices of a  
7 rehabilitation program as defined in subpart 103.

8 Subp. 47. **Home.** "Home" has the meaning given it in  
9 Minnesota Statutes, section 198.001, subdivision 8.

10 Subp. 48. **Homestead.** "Homestead" means a dwelling owned  
11 and occupied by the applicant or resident, or that person's  
12 spouse, as a primary residence. Homestead includes the land  
13 upon which the dwelling is situated as specified in Minnesota  
14 Statutes, section 510.02.

15 Subp. 49. **Hospital.** "Hospital" means an acute care  
16 institution as defined in Minnesota Statutes, section 144.696,  
17 subdivision 3, and licensed under Minnesota Statutes, sections  
18 144.50 to 144.58.

19 Subp. 50. **Hospital absence.** "Hospital absence" means an  
20 absence from a board-operated facility for medically necessary  
21 treatment in a hospital.

22 Subp. 51. **Household.** "Household" means the spouse of an  
23 applicant or resident and the applicant's or resident's  
24 dependent child or children living in the homestead.

25 Subp. 52. **Household income.** "Household income" means all  
26 income received by or on behalf of the applicant's or resident's  
27 spouse in a calendar year.

28 Subp. 53. **Inappropriate and harmful use.** "Inappropriate  
29 and harmful use" has the meaning given it in part 9530.4100,  
30 subpart 14.

31 Subp. 54. **Income.** "Income" means cash or in-kind  
32 benefits, whether earned or unearned, received by or available  
33 to an individual and not established as property under part  
34 9050.0700, subpart 1.

35 Subp. 55. **Independent living; live independently.**  
36 "Independent living" or "live independently" means the situation

1 of an individual living in his or her own dwelling and having  
2 the opportunity to control basic decisions about his or her own  
3 life to the fullest extent possible.

4 Subp. 56. **Independent physician.** "Independent physician"  
5 means a physician licensed to practice medicine under Minnesota  
6 Statutes, chapter 147, who is not the applicant's or resident's  
7 attending physician. The independent physician may be a  
8 Minnesota veterans home staff physician of a board-operated  
9 facility other than the one in which the individual in question  
10 resides.

11 Subp. 57. **Indirect cost.** "Indirect cost" has the meaning  
12 given it in part 9050.0500, subpart 2, item B.

13 Subp. 58. **Individual care plan.** "Individual care plan"  
14 means a written plan developed under part 4655.6000 for  
15 implementing and coordinating a resident's care and treatment  
16 that is developed and maintained by the multidisciplinary staff  
17 on the basis of assessment results for each resident. The  
18 purpose of the individual care plan is to integrate care,  
19 identify and meet the service needs of the resident, set  
20 treatment goals and objectives for the resident, and identify  
21 responsibilities of the multidisciplinary staff for the  
22 resident's care and treatment.

23 Subp. 59. **International Classification of Diseases;**  
24 **ICD-9-CM.** "International Classification of Diseases" or  
25 "ICD-9-CM" means the current edition of the Clinical Manual of  
26 the International Classification of Diseases, as published by  
27 the Commission on Professional and Hospital Activities, 1968  
28 Green Road, Ann Arbor, Michigan. This publication is  
29 incorporated by reference and is available through the Minitex  
30 interlibrary loan system. It is not subject to frequent change.

31 Subp. 60. **Legal availability.** "Legal availability" means  
32 a person's right under the law to secure, possess, dispose of,  
33 or control income or property.

34 Subp. 61. **Legal representative.** "Legal representative"  
35 means an individual ~~acting-or-speaking-on-behalf-of-an-applicant~~  
36 ~~or-resident-whose-authority-is-granted-or-recognized-by-statute~~

1 ~~and-the-nature-and-extent-of-that-authority-is-defined-by~~  
2 ~~statute,by-a-court-of-competent-jurisdiction,by-other-legal~~  
3 ~~action,or-by-recognition-of-the-United-States-Department-of~~  
4 ~~Veterans-Affairs-or-Social-Security-Administration-in-the-matter~~  
5 ~~under-consideration.--Examples-are-a-guardian,conservator,~~  
6 ~~person-with-power-of-attorney,custodian,and-representative~~  
7 payee who has the legal authority to take a particular action on  
8 behalf of an applicant or resident. The legal authority can be  
9 granted by statute, by a court, or by federal or state  
10 regulation.

11 Subp. 62. Level of care. "Level of care" means the  
12 licensure level of the board-operated facility in which a person  
13 lives or the case mix classification assigned to the person  
14 under parts 9549.0058, subpart 2, and 9549.0059.

15 Subp. 63. Level of care change. "Level of care change"  
16 means movement of a resident from one level of care to another  
17 within a board-operated facility or from one facility to another  
18 on the same campus.

19 Subp. 64. Licensed consulting psychologist. "Licensed  
20 consulting psychologist" means a person licensed under Minnesota  
21 Statutes, section 148.91, subdivision 4.

22 Subp. 65. Licensed practical nurse. "Licensed practical  
23 nurse" means a person licensed under Minnesota Statutes,  
24 sections 148.91 to 148.299.

25 Subp. 66. Licensed psychologist. "Licensed psychologist"  
26 means a person licensed under Minnesota Statutes, section  
27 148.91, subdivision 5.

28 Subp. 67. Life estate. "Life estate" means an interest in  
29 real property with the right of use or enjoyment limited to the  
30 life or lives of one or more human beings that is not terminable  
31 at any fixed or computable period of time.

32 Subp. 68. Lump sum. "Lump sum" means nonrecurring income  
33 received at one time. Examples include windfalls, debt  
34 repayments, payments from the sale of property, tax refunds,  
35 payments of accrued benefits, gifts, and inheritances.

36 Subp. 69. Maintenance charge. "Maintenance charge" means

1 the portion of the cost of care paid by or on behalf of a  
2 specific resident.

3 Subp. 70. **Market rent.** "Market rent" means the rental  
4 income that a property would most probably command on the open  
5 market in an arm's length negotiation as shown by current  
6 rentals being paid for comparable space of comparable worth.

7 Subp. 71. **Market value.** "Market value" means the most  
8 probable price in terms of money that property should bring in a  
9 competitive open market under all conditions requisite to a fair  
10 sale. The value on the most recent property tax statement must  
11 be presumed to be the market value for purposes of calculating  
12 the maintenance charge unless the person or the board or its  
13 designated representative provides convincing evidence to  
14 overcome the presumption.

15 Subp. 72. **Medical condition.** "Medical condition" means  
16 the diagnosis or diagnoses listed in current editions of  
17 ICD-9-CM or DSM-MD, made by the applicant's or resident's  
18 attending physician.

19 Subp. 73. **Medical director.** "Medical director" means a  
20 physician licensed under Minnesota Statutes, chapter 147, and  
21 employed by or under contract to the board who is responsible  
22 for overall direction of medical practice in a facility and for  
23 liaison with independent physicians at the facility.

24 Subp. 74. **Medical treatment plan.** "Medical treatment plan"  
25 means the plan signed by the resident's attending physician that  
26 includes the resident's primary and secondary diagnoses, order  
27 for treatment and medications, rehabilitation potential,  
28 rehabilitation procedures if ordered, clinical monitoring  
29 procedures, and discharge potential. The medical treatment plan  
30 is a component of the individual care plan.

31 Subp. 75. **Medically necessary; medical necessity.**  
32 "Medically necessary" or "medical necessity" means a health care  
33 service that is consistent with the resident's diagnosis or  
34 condition and is provided pursuant to the provider's authority  
35 under state law and within the scope of licensure, if any, and:

36 A. is recognized as the prevailing standard or

1 current practice by the provider's peer group;

2 B. is rendered:

3 (1) in response to a life-threatening condition  
4 or pain;

5 (2) to treat an injury, illness, or infection;

6 (3) to treat a condition that could result in  
7 physical or mental disability; or

8 (4) to achieve a level of physical or mental  
9 function consistent with prevailing community standards for the  
10 diagnosis or condition; or

11 C. is a preventive health care service.

12 Subp. 76. **Mental health practitioner.** "Mental health  
13 practitioner" means a person qualified under Minnesota Statutes,  
14 section 245.462, subdivision 17.

15 Subp. 77. **Mental health professional.** "Mental health  
16 professional" means a person qualified under Minnesota Statutes,  
17 section 245.462, subdivision 18.

18 Subp. 78. **Mental illness.** "Mental illness" has the  
19 meaning given it in Minnesota Statutes, section 245.462,  
20 subdivision 20, clause (a).

21 Subp. 79. **Month.** "Month" means a calendar month.

22 Subp. 80. **Multidisciplinary staff.** "Multidisciplinary  
23 staff" means the health care professionals and mental health  
24 practitioners or mental health professionals employed by or  
25 under contract to the board to provide clinical and evaluative  
26 services in the treatment of conditions of the residents.

27 Subp. 81. **Net income.** "Net income" means income remaining  
28 after allowable deductions and exclusions have been subtracted  
29 from gross income under parts 9050.0720 to 9050.0755.

30 Subp. 82. **Net worth.** "Net worth" means the total sum of  
31 property owned by an applicant, resident, or spouse of an  
32 applicant or resident or managed by a legal representative on  
33 behalf of an applicant, resident, or spouse of an applicant or  
34 resident less any encumbrances on the property.

35 Subp. 83. **Nursing care.** "Nursing care" has the meaning  
36 given it in part 4655.0100, subpart 8, item B, and Minnesota

1 Statutes, section 144A.01, subdivision 6.

2 Subp. 84. **Nursing home.** "Nursing home" means a facility  
3 licensed by the commissioner of health under chapters 4655 and  
4 4660 and Minnesota Statutes, chapter 144A.

5 Subp. 85. **Nursing staff.** "Nursing staff" has the meaning  
6 given it in part 4655.0100, subpart 9.

7 Subp. 86. **Objective.** "Objective" means a short-term  
8 treatment expectation and its accompanying measurable physical  
9 or behavioral criteria as specified in the individual care  
10 plan. An objective is set to facilitate achieving the goals in  
11 a resident's individual care plan.

12 Subp. 87. **Outcome.** "Outcome" means the measure of change  
13 or the degree of attainment of treatment goals and objectives in  
14 the resident's individual care plan that is achieved as a result  
15 of provision of service.

16 Subp. 88. **Pathological use.** "Pathological use" has the  
17 meaning given it in part 9530.4100, subpart 18.

18 Subp. 89. **Personal absence.** "Personal absence" means an  
19 absence from a board-operated facility for family visits,  
20 vacations, or other personal, nontreatment related reasons.

21 Subp. 90. **Personal fund account.** "Personal fund account"  
22 means the account maintained at a facility by a resident that is  
23 solely for use of that resident and managed according to parts  
24 4655.4150 to 4655.4170.

25 Subp. 91. **Personal property.** "Personal property" means  
26 property other than real property.

27 Subp. 92. **Pharmacist.** "Pharmacist" means a person  
28 licensed under Minnesota Statutes, chapter 151.

29 Subp. 93. **Physical therapist.** "Physical therapist" means  
30 a person licensed under Minnesota Statutes, sections 148.65 to  
31 148.78.

32 Subp. 94. **Preventive health care service.** "Preventive  
33 health care service" means a health care service that is  
34 provided to a resident to avoid or minimize the occurrence of  
35 illness, infection, disability, or other health condition.

36 Subp. 95. **Psychiatrist.** "Psychiatrist" means a physician

1 licensed under Minnesota Statutes, chapter 147, who can give  
2 written documentation of having successfully completed a  
3 postgraduate psychiatry program of at least three years duration  
4 that is accredited by the American Board of Psychiatry and  
5 Neurology.

6 Subp. 96. **Rate year.** "Rate year" means the state fiscal  
7 year for which a payment rate is effective.

8 Subp. 97. **Real property.** "Real property" means land and  
9 all buildings, structures, and improvements or other fixtures on  
10 it, all rights and privileges belonging or appertaining to it,  
11 all manufactured homes attached to it on permanent foundations,  
12 and all trees, mines, minerals, quarries, and fossils on or  
13 under it.

14 Subp. 98. **Registered nurse.** "Registered nurse" means a  
15 nurse licensed under Minnesota Statutes, sections 148.171 to  
16 148.285.

17 Subp. 99. **Rehabilitation program.** "Rehabilitation  
18 program" means a program of chemical dependency treatment or  
19 rehabilitation provided in a residential facility ~~as defined in~~  
20 ~~Minnesota Statutes, section 245.782, subdivision 6.~~

21 Subp. 100. **Reporting year.** "Reporting year" means the  
22 period from April 1 to March 31 immediately preceding the rate  
23 year, for which the nursing home or boarding care home  
24 calculates its costs, and which is the basis for the  
25 determination of the cost of care for the following rate year.

26 Subp. 101. **Representative payee.** "Representative payee"  
27 means an individual designated by the Social Security  
28 Administration to receive benefits on behalf of the applicant or  
29 resident.

30 Subp. 102. **Reserved bed.** "Reserved bed" has the meaning  
31 given it in part 9050.0150, subpart 6.

32 Subp. 103. **Resident.** "Resident" has the meaning given it  
33 in Minnesota Statutes, section 198.001, subdivision 2.

34 Subp. 104. **Resident's financial information file.**  
35 "Resident's financial information file" means financial data  
36 collected to determine the ability of an applicant or resident

1 to pay or have paid the amount indicated in the admissions  
2 agreement toward the resident's cost of care.

3 Subp. 105. **Resource.** "Resource" means any property,  
4 income, or benefit that is available to pay for the cost of care  
5 of the resident.

6 Subp. 106. **Social worker.** "Social worker" means a person  
7 who is licensed under Minnesota Statutes, section 148B.21, who  
8 has met the minimum qualifications of a social worker under the  
9 Minnesota Merit System or a county civil service system in  
10 Minnesota.

11 Subp. 107. **Staff physician.** "Staff physician" means a  
12 physician licensed to practice medicine under Minnesota  
13 Statutes, chapter 147, who is employed by or under contract to  
14 the board to provide services in a board-operated facility.

15 Subp. 108. **Staff psychiatrist.** "Staff psychiatrist" means  
16 a psychiatrist who is employed by or under contract to the board  
17 to provide psychiatric services in a board-operated facility.

18 Subp. 109. **Staff psychologist.** "Staff psychologist" means  
19 a person licensed under Minnesota Statutes, section 148.91,  
20 subdivision 4 or 5, who is employed by or under contract to the  
21 board to provide psychological services in a board-operated  
22 facility.

23 Subp. 110. **Transfer.** "Transfer" means:

24 A. movement of a resident to or from another health  
25 care facility for purposes of hospitalization or other health  
26 care services if a bed is held at the particular board-operated  
27 facility for the resident pending completion of medically  
28 necessary treatment and the resident's anticipated return to the  
29 same board-operated facility; or

30 B. movement to or from a nursing home to a boarding  
31 care facility or to or from a boarding care facility to a  
32 nursing home at a particular campus, when a bed hold is not  
33 required and a return to the resident's previous level of care  
34 is not anticipated.

35 Subp. 111. **Treatment.** "Treatment" means the use of  
36 medically necessary health care services to prevent, correct, or



1 ameliorate disease or abnormalities detected by diagnostic or  
2 screening procedures.

3 Subp. 112. **Treatment absence.** "Treatment absence" means  
4 an absence of a resident from a board-operated facility, with  
5 the expectation of the resident's return to the board-operated  
6 facility. The absence must be to be placed in a residential  
7 institutional setting, including a detoxification facility, a  
8 rehabilitation program, or health care facility other than a  
9 hospital.

10 Subp. 113. **Unearned income.** "Unearned income" means any  
11 form of gross income that does not meet the definition of earned  
12 income. Unearned income includes an annuity, retirement, or  
13 disability benefit, including veteran's or worker's  
14 compensation, social security disability, railroad retirement  
15 benefits, or unemployment compensation; benefits under a  
16 federally funded categorical assistance program including  
17 supplemental security income, or other assistance programs,  
18 gifts, rents, dividends, interest and royalties, support and  
19 maintenance payments, pension payments, return on capital  
20 investment, insurance payments or settlements, severance  
21 payments, employment benefits and rewards for past employment;  
22 and educational grants, deferred payment loans, and scholarships.  
23 Unearned income must be calculated according to part 9050.0710,  
24 subpart 5.

25 Subp. 114. **Unemployment compensation.** "Unemployment  
26 compensation" means the insurance benefits paid to an unemployed  
27 worker under Minnesota Statutes, sections 268.03 to 268.231.

28 Subp. 115. **Utilization review.** "Utilization review" means  
29 the activity or function within the board-operated facility  
30 responsible for the ongoing evaluation of the necessity for and  
31 the quality and timeliness of services provided in  
32 board-operated facilities, according to chapters 4655 and 4660,  
33 when the services are not under the responsibility of a  
34 professional standards review organization.

35 Subp. 116. **Verification.** "Verification" means the process  
36 the facility financial staff or social services staff must use

1 to establish the accuracy or completeness of information from an  
2 applicant, a resident, a third party, or other source as that  
3 information relates to a person's eligibility for admission,  
4 suitability for admission, or calculation of maintenance charge.

5 Subp. 117. **Veteran.** "Veteran" has the meaning given it in  
6 Minnesota Statutes, section 197.447.

7 Subp. 118. **Volunteer.** "Volunteer" means a person who,  
8 without compensation, gives time and effort in supportive or  
9 person-to-person services.

10 Subp. 119. **Vulnerable adults act.** "Vulnerable adults act"  
11 has the meaning given it in Minnesota Statutes, section 626.557.

12 Subp. 120. **Working days.** "Working days" means Monday  
13 through Friday, excluding state recognized legal holidays.

14 9050.0050 PERSONS ELIGIBLE FOR ADMISSION.

15 Subpart 1. **General qualifications.** A person seeking  
16 admission to a board-operated facility must meet the admission  
17 requirements in Minnesota Statutes, sections 198.01, 198.02, and  
18 198.03, and the criteria in part 9050.0070. The person must  
19 also provide current evidence of medical need for admission and  
20 financial information as specified in parts 9050.0800 to  
21 9050.0900.

22 ~~For purposes of subparts 2 and 3, a person is a resident of~~  
23 ~~the state if the person has been physically present in the state~~  
24 ~~on a continuous basis for six months before the date of~~  
25 ~~application for admission.~~

26 For purposes of subparts 2 to 4, an applicant or resident  
27 has adequate means of financial support if the applicant or  
28 resident is financially able to live independently. A person is  
29 financially able to live independently if the person has assets  
30 in excess of \$3,000 or income sufficient to meet basic needs.

31 Subp. 2. **Veterans.** A person must meet the criteria in  
32 Minnesota Statutes, sections 197.447 and 198.022, paragraphs (1)  
33 and (2), to be eligible for admission to a board-operated  
34 facility as a veteran.

35 Subp. 3. **Nonveterans.** A person who is not a veteran must

1 meet the criteria in Minnesota Statutes, section 198.022,  
2 paragraphs (1) and (3), to be eligible for admission to a  
3 board-operated facility.

4 Subp. 4. Exceptions. An applicant otherwise eligible for  
5 admission to a board-operated facility under subpart 2 or 3 who  
6 has adequate means of support may be admitted to a  
7 board-operated facility if the applicant complies with the  
8 requirements in Minnesota Statutes, section 198.03. An  
9 applicant seeking admission under Minnesota Statutes, section  
10 198.03, and this subpart must not have past unpaid debts to the  
11 state for maintenance charges for prior residence in a  
12 board-operated facility. An applicant who has past unpaid debts  
13 to the state must make full payment of the past unpaid bills for  
14 maintenance charges or negotiate a reasonable repayment plan  
15 with the board before an application for admission will be  
16 placed on the active waiting list.

17 9050.0055 ADMISSIONS PROCESS, WAITING LIST, PRIORITY.

18 Subpart 1. Process. A person seeking admission to a  
19 board-operated facility may obtain an application form and  
20 information describing the required application procedures from  
21 the facility. The social services staff of the board-operated  
22 facility shall assist the person to complete the application  
23 form and process. When an application is requested, the social  
24 services staff shall provide a checklist of items requiring  
25 documentation, information, or verification to complete the  
26 application. An application is complete when the following  
27 information is received by the board-operated facility:

- 28 A. a completed, signed application form;  
29 B. a copy of the person's military discharge papers;  
30 C. a signed copy of the board-operated facility's  
31 admission policy statement; and  
32 D. the following medical records:

33 (1) a discharge summary from all hospitals at  
34 which the person received treatment within the five years before  
35 application;

1 (2) a patient care information form from the  
2 current nursing home, if any;

3 (3) if the person resides at home at the time of  
4 application, a patient care information form completed by the  
5 primary caregiver; and

6 (4) if the person resides at home at the time of  
7 application, a history and physical from the attending physician.

8 The social services staff of the board-operated facility  
9 shall keep a checklist on which to record the date of receipt of  
10 information for the person's application file. Upon completion  
11 of an application file, a determination must be made by the  
12 board-operated facility social services staff as to whether the  
13 applicant meets the general eligibility requirements in part  
14 9050.0050. If the requirements of part 9050.0050 are met, an  
15 applicant's name must be referred to the admissions committee or  
16 be placed on the waiting list for the particular facility as  
17 specified in subpart 3.

18 Subp. 2. Timing of review by the admissions committee.

19 The admissions committee shall review an application for  
20 admission to determine the applicant's suitability for admission  
21 to a board-operated facility as determined by the criteria in  
22 part 9050.0070, subparts 3 and 4, according to items A and B.

23 A. If the board-operated facility to which a person  
24 has applied has no waiting list, the admissions committee shall  
25 review the application file within ten working days of its  
26 completion.

27 B. If the board-operated facility to which the person  
28 has applied has a waiting list, the admissions committee shall  
29 review the application file within ten working days from the  
30 time the applicant's name reaches the first place on the active  
31 waiting list and a bed becomes available.

32 Subp. 3. Waiting lists. Each board-operated facility  
33 shall maintain an active waiting list and an inactive waiting  
34 list to determine the admission priority of applicants. The  
35 active waiting list is for applicants desiring the first  
36 available bed at the level of care appropriate to the

1 applicant's needs. The inactive waiting list is for those  
2 applicants who do not want to exercise their option for  
3 admission, but who want to be prepared to exercise that option  
4 and want to be kept informed of openings or of the length of the  
5 active waiting list at the board-operated facility.

6 If an eligible applicant cannot be considered for admission  
7 to a board-operated facility with an appropriate level of care  
8 due to unavailability of a bed, the applicant must be placed on  
9 either an active or inactive waiting list according to  
10 preference. An applicant shall indicate preference for the  
11 active or inactive waiting list on the application for  
12 admission. An applicant may request movement from one waiting  
13 list to another at any time, unless the request is precluded by  
14 subpart 5. An applicant requesting movement from one waiting  
15 list to another must be placed at the bottom of the waiting list  
16 to which movement was requested. The applicant's position on  
17 the waiting list is determined by the date on which the  
18 application file is complete.

19 Subp. 4. **Priority.** Current residents of board-operated  
20 facilities have priority for consideration for admission to  
21 other board-operated facilities at an appropriate level of care  
22 if they meet the criteria for that level of care and a bed is  
23 available. A person on the active waiting list must be  
24 considered for admission and, if approved by the admissions  
25 committee, offered a bed consistent with the person's position  
26 on the active waiting list and the person's case mix  
27 classification and level of care needs as determined by the  
28 admissions committee. A person offered admission has seven  
29 working days to consider the offer. If the person declines the  
30 offer of admission, the person's name must be put on the bottom  
31 of the active waiting list, unless the person requests removal  
32 from the active waiting list or transfer to the inactive waiting  
33 list. If the person fails to respond to the offer of admission  
34 within seven working days from the date the offer is made, the  
35 person's application file must be closed and the person's name  
36 removed from all waiting lists. A person whose name is removed

1 from all waiting lists for failure to respond to an offer for  
2 admission must reapply.

3 Subp. 5. Limitations on refusals to exercise option for  
4 admission from active waiting list. Refusal or failure to  
5 exercise the option for admission from the active waiting list  
6 is limited as set forth in items A and B.

7 A. A person who is placed on the waiting list after  
8 the effective date of parts 9050.0010 to 9050.0900 and who twice  
9 refuses an opportunity for admission must be removed from the  
10 active waiting list and placed on the inactive waiting list.  
11 The person is not permitted to transfer to the active waiting  
12 list for one year from the date the person refused an  
13 opportunity for admission unless the person can verify by an  
14 attending physician a significant change in health status since  
15 the date of last refusal. "Significant change" means the  
16 worsening of an applicant's medical condition due to an  
17 unexpected health condition such as a sudden stroke or heart  
18 attack.

19 B. A person who is on the waiting list as of the  
20 effective date of parts 9050.0010 to 9050.0900 and who has  
21 previously refused one or more opportunities for admission must  
22 be allowed one additional opportunity for admission before being  
23 moved to the inactive waiting list.

24 Subp. 6. Initial financial status review. The facility  
25 financial staff shall evaluate the financial status of a person  
26 approved for admission. The purpose of the initial financial  
27 status review is to determine the person's ability to pay toward  
28 the cost of care and to calculate the person's maintenance  
29 charge. The financial status review must be conducted according  
30 to parts 9050.0800 to 9050.0900. The maintenance charge  
31 calculation must be according to part 9050.0560.

32 9050.0060 ADMISSIONS COMMITTEE; CREATION, COMPOSITION, AND  
33 DUTIES.

34 Subpart 1. Admissions committee appointed. The  
35 administrator of a facility shall appoint an admissions

1 committee for that facility to review and act on applications  
2 for admission to that facility.

3       Subp. 2. **Composition of admissions committee.** The  
4 admissions committee must consist of three or more of the  
5 following staff members of the board-operated facility: the  
6 administrator or a designee, a registered nurse, a social  
7 worker, a mental health professional or mental health  
8 practitioner, and a physical therapist. Additional admissions  
9 committee members may include any of the following staff  
10 members, as indicated by the diagnosis or diagnoses of the  
11 applicant to be reviewed: a chemical dependency counselor, a  
12 mental health professional or mental health practitioner,  
13 physical therapist, dietician, and clergy member. The  
14 applicant's attending physician must be included on the  
15 admissions committee if the physician chooses to participate.

16       Subp. 3. **Duties.** The admissions committee has the duties  
17 specified in items A and B.

18       A. The admissions committee shall review and act on  
19 all applications by conducting a screening as specified in  
20 subpart 4, and by reviewing the completed application and  
21 documentation in part 9050.0055. The admissions committee shall  
22 determine whether or not to admit the applicant according to the  
23 facility's ability to meet the applicant's care needs, based on  
24 the admissions criteria in part 9050.0070, subparts 3 and 4.

25       B. The admissions committee shall record the minutes  
26 of each committee meeting. The minutes must reflect the date of  
27 the review, the applicant's name, the current living status of  
28 the applicant, the reason for the placement request, a brief  
29 description of the applicant's physical or mental status, and  
30 the rationale behind the committee decision. The minutes must  
31 be kept by the administrator for the time specified for  
32 retention of medical records in parts 4655.3200 to 4655.3600.

33       Subp. 4. **Screening.** To prepare for review of an  
34 application for admission, the admissions committee or its  
35 designated representatives shall conduct a preadmission  
36 screening similar to that prescribed in Minnesota Statutes,

1 section 256B.091. The admissions committee or its designated  
2 representatives shall interview the applicant or the applicant's  
3 legal representative, if any, and the applicant's family members  
4 with the applicant's consent. The admissions committee shall  
5 also obtain the following information:

6           A. military service records or discharge information  
7 about the applicant or the applicant's spouse;

8           B. medical and psychiatric information from previous  
9 or current placements and current attending physicians and, as  
10 appropriate, psychologists or psychiatrists;

11           C. information from the applicant's previous or  
12 current placements about the applicant's compliance with the  
13 applicant's medical treatment plan or individual treatment or  
14 care plan;

15           D. Bureau of Criminal Apprehension reports or  
16 criminal background information or reports, as appropriate;

17           E. level of care information from previous and  
18 current placements; and

19           F. financial status for purposes of determining the  
20 applicant's ability to pay.

21 9050.0070 TYPES OF ADMISSIONS.

22           Subpart 1. **General criteria.** Admissions must be according  
23 to the requirements in parts 4655.0400, 4655.0500, 4655.0700,  
24 and 4655.1500.

25           Subp. 2. **Selection of residents.** Of those applicants  
26 eligible for admission under part 9050.0050 and Minnesota  
27 Statutes, sections 198.01, 198.022, and 198.03, the admissions  
28 committee of the board-operated facility, in consultation with  
29 the applicant's attending physician, shall determine whether an  
30 applicant is to be admitted by applying the criteria for each  
31 type of facility in subparts 3 and 4.

32           Subp. 3. **Criteria for admission to and continued stay in a**  
33 **boarding care facility.** The decision about admission to or  
34 continued stay in a board-operated facility licensed to provide  
35 boarding care must be based on the facility's ability to meet



1 the care needs of the applicant or resident. A person whose  
2 care needs can be met by the board-operated facility must be  
3 admitted, placed on the waiting list, or retained as a resident  
4 if the admissions committee determines the person meets the  
5 criteria in items A to N. A person whose care needs cannot be  
6 met must be denied admission or continued stay if the admissions  
7 committee determines the person does not meet the criteria in  
8 items A to N.

9           A. The person must have or be assigned a case mix  
10 classification of A or B under the case mix system established  
11 by parts 9549.0058, subpart 2, and 9549.0059 and Minnesota  
12 Statutes, section 144.072.

13           B. The person must have a medical and, if  
14 appropriate, psychiatric diagnosis from the attending physician  
15 indicating placement in a boarding care facility is a medical  
16 necessity.

17           C. The person's attending physician must document the  
18 person's need for the services provided in a boarding care  
19 facility. If a resident has not specified an attending  
20 physician, the attending physician must be a Minnesota veterans  
21 homes staff physician. If an applicant for admission has not  
22 specified an attending physician, Minnesota veterans homes  
23 facility staff must assist the applicant in finding a physician  
24 to provide an admitting diagnosis.

25           D. A person must be alert and oriented to person,  
26 place, and time, and able to function within a structure of  
27 daily monitoring by the nursing staff of the boarding care  
28 facility. A person who has a diagnosis of mental illness must  
29 be assessed by a staff psychiatrist or psychologist.

30           E. A person must be able to recognize and  
31 appropriately react to hazards in the environment. A person who  
32 has a diagnosis of mental illness must be assessed by a staff  
33 psychiatrist or psychologist. The case mix indicator, developed  
34 under Minnesota Statutes, section 144.072, for orientation and  
35 self-preservation skills must be used to determine whether the  
36 individual has the mental judgment or physical ability necessary

1 to function in a changing environment and a potentially harmful  
2 situation.

3 F. The person ~~must~~ has the right to participate in  
4 establishing ~~and-comply-with~~ the person's individual care  
5 plan ~~and~~. A resident must comply with the medical-treatment  
6 plan-prescribed-by-the-attending-physician elements of the  
7 individual care plan that are not medical in nature. Residents  
8 must be advised of their rights under part 4655.1500, subpart 2.  
9 Continuing compliance must be measured as specified in the  
10 compliance review process in part 9050.0300.

11 G. A person must be physically and mentally capable  
12 of providing personal care and hygiene including dressing,  
13 grooming, washing other than bathing, eating, and toileting. A  
14 person who has a diagnosis of mental illness must be assessed by  
15 a staff psychiatrist or psychologist.

16 H. The person must be assessed by a staff registered  
17 nurse as independent in transferring and mobility.

18 I. The person must require no more than twice daily  
19 face-to-face monitoring by the nursing staff of the boarding  
20 care facility. For continued stay, face-to-face monitoring for  
21 special medical needs may exceed twice daily for up to five days  
22 with approval of the assistant director of nursing of the  
23 boarding care facility.

24 J. A staff psychiatrist or psychologist must ~~document~~  
25 ~~that-the-person~~ assess persons with a history of violent or  
26 self-abusive behavior ~~does-not-pose~~ and determine if significant  
27 risk factors currently exist which suggest that the individual  
28 poses a threat of harm to self or others.

29 K. A person diagnosed by the attending physician as  
30 actively psychotic must require no more than twice daily  
31 face-to-face monitoring by facility nursing staff and no more  
32 than weekly face-to-face therapeutic contacts with a staff  
33 psychiatrist or psychologist.

34 L. A person with a ~~history-of-chemical-abuse-or-a~~  
35 ~~diagnosis-of-chemical-dependency-must-have-successfully~~  
36 ~~completed-an-in-patient-residential-chemical-dependency~~

1 ~~treatment-or-rehabilitation-program-as-defined-in-part~~  
 2 ~~9050.0040, subparts 25 and 99, and must be chemically free.~~  
 3 ~~For purposes of this item, a person is chemically free if the~~  
 4 ~~person can document six months of nonuse or use with no symptoms~~  
 5 ~~of dependency prior to admission and demonstrates continued~~  
 6 ~~nonuse of chemicals during residence~~ diagnosis of chemical abuse  
 7 within the past six months or a diagnosis of chemical  
 8 dependency, excluding a chemical dependency diagnosis of "in  
 9 remission," must have successfully completed a chemical  
 10 dependency treatment program as prescribed in parts 9050.0040,  
 11 subparts 25 and 99, and 9530.6620 to 9530.6650, or must be  
 12 chemically free. For the purposes of this item, a person is  
 13 chemically free if the person has six months of nonuse or use  
 14 with no symptoms of dependency prior to admission and  
 15 demonstrates no symptoms of abuse or dependency during residence.

16 M. The person must be able to comply with Minnesota  
 17 veterans homes rules in parts 9050.0010 to 9050.0900. Ability  
 18 to comply ~~is~~ may be demonstrated by a documented history of  
 19 compliance in a prior placement, if any, or other relevant  
 20 evidence that demonstrates ability to comply. Continuing  
 21 compliance must be measured as specified in the compliance  
 22 review process in part 9050.0300.

23 N. ~~The person must be free from any reportable~~  
 24 ~~communicable disease or infection as defined in part 4605.7040~~  
 25 ~~that poses a threat to the health and safety of others~~ An  
 26 attending physician shall determine whether the person is free  
 27 from any communicable disease or infection that poses a threat  
 28 to the health and safety of others. Exceptions may be made,  
 29 however, subject to the authority granted by a waiver issued by  
 30 the Minnesota Department of Health. This subpart complies with  
 31 Laws 1989, chapter 282, article 3, section 4, subdivision 7.

32 Subp. 4. Criteria for admission to and continued stay in a  
 33 nursing home facility. The decision about admission or  
 34 continued stay in a board-operated facility licensed as a  
 35 nursing home must be based on the facility's ability to meet the  
 36 care needs of the person. A person whose care needs can be met

1 by the facility must be admitted, placed on the waiting list, or  
2 retained as a resident if the admissions committee determines  
3 that the person meets all of the criteria in items A to F. A  
4 person whose care needs cannot be met must not be admitted or  
5 retained as a resident if the admissions committee determines  
6 the person fails to meet all of the criteria in items A to F.

7 A. The person must have or be assigned a case mix  
8 classification of A to K under the case mix system established  
9 by parts 9549.0058, subpart 2, and 9549.0059 and Minnesota  
10 Statutes, section 144.072.

11 B. The person must have a medical and, if  
12 appropriate, psychiatric diagnosis from the attending physician  
13 indicating placement in a nursing home is a medical  
14 necessity. If a resident has not specified an attending  
15 physician, the attending physician must be a Minnesota veterans  
16 homes staff physician. If an applicant for admission has not  
17 specified an attending physician, Minnesota veterans homes  
18 facility staff must assist the applicant in finding a physician  
19 to provide an admitting diagnosis.

20 C. The person's attending physician must document the  
21 person's need for the services provided in a nursing home.

22 D. The person must demonstrate a history of  
23 compliance with an individual treatment or care plan or with the  
24 medical treatment plan prescribed by the attending  
25 physician. Ability to comply may be demonstrated by a  
26 documented history of compliance in a prior placement, if any,  
27 or other relevant evidence which demonstrates ability to comply.  
28 The person with a history of noncompliance must be assessed by a  
29 staff registered nurse as to the facility's ability to meet the  
30 person's care needs.

31 E. An attending physician shall determine whether the  
32 person must-be is free from any reportable communicable disease  
33 or infection as-defined-in-part-4605-7040 that poses a threat to  
34 the health and safety of others. Exceptions may be made,  
35 however, subject to the authority granted by a waiver issued by  
36 the Minnesota Department of Health. This subpart complies with

1 Laws 1989, chapter 282, article 3, section 4, subdivision 7.

2 F. A staff psychiatrist or psychologist must document  
3 ~~that-the-person~~ assess persons with a history of violent or  
4 self-abusive behavior ~~does-not-pose~~ and determine if significant  
5 risk factors currently exist that suggest that the individual  
6 poses a threat of harm to self or others.

7 9050.0080 ADMISSION DECISION; NOTICE AND REVIEW.

8 Subpart 1. Notice. An applicant must be advised by the  
9 board, in writing, of the admissions committee's decision and  
10 the reasons for the decision. The notice must be sent to the  
11 applicant no later than three working days after the admissions  
12 committee's decision. The notice must include information about  
13 the applicant's right to request a review of a denial and about  
14 the review process as specified in subpart 2 or information  
15 regarding additional actions necessary to effect admission.  
16 Nothing in this subpart precludes concurrent or prior  
17 notification by telephone.

18 Subp. 2. Review. An applicant or the applicant's legal  
19 representative may request a review of a decision of the  
20 admissions committee to deny the applicant's admission. The  
21 applicant or applicant's legal representative desiring the  
22 review shall forward the request, in writing, to the  
23 administrator of the facility. The review must be completed  
24 within 30 days of receipt of the request. The administrator may  
25 request that the admissions committee reconsider its decision or  
26 the administrator may review the existing minutes to determine  
27 the basis for a negative decision. If a reconsideration is  
28 requested, it must be conducted at the next scheduled admissions  
29 committee meeting. The decision resulting from the  
30 reconsideration and the reasons for the decision must be  
31 forwarded to the administrator in writing. The administrator  
32 shall conduct a final review of the admissions committee's  
33 decision, based on the admissions criteria in part 9050.0070,  
34 subpart 3 or 4, and shall issue a final decision. The decision  
35 of the administrator shall constitute final agency action.

1 9050.0100 TRANSFER.

2 Subpart 1. Generally. A resident may be transferred from  
3 a board-operated facility to another health care facility or  
4 rehabilitation program or detoxification program if:

5 A. ordered or recommended by the attending physician  
6 or the utilization review committee as part of the resident's  
7 individual care plan;

8 B. requested by the resident or the resident's legal  
9 representative, if any; or

10 C. an emergency situation exists.

11 A resident may be transferred only with the resident's  
12 consent or the consent of the legal representative, if any,  
13 except in an emergency when obtaining consent before transfer is  
14 not possible. A resident who refuses consent for transfer to  
15 another health care facility or rehabilitation program or  
16 detoxification program on recommendation of the attending  
17 physician or the utilization review committee, or both, may be  
18 subject to discharge for noncompliance with the resident's  
19 individual care plan. The utilization review committee's  
20 decision to recommend discharge of a resident for refusing  
21 consent for transfer is limited by the Patient's Bill of Rights  
22 established in Minnesota Statutes, section 144.651, and must be  
23 based on the facility's ability to meet the person's care needs  
24 as determined by the criteria in part 9050.0700, subparts 3 and  
25 4. A resident transferred from another facility back to the  
26 board-operated facility does not need to reapply for admission.

27 Subp. 2. Notice. Unless a situation occurs that is  
28 outside the board-operated facility's control, such as a  
29 utilization review, the accommodation of newly admitted  
30 residents, a change in the resident's medical or treatment  
31 program, the resident's own or another resident's welfare, or  
32 nonpayment of stay, a resident for whom the utilization review  
33 committee or the attending physician recommends a transfer must  
34 be notified of the recommendation at least:

35 A. 30 days before the anticipated transfer date, if

1 to a non-board-operated facility or program, according to  
2 Minnesota Statutes, section 144.651, subdivision 29; and

3 B. seven days before the anticipated transfer to  
4 another bed or level of care within the same board-operated  
5 facility, or to another board-operated facility located at the  
6 same campus, according to Minnesota Statutes, section 144.651,  
7 subdivision 29; or

8 C. a reasonable time before the anticipated transfer  
9 in situations outside the board-operated facility's control.

10 The reasonable time must be determined by the facility  
11 administrator or designee, based upon the particular facts of  
12 the situation prompting the transfer.

13 Subp. 3. Mechanisms of effecting transfer. A transfer  
14 must be effected in the manner applicable to a voluntary  
15 discharge in part 9050.0210. The party recommending or  
16 requesting transfer shall arrange for transportation for the  
17 resident to the new facility or location.

18 Subp. 4. Transfers to United States Department of Veterans  
19 Affairs Medical Center. The board-operated facility must not  
20 guarantee access or admission to or treatment at the United  
21 States Department of Veterans Affairs Medical Center, nor does  
22 residence at a board-operated facility grant residents  
23 preference with regard to access, admissions, or treatment at  
24 the United States Department of Veterans Affairs Medical  
25 Center. If the United States Department of Veterans Affairs  
26 Medical Center agrees to accept the resident and has an  
27 available bed, the resident must be transferred to that  
28 facility. If the United States Department of Veterans Affairs  
29 Medical Center denies the resident treatment or admission, the  
30 resident must be transferred to a hospital or other health care  
31 facility that is able to provide the appropriate service. The  
32 Minnesota Veterans Homes Board, the Minnesota veterans home  
33 facility, the Minnesota Department of Veterans Affairs, or the  
34 state of Minnesota are not responsible for the costs of a  
35 resident's hospitalization or treatment at a facility that is  
36 not a board-operated facility.

1 Subp. 5. Appeals. A resident may appeal a transfer  
2 decision that is not based on an emergency. Appeal is to be  
3 taken in the same manner as appeal of discharge under part  
4 9050.0220.

5 9050.0150 BED HOLD.

6 Subpart 1. Generally. A resident's bed or a comparable  
7 bed at an appropriate level of care must be held for the  
8 resident if the resident is absent from the board-operated  
9 facility for a circumstance specified in subparts 2 to 4 and  
10 continues payment as required in subpart 5 and part 9050.0540.

11 Subp. 2. Hospital absence. A resident's bed must be held  
12 during a resident's hospital absence if the treatment in the  
13 hospital is on the order of the resident's attending physician  
14 or is a result of a medical emergency. A hospital absence in  
15 excess of 30 days must be periodically monitored by facility  
16 staff with regard to the resident's progress and likelihood the  
17 resident can be cared for on return to the board-operated  
18 facility as determined by the criteria in part 9050.0070,  
19 subpart 3 or 4. If satisfactory progress is not being made,  
20 discharge proceedings must be started by the utilization review  
21 committee.

22 Subp. 3. Treatment absence. A resident's bed must be held  
23 during a resident's treatment absence if the treatment is on the  
24 order of the resident's attending physician as part of the  
25 resident's individual care plan. The resident must participate  
26 in treatment on a continuing basis and make satisfactory  
27 progress as determined by the administrator of the treatment  
28 program. If satisfactory progress is not being made, discharge  
29 proceedings must be instituted by the utilization review  
30 committee.

31 Subp. 4. Personal absence. A resident's bed must be held  
32 when the person leaves the board-operated facility on a personal  
33 absence. A personal absence may be no longer than 96 hours,  
34 unless the resident has made a definitive arrangement with the  
35 administrator regarding a longer absence. The resident shall



1 advise the administrator of the total length of the absence and  
2 the resident shall agree to pay the maintenance charge during  
3 the absence.

4 Subp. 5. **Effect on maintenance charges.** A resident whose  
5 bed is held under this part shall continue to pay any  
6 maintenance charge or charges that accrued or are accruing  
7 either before or during the resident's absence from the  
8 board-operated facility. Absences exceeding 96 hours with or  
9 without notice result in termination of the resident's  
10 entitlement to the per diem payment of the United States  
11 Department of Veterans Affairs retroactive to the date of  
12 departure.

13 Subp. 6. **Exception.** A bed may be held without charge for  
14 an approved applicant for up to two weeks from the date of  
15 acceptance of the offer of admission. A bed held under this  
16 subpart must be a reserved bed.

17 Subp. 7. **Monitoring of bed hold status.** The  
18 appropriateness of continued bed hold must be reviewed by the  
19 utilization review committee of the board-operated facility at  
20 least once every 30 days during the resident's ongoing absence.  
21 A decision about approval of continued bed hold must be based on  
22 the resident's satisfactory progress toward recovery from the  
23 condition for which the resident was hospitalized or completion  
24 of the treatment program or rehabilitation program, and the  
25 existence of a reasonable expectation that the facility will be  
26 able to care for the resident upon return to the board-operated  
27 facility and the resident's compliance with subpart 5 if  
28 applicable. Continued bed hold or continued residency with  
29 personal absences exceeding 96 hours or more than five personal  
30 absences per year that are less than 96 hours must be reviewed  
31 by the utilization review committee. The decision about  
32 continued residence must be based on the resident's continuing  
33 need for care as determined by the utilization review  
34 committee. The determination must be according to the criteria  
35 in part 9050.0070, subparts 3 and 4.

1 9050.0200 DISCHARGE.

2 Subpart 1. General criteria. Discharge from a nursing  
3 care facility or a boarding care facility constitutes permanent  
4 release from that board-operated facility and terminates the  
5 duties and responsibilities of the board and the facility staff  
6 with respect to the discharged individual. Once discharged, a  
7 former resident must reapply for admission to a Minnesota  
8 veterans home facility.

9 Subp. 2. Types of discharge. A resident must be  
10 discharged from the facility either voluntarily or involuntarily  
11 according to items A and B.

12 A. A discharge is voluntary if there is mutual  
13 consent between the resident, the resident's legal  
14 representative or spouse, if any, the resident's attending  
15 physician, and the administrator of the facility.

16 B. A discharge is involuntary if it is without mutual  
17 consent of the resident, the resident's legal representative who  
18 has the legal authority, or spouse, if any, the resident's  
19 attending physician, and the administrator of the facility ~~or-if~~  
20 ~~it-is-contrary-to-the-expressed-preference-of-the-resident.~~

21 Subp. 3. Grounds for discharge. Discharge procedures must  
22 be instituted with regard to a resident if one of the following  
23 grounds or circumstances exist:

24 A. the resident or resident's legal representative  
25 fails or refuses to comply with ~~the-resident's-admissions~~  
26 agreement payment obligations in the admission agreement as  
27 provided for in part 9050.0040, subpart 5, item C;

28 B. the resident or resident's legal representative  
29 makes a written request for discharge of the resident;

30 C. the board-operated facility is unable to meet the  
31 care needs of the resident, as determined by the utilization  
32 review committee according to part 9050.0070, subpart 3 or 4;

33 D. the resident is absent from the facility for more  
34 than 96 consecutive hours or more-without-notice a definitive  
35 arrangement has been made for an absence longer than 96 hours  
36 and the resident fails to comply with that arrangement; or

1 E. the resident or resident's legal representative or  
2 spouse:

3 (1) falsifies or fraudulently represents  
4 information on income disclosure and verification forms required  
5 in parts 9050.0800 to 9050.0900;

6 (2) refuses to provide information or releases;  
7 or

8 (3) falsifies or fraudulently represents  
9 information relating to criteria in part 9050.0070, subpart 3 or  
10 4, or issues in part 9050.0060, subpart 4.

11 Subp. 4. Notice of involuntary discharge. Unless the time  
12 for the notice is extended by the administrator of a  
13 board-operated facility or a situation arises that is outside  
14 the facility's control, such as a utilization review, a change  
15 in the resident's medical or treatment program, the resident's  
16 own or another resident's welfare, or nonpayment of stay, a  
17 resident must be notified in writing by the administrator of the  
18 facility of its intent to proceed with involuntary discharge of  
19 the resident at least 30 days before the scheduled date of  
20 discharge as provided by Minnesota Statutes, section 144.651,  
21 subdivision 29. In situations outside the board-operated  
22 facility's control, notice of discharge must be given a  
23 reasonable time before the discharge and the reasonable time  
24 must be determined by the facility administrator or designee,  
25 based upon the particular facts of the situation prompting the  
26 discharge.

27 Subp. 5. Contents of notice. The notice must:

28 A. state that the discharge is involuntary;

29 B. state the grounds for the discharge as specified  
30 in subpart 3; and

31 C. contain documentation supporting the grounds  
32 alleged for the discharge; and

33 D. state that the resident has the right to appeal  
34 the discharge and a description of the appeal procedures.

35 Subp. 6. Exceptions. ~~A-resident-absent-from-a~~  
36 ~~board-operated-facility-for-96-consecutive-hours-without-notice~~

1 ~~is-subject-to-immediate-institution-of-involuntary-discharge~~  
2 ~~procedures.~~ A resident's discharge under ~~this-subpart~~ subpart  
3 3, item D, is subject to ~~a-reinstatement-hearing~~ reconsideration  
4 if the resident reports his or her whereabouts to the  
5 administrator of the facility and requests ~~the-reinstatement~~  
6 hearing reconsideration within 30 days from the resident's  
7 departure from the facility without notice.

8 9050.0210 VOLUNTARY DISCHARGE PROCEDURES.

9 Subpart 1. **When used.** Voluntary discharge procedures must  
10 be used when a discharge from the board-operated facility is  
11 voluntary as in part 9050.0200, subpart 2, item A, or following  
12 review of an appeal from an involuntary discharge order when a  
13 court has issued an enforcement order or the resident has agreed  
14 to comply with the order for discharge.

15 Subp. 2. **Responsibilities of facility staff.** The board  
16 shall ensure that the tasks in items A to E are completed in  
17 effecting discharge under this part.

18 A. The discharge component of the resident's  
19 individual care plan must be updated and implemented after the  
20 resident has had an opportunity to confer with a social worker  
21 about the plan as described in subitems (1) and (2).

22 (1) A discharge conference must be arranged by  
23 the social worker with the resident, the resident's family with  
24 the resident's consent, the social worker, and multidisciplinary  
25 staff. The social worker shall make a referral of the resident  
26 to social or health care services identified in the resident's  
27 individual care plan as necessary for the resident's discharge.

28 (2) The board shall ensure that adequate  
29 arrangements exist to meet the resident's financial and other  
30 needs following the resident's discharge.

31 B. The attending physician and board-operated  
32 facility multidisciplinary staff shall complete the resident's  
33 medical record. The resident's medical record must be retained  
34 as specified in parts 4655.3200 to 4655.3600.

35 C. The resident's medications must be disposed of by

1 a pharmacist according to parts 4655.7600 to 4655.7860.

2 D. The board-operated facility staff shall release  
3 certified copies of the resident's record or the portions  
4 specifically requested to a requesting party subject to the  
5 requirements of the Minnesota Data Practices Act, Minnesota  
6 Statutes, chapter 13. The requesting party shall pay the actual  
7 cost of photocopying records. To release a record or  
8 information regarding a resident, the resident must sign a form  
9 that includes the:

10 (1) resident's name;

11 (2) date;

12 (3) specific nature of information to be  
13 released;

14 (4) names of persons authorized to give  
15 information;

16 (5) names of persons to whom information is  
17 given;

18 (6) description of information to be released;

19 and

20 (7) date the authorization expires.

21 A separate form is required for each release. The period  
22 of validity of an authorization may not exceed one year.

23 E. At the time of discharge, a description of the  
24 place and circumstances of discharge must be documented in the  
25 resident's record.

26 9050.0220 INVOLUNTARY DISCHARGE PROCEDURES.

27 Subpart 1. Generally, recommendations. Involuntary  
28 discharge for a reason specified in part 9050.0200, subpart 3,  
29 item C or D, must be based on the recommendation of the  
30 utilization review committee. Involuntary discharge under part  
31 9050.0200, subpart 3, item A or E, must be based on the  
32 recommendation of the facility financial staff or social  
33 services staff.

34 Subp. 2. Initial notice, review of recommendation. An  
35 initial notice for involuntary discharge must be issued by the

1 administrator of the board-operated facility if, after review of  
2 the recommendations and documentation from the utilization  
3 review committee or finance department, the administrator agrees  
4 with the recommendations.

5 Subp. 3. **Reconsideration.** A resident or the resident's  
6 legal representative may request a reconsideration of the  
7 initial notice of involuntary discharge. The request must be  
8 made in writing within ten days of receipt of the initial notice  
9 of involuntary discharge. Reconsideration must be before the  
10 administrator of the board-operated facility under the  
11 procedures in subpart 4.

12 Subp. 4. **Reconsideration procedures, scheduling,**  
13 **representation.**

14 A. A resident may be represented at a reconsideration  
15 under this part by an attorney, the resident, an advocate from  
16 the Office of the Ombudsman for Older Minnesotans, or other  
17 person of the resident's own choosing.

18 B. A resident and the resident's representative may  
19 question witnesses and present reasons why the resident should  
20 not be discharged.

21 C. The administrator shall record the proceedings  
22 electronically or stenographically. The cost must be borne by  
23 the facility.

24 D. The time for the reconsideration proceeding must  
25 be set by the administrator. The time may be extended for the  
26 resident for good cause shown. For purposes of this item, good  
27 cause exists when a resident cannot attend because of:

- 28 (1) illness or injury of the resident;
- 29 (2) illness, injury, or death of a member of the  
30 resident's family that requires the resident's presence during  
31 the time the review is scheduled;
- 32 (3) an inability to obtain necessary assistance;
- 33 (4) employment, school, or employment and  
34 training service obligations that are scheduled during the  
35 reconsideration and that cannot be changed to allow the  
36 resident's participation;

1 (5) a judicial proceeding that requires the  
2 resident's presence in court during the hours when the  
3 reconsideration is scheduled; or

4 (6) a nonmedical emergency that requires the  
5 resident's presence at a different location during the hours  
6 when the reconsideration is scheduled. "Emergency" under this  
7 subitem means a sudden unexpected occurrence or situation of a  
8 serious or urgent nature that requires immediate action.

9 Subp. 5. **Administrator's decision and preliminary order.**  
10 The administrator, after the reconsideration proceeding and on  
11 review of the record, shall review the question of discharge and  
12 issue a preliminary order supporting or reversing the initial  
13 involuntary discharge notice and state the reasons for the  
14 involuntary discharge.

15 Subp. 6. **Appeals process.** An applicant or resident, or  
16 legal representative, may appeal a discharge or transfer order.  
17 Appeals must be in accordance with contested case procedures  
18 under the Administrative Procedure Act, Minnesota Statutes,  
19 sections 14.48 to 14.56, until rules are adopted under Minnesota  
20 Statutes, section 144A.135, by the commissioner of health.  
21 ~~Unless otherwise decided by the administrator of the~~  
22 ~~board-operated facility,~~ Once the rules adopted under Minnesota  
23 Statutes, section 144A.135, have taken effect, all appeals must  
24 be in accordance with those rules. The administrator shall  
25 inform the resident or applicant of the rules that govern the  
26 appeal in the notice provided under part 9050.0100, subpart 2,  
27 or 9050.0200, subpart 4. A final discharge order issued by the  
28 administrator following the Office of Administrative Hearings'  
29 review remains in effect pending any appeal ~~according to~~  
30 ~~Minnesota Statutes, section 14-65.~~ Notwithstanding this  
31 provision, the administrator may, for good cause shown, waive  
32 imposition of the discharge order until all appeals have been  
33 concluded.

34 Nothing in this part may be construed to limit, change, or  
35 restrict other appeal or review procedures available to a  
36 resident under law.

## 1 9050.0230 ENFORCEMENT OF FINAL DISCHARGE ORDER.

2 A final discharge order is the order issued by the  
3 administrator of a board-operated facility following review of  
4 the preliminary discharge order under Minnesota Statutes,  
5 chapter 14. A final discharge order is the final agency  
6 action. When a resident refuses to comply with the terms of a  
7 final discharge order issued following review under Minnesota  
8 Statutes, chapter 14, and final agency action, the administrator  
9 may seek enforcement of the final discharge order by applying to  
10 the district court for an order enforcing the administrative  
11 order of discharge. Pursuant to Minnesota Statutes, section  
12 198.045, the district court may order the sheriff of the county  
13 in which the board-operated facility is located to remove the  
14 resident from the board-operated facility and authorize the  
15 administrator to remove the resident's property and hold it  
16 until it can be returned to the former resident. Upon issuance  
17 of the court order, the procedures in part 9050.0210 regarding  
18 voluntary discharge must be followed, to the extent possible, to  
19 effect the discharge.

## 20 9050.0300 COMPLIANCE REVIEW.

21 Subpart 1. Generally. A board-operated facility must have  
22 and implement a compliance review procedure to review a  
23 resident's compliance with an individual care plan and facility  
24 rules as specified in chapter 9050. The review must determine  
25 what action, if any, is to be taken to ensure the resident's  
26 compliance and whether the board-operated facility is able to  
27 care for the resident according to the criteria in part  
28 9050.0070, subparts 3 and 4.

29 Subp. 2. Requirements of procedure. A compliance review  
30 procedure must provide for:

31 A. the resident's right to participation of a  
32 resident advocate in the compliance review;

33 B. notice to the resident of each problem or  
34 infraction;

35 C. instruction for the resident regarding procedures



1 or options for compliance;

2 D. opportunity for participation of the resident or  
3 the resident's legal representative, social workers, and, with  
4 the resident's consent, the resident's family members;

5 E. differentiated reviews and actions consistent with  
6 the frequency and severity of the resident's compliance problem;

7 F. notice to the resident that repeated noncompliance  
8 may result in imposition of disciplinary options or restrictions  
9 that the utilization review committee finds necessary to provide  
10 for the resident's care needs according to part 9050.0070,  
11 subpart 3 or 4, and the resident's individual care plan;

12 G. an accelerated review procedure to be used when  
13 the severity of the resident's noncompliance endangers the  
14 health and safety of the resident, other residents, or staff  
15 members of the board-operated facility;

16 H. consideration of the resident's ability to  
17 comprehend and cooperate with parts 9050.0010 to 9050.0900 or  
18 with the individual care plan provisions; and

19 I. notice to the resident that the ultimate  
20 consequence of noncompliance is a recommendation for discharge,  
21 if the noncompliance results in the board-operated facility's  
22 inability to meet the care needs of the resident according to  
23 part 9050.0070, subparts 3 and 4.

24 Subp. 3. **Conduct of review; responsibilities.** Compliance  
25 review must be conducted by the utilization review committee or  
26 subcommittee. Decisions as to the use of the review procedure,  
27 disciplinary options, or recommendations for discharge must be  
28 by majority vote. Decisions of the committee or subcommittee at  
29 each level or occasion of review must be based on the facility's  
30 ability to care for the resident according to part 9050.0070,  
31 subpart 3 or 4.

32 9050.0400 UTILIZATION REVIEW COMMITTEE.

33 Subpart 1. **Appointment and duties.** The administrator of a  
34 facility shall appoint a utilization review committee composed  
35 of persons as specified in subpart 2 who are employed by or

1 under contract to the board-operated facility or the board. The  
2 committee shall have the duties specified in subpart 3.

3 Subp. 2. **Composition.** The utilization review committee  
4 consists of two physicians and at least one of each of the  
5 following professionals: a registered nurse, the administrator  
6 or the administrator's designee, a social worker, and a medical  
7 records technician. Additional committee members may include  
8 any of the following staff members as indicated by the diagnosis  
9 or diagnoses of the resident to be reviewed: a chemical  
10 dependency counselor, a mental health practitioner or mental  
11 health professional, or a dietician. The administrator or the  
12 administrator's designee, one other committee member, and at  
13 least two physicians must be in attendance to hold a meeting and  
14 to take action.

15 Subp. 3. **Duties.** The duties of the utilization review  
16 committee are to:

17 A. review the necessity and appropriateness of  
18 admissions, bed holds, transfers, and the need for discharge of  
19 all residents according to the United States Department of  
20 Veterans Affairs, chapter 9050, and Department of Health nursing  
21 and boarding care criteria specified in parts 4655.0400,  
22 4655.0500, 4655.0700, and 4655.1500;

23 B. recommend to the administrator of the  
24 board-operated facility criteria for use in admitting residents  
25 for care plan reviews and discharge;

26 C. perform medical care evaluation studies at the  
27 request of the board and review assessments of residents;

28 D. provide reports and recommendations to the  
29 administrators and the board;

30 E. provide information as required to appropriate  
31 state and federal agencies and fiscal agents, including the  
32 United States Department of Veterans Affairs, Minnesota  
33 Department of Veterans Affairs, Minnesota Department of Health,  
34 Minnesota Department of Human Services, Minnesota Department of  
35 Administration, and Legislative Auditor;

36 F. periodically evaluate the Minnesota veterans homes

1 utilization review procedures and recommend ways to correct  
2 deficiencies in the review procedures; and

3 G. review each resident's case record annually to:

4 (1) determine the facility's ability to meet the  
5 resident's care needs;

6 (2) assess the resident's willingness to  
7 cooperate with an individual care plan and obey facility rules  
8 in chapter 9050;

9 (3) assess the appropriateness of the resident's  
10 continued stay; and

11 (4) develop and update the discharge component of  
12 the individual care plan for each resident, as appropriate.

13 Subp. 4. **Decisions.** Decisions must be by majority vote of  
14 the members of the utilization review committee following review  
15 at a committee meeting. Decisions about residents must be based  
16 on the facility's ability to meet the care needs of the resident  
17 or applicant according to part 9050.0070, subpart 3 or 4.

18 9050.0500 COST OF CARE; BASIS FOR MAINTENANCE CHARGE; BILLING.

19 Subpart 1. **Annual calculation; effective date; notice of**  
20 **change.** The cost of care used to determine the maintenance  
21 charge of a resident must be calculated annually under this  
22 part. A change in the cost of care becomes effective on July 1  
23 of the rate year following the reporting year used to calculate  
24 the cost of care. The cost of care must remain fixed for that  
25 rate year. A notice of change in the cost of care must be  
26 provided to all residents and their legal representatives 30  
27 days before its effective date.

28 Subp. 2. **Costs to be included in calculating cost of**  
29 **care.** The calculation of the cost of care includes both the  
30 direct and indirect costs of providing resident care. These  
31 costs must be compiled separately for each board-operated  
32 facility on the basis of whether nursing home or boarding care  
33 services are provided.

34 A. Direct costs include the costs of staff care  
35 directly attributable to boarding care or nursing home services

1 that directly benefit the resident. An example of a direct cost  
2 is nursing service.

3           B. Indirect costs include costs incurred for common  
4 or joint purposes that are identified with more than one level  
5 of care and are for services that are provided on behalf of a  
6 resident of the facility or facilities. Examples are the costs  
7 of housekeeping, laundry, administration, and food services.  
8 Indirect costs must be reduced by the amount of receipts  
9 received by the board-operated facility for lease or rent  
10 payments, meals, and other common purpose sources.

11           C. Calculation of the cost of care does not include  
12 the expenses of the board and capital expenditures or revenues,  
13 including federal matching funds and designated contributions,  
14 and resident fund accounts as specified in parts 4655.4120 to  
15 4655.4170.

16           Subp. 3. **Method of calculating average daily per resident**  
17 **cost of care.** The cost of care for a nursing home or boarding  
18 care home must be calculated as follows:

19           A. total the direct costs for a particular campus or  
20 board-operated facility for a reporting year;

21           B. divide item A by 365;

22           C. divide item B by the average number of residents  
23 in nursing home care or boarding care for a reporting year;

24           D. total the indirect costs for a particular campus  
25 or board-operated facility for a reporting year;

26           E. divide item D by 365;

27           F. divide item E by the average number of residents  
28 at a particular campus or board-operated facility for a  
29 reporting year; and

30           G. total items C and F. The result is the average  
31 daily per resident cost of care for nursing home care or  
32 boarding care.

33           Subp. 4. **Cost of care related to maintenance charge.** The  
34 cost of care as calculated in subpart 3 must be used to  
35 determine the maintenance charge to the resident. The  
36 maintenance charge must be based on the resident's ability to

1 pay. The maintenance charge must be calculated as specified in  
 2 part 9050.0560. The maintenance charge must be reviewed and  
 3 adjusted as specified in parts 9050.0560 and 9050.0580.  
 4 Additionally, when applicable, the resident's maintenance charge  
 5 must be reduced by the amount of the per diem reimbursement paid  
 6 on behalf of a resident by the United States Department of  
 7 Veterans Affairs.

8 Subp. 5. **Effect of bed hold on maintenance charges.** A  
 9 resident who pays a maintenance charge, regardless of amount,  
 10 shall continue to pay that same maintenance charge during a bed  
 11 hold as specified in part 9050.0150, subpart 5.

12 Subp. 6. **Billing.** Billing for maintenance charges must be  
 13 as specified in items A to F.

14 A. The maintenance charge must be billed monthly.

15 B. The monthly billing must be the resident's  
 16 chargeable income as calculated in part 9050.0755, up to the  
 17 full cost of care.

18 C. The maintenance charge must be billed to the  
 19 address designated by the resident or the resident's legal  
 20 representative on the resident's application for admission.

21 D. A billing for one month's service must be issued  
 22 no later than the tenth of the month following the month in  
 23 which the service was provided.

24 E. A resident must be charged for the day of  
 25 admission but not for the day of discharge. For purposes of  
 26 this item, one day is the 24-hour period ending at midnight.

27 F. A billing must state the date by which payment  
 28 must be received.

29 9050.0510 MAINTENANCE CHARGE; ADDITIONAL SERVICES; VETERAN  
 30 EXCLUSIVE SERVICES.

31 Subpart 1. **Additional services at resident's own expense.**  
 32 In addition to the services in the resident's admissions  
 33 agreement, a resident may use additional health care services at  
 34 the resident's own expense if the health care services do not  
 35 exceed the level of care for which the facility is licensed and

1 if the service provider complies with documentation requirements  
2 of the board-operated facility. A resident who chooses to use  
3 additional health care services at the resident's own expense  
4 shall continue to pay the maintenance charge determined under  
5 part 9050.0530.

6 Subp. 2. **Veteran exclusive services.** "Veteran exclusive  
7 services" are medical benefits or services provided or sponsored  
8 by the United States Department of Veterans Affairs exclusively  
9 for veterans. Examples include the United States Department of  
10 Veterans Affairs physician services and laboratory services.  
11 Nonveteran residents are not entitled to veteran exclusive  
12 medical benefits or services. Payment of the maintenance charge  
13 does not make a nonveteran eligible for veteran exclusive  
14 benefits or services provided at the board-operated facility.  
15 Nonveteran residents shall obtain necessary health care services  
16 comparable to veteran exclusive services at the resident's  
17 expense. The services must be within the confines of the level  
18 of care for which the facility is licensed.

19 9050.0520 MAINTENANCE CHARGE; DELINQUENT ACCOUNTS; INTEREST;  
20 DISCHARGE.

21 Subpart 1. **Interest on delinquent accounts.** A resident's  
22 account is considered delinquent if a resident willfully refuses  
23 or fails to pay the bill by the due date. Applicants or  
24 residents must be notified if payment has not been received by  
25 the due date printed on the bill. Interest must be charged on  
26 all delinquent accounts, effective the date the bill was due, as  
27 provided in Minnesota Statutes, section 334.01. For purposes of  
28 this subpart, "willful refusal or failure to pay" means a  
29 situation in which:

30 A. the decision of whether to pay is completely  
31 within the control of the resident or the resident's legal  
32 representative; or

33 B. a resident or the resident's legal representative  
34 has the ability or resources to pay the maintenance charge and  
35 fails to pay.

1 Subp. 2. Discharge for nonpayment. Discharge proceedings  
2 must be instituted under part 9050.0200, subpart 2, item A, when  
3 an account is delinquent. Discharge proceedings for nonpayment  
4 must be stopped when full payment, including accrued interest,  
5 is made.

6 9050.0530 RATES AND CHARGES; AGREEMENT AT TIME OF ADMISSION.

7 If a person is admitted under Minnesota Statutes, section  
8 198.03, a written admissions agreement must be made between the  
9 board or its designated representative and the resident or the  
10 resident's legal representative about maintenance charges for  
11 care and services, obligations concerning payment of the  
12 resident's maintenance charge, and the board's refund policy.

13 9050.0540 NO UNPAID ABSENCE.

14 Residents are not excused from payment of the maintenance  
15 charge when they are absent from the board-operated facility. A  
16 resident must continue to pay the maintenance charge determined  
17 under part 9050.0560 during a period of absence.

18 9050.0550 MAINTENANCE CHARGE; RESOURCES CONSIDERED.

19 Subpart 1. In general. The applicant's or resident's  
20 ability to pay must be determined from insurance and other  
21 benefits, value of property owned, and income. The applicant's  
22 or resident's property must be used first to pay the maintenance  
23 charge. The applicant's or resident's income must be used after  
24 the applicant's or resident's property is reduced to the limits  
25 in subpart 3 and part 9050.0600 to pay the maintenance charge.

26 Subp. 2. Insurance benefits. When the investigation of  
27 the applicant's or resident's financial status discloses  
28 eligibility for insurance benefits, the applicant or resident  
29 must be determined to be able to pay the cost of care provided  
30 to the full extent of insurance benefits available. When the  
31 insurance benefits pay less than the full cost of care, the  
32 ability of the applicant or resident to pay the remaining part  
33 must be determined from the applicant's or resident's  
34 nonexcluded property and income.

1           Subp. 3. **Property.** If the applicant or resident owns  
 2 property in excess of \$3,000 that is not excluded under part  
 3 9050.0600, subparts 2 and 3, the applicant or resident must be  
 4 determined able to pay the full cost of care according to part  
 5 9050.0755. The person shall pay the full cost of care until the  
 6 property is reduced to the limits in parts 9050.0560 and  
 7 9050.0600.

8           Subp. 4. **Chargeable income.** The applicant's or resident's  
 9 chargeable income is the income remaining after deductions from  
 10 gross income have been made according to part 9050.0720 and  
 11 after deductions from net income have been made according to  
 12 part 9050.0755. The applicant's or resident's entire chargeable  
 13 income must be considered available to pay the cost of care. If  
 14 an applicant or resident qualifies for governmental benefits or  
 15 reimbursements or other benefits, the benefits must be included  
 16 as income in determining the maintenance charge payable by or on  
 17 behalf of a resident, unless an assignment of benefits naming  
 18 the board-operated facility as representative payee has been  
 19 executed in favor of the board-operated facility.

20           Subp. 5. **Property and income of spouse.** Property and  
 21 income of the spouse of the applicant or resident must not be  
 22 considered an available resource for payment of a maintenance  
 23 charge.

24 9050.0560 MAINTENANCE CHARGE DETERMINATION; TIME AND CALCULATION  
 25 METHOD.

26           Subpart 1. **Time of determination.** The amount of the  
 27 maintenance charge must be determined if:

28           A. a person is admitted to a board-operated facility  
 29 and at least annually after admission;

30           B. there is a substantial change in the applicant's  
 31 or resident's financial status or the financial status of the  
 32 spouse of the applicant or resident;

33           C. a change in the applicant's or resident's living  
 34 status requires recalculation of the benefits provided by the  
 35 United States Department of Veterans Affairs or other source;



1 D. the resident is transferred from one level of care  
2 to another for 30 days or more; and

3 E. the resident is being discharged.

4 For purposes of the subpart, "substantial change" in  
5 financial status means a change that increases the person's net  
6 worth above the \$3,000 limit or a change in the person's monthly  
7 income. Substantial change must be reported to the facility  
8 financial officer ten days after the applicant or resident,  
9 legal representative, or spouse of the applicant or resident  
10 learns of the change.

11 Subp. 2. **Method of calculation.** The amount that a  
12 resident must pay, or have paid on the resident's behalf, as a  
13 maintenance charge must be determined as specified in items A  
14 and B.

15 A. If an applicant's or residents net worth exceeds  
16 \$3,000, the person's maintenance charge must be the full cost of  
17 care for the applicant's or resident's level of care less the  
18 United States Department of Veterans Affairs per diem  
19 reimbursement, when applicable, until the applicant's or  
20 resident's net worth is reduced to ~~\$2,500~~ \$3,000.

21 B. If the applicant's or resident's net worth is less  
22 than ~~\$2,500~~ \$3,000, the applicant's or resident's income must be  
23 considered in calculating the person's maintenance charge. The  
24 person's monthly maintenance charge is the person's total  
25 chargeable income, up to the full cost of care. The person's  
26 chargeable income must be calculated according to part 9050.0755.

27 9050.0570 MAINTENANCE CHARGE; NOTICE AFTER FINANCIAL STATUS  
28 REVIEW.

29 The facility financial staff shall notify the applicant or  
30 resident, legal representative of the applicant or resident, or  
31 spouse of the applicant or resident, of any change in the  
32 applicant's or resident's maintenance charge following a  
33 financial status review. The notice must include information  
34 about the right to a review of the maintenance charge under part  
35 9050.0580.

## 1 9050.0580 REVIEW OF MAINTENANCE CHARGE DETERMINATION.

2 An applicant or resident or legal representative may  
3 request that the administrator of a board-operated facility  
4 reconsider a maintenance charge determination. The request must  
5 be in writing, directed to the administrator. The administrator  
6 shall, within ten days of receipt of the request, conduct a  
7 review of the maintenance charge determination. The review must  
8 be in the same format and time frames as the procedures under  
9 part 9050.0220. The administrator's determination is final upon  
10 receipt by the applicant or resident, or legal representative,  
11 and is the final agency action.

## 12 9050.0590 MAINTENANCE CHARGE; REFUND.

13 If an applicant or resident who has paid, or on whose  
14 behalf payment has been made of, the maintenance charge for a  
15 billing month, is discharged from a board-operated facility  
16 before the end of the month for which payment has been made, the  
17 applicant or resident is entitled to a refund. The amount of  
18 the refund to which an applicant or resident, or legal  
19 representative, is entitled must be calculated by prorating the  
20 monthly maintenance charge by the number of unused days.

## 21 9050.0600 PROPERTY LIMITATIONS.

22 Subpart 1. General provisions of property ownership. The  
23 equity value of all nonexcluded real and personal property owned  
24 by an applicant or resident must not exceed \$3,000. The  
25 facility financial staff must use the equity value of legally  
26 available real and personal property, except property excluded  
27 in subpart 2 or 3, to determine the resources available to or on  
28 behalf of an applicant or resident.

29 A. If real or personal property is jointly owned by  
30 two or more persons, the facility financial staff shall assume  
31 that each person owns an equal share. When the owners document  
32 greater or smaller ownership, the facility financial staff shall  
33 use that greater or smaller share to determine the equity value  
34 held by or on behalf of an applicant or resident. Other types

1 of ownership, such as a life estate, must be evaluated according  
2 to law.

3           B. Real or personal property owned by or on behalf of  
4 an applicant or resident is presumed legally available unless  
5 the applicant or resident documents that the property is not  
6 legally available to the applicant or resident. If real or  
7 personal property is not legally available, its equity must not  
8 be applied against the limits of subparts 2 and 3. Examples of  
9 property not available to a person are an estate that has not  
10 been probated, property owned together with one or more other  
11 people that the facility financial staff determines cannot be  
12 liquidated or reduced to cash through exercise of the  
13 applicant's or resident's legal rights, and property of an  
14 applicant or resident who is determined incompetent by a court  
15 and whose guardianship is pending. The facility financial staff  
16 shall consider as available property that property which a  
17 person has failed to make available for purposes of gaining  
18 admission to a board-operated facility or avoiding payment of  
19 the maintenance charge. An example of a person's failure to  
20 make property available occurs when the person refuses to accept  
21 a share of an inheritance.

22           C. Real or personal property transferred by an  
23 applicant or resident in violation of part 9050.0650 is presumed  
24 legally available.

25           D. The facility financial staff shall consider as  
26 available an individual retirement account, Keogh account, or  
27 other pension or deferred compensation plan account. The  
28 facility financial staff shall evaluate the accounts on the  
29 basis of the funds deposited in the account and the interest  
30 accrued on the funds less the penalty for early withdrawal.

31           E. The facility financial staff shall consider as  
32 available the proceeds that a person receives in a tort  
33 settlement, whether the settlement is entered into by the person  
34 or the person's guardian. If the settlement is received as a  
35 one-time payment, the facility financial staff shall treat it as  
36 a lump sum. If the settlement is structured to be paid over a

1 period of time, the facility financial staff shall evaluate the  
 2 ~~property on-the-basis-of-the-discounted-net-present-value-of-all~~  
 3 ~~funds-that-will-be-deposited-at-any-time-in-the-future.--In~~  
 4 ~~determining-present-value,-an-annual-interest-rate-of-six~~  
 5 ~~percent-must-be-used~~ as those funds become available to the  
 6 resident. This item applies only to settlements entered into  
 7 after the effective date of parts 9050.0010 to 9050.0900.

8 Subp. 2. Real property limitations. Real property owned  
 9 by an applicant or resident must be excluded from consideration  
 10 as an available resource, subject to the limitations in items A  
 11 and B.

12 A. The facility financial staff shall exclude the  
 13 homestead of an applicant or resident from consideration as a  
 14 resource according to the provisions in subitems (1) to (4).

15 (1) The spouse of an applicant or resident or the  
 16 dependent child or children of the applicant or resident, if  
 17 any, must occupy the homestead.

18 (2) An applicant or resident or spouse of an  
 19 applicant or resident who is purchasing real property through a  
 20 contract for deed and using that property as a home is  
 21 considered the owner of real property.

22 (3) The total amount of land that can be excluded  
 23 under this subpart is limited as specified in Minnesota  
 24 Statutes, section 510.02. Additional contiguous platted lots  
 25 must be assessed as to their legal and actual availability  
 26 according to subpart 1.

27 (4) When real property that has been used as a  
 28 home by an applicant or resident, the spouse of an applicant or  
 29 resident, or the dependent child or children of an applicant or  
 30 resident is sold, the facility financial staff shall treat the  
 31 proceeds from that sale as excluded property for a period of two  
 32 years if the person intends to reinvest them in another home and  
 33 maintains those proceeds, unused for other purposes, in a  
 34 separate account. If the property is held jointly, any earnings  
 35 that accrue on the sales proceeds before reinvestment or any  
 36 excess proceeds not used for reinvestment must be treated as

1 joint income or property and divided according to subpart 1,  
2 item A.

3 B. Real property being sold on a contract for deed  
4 must be excluded if the net present value of the contract in  
5 combination with other property does not exceed the limitations  
6 in parts 9050.0560 and 9050.0600. If the present value exceeds  
7 limitations, the contract must be sold. Proceeds from the sale  
8 must be treated as lump sum payments.

9 C. Real property that is rental property leased at a  
10 market rent and producing a net income must be excluded. If the  
11 property is sold, the proceeds must be treated as lump sum  
12 payments.

13 D. Real property on or in which the person operates a  
14 business that is anticipated to produce a net income must be  
15 excluded. If the property is sold, the proceeds must be treated  
16 as lump sum payments.

17 E. Real property that is not salable must be  
18 excluded. For purposes of this item, "not salable" means:

19 (1) two sources agree that the property is not  
20 salable due to a specified condition; or

21 (2) an actual sale attempt was made at a price  
22 not more than an estimate of the highest current market value  
23 obtained within six months of application for admission or since  
24 the last determination of the maintenance charge, but no offer  
25 to purchase was received.

26 For purposes of subitems (1) and (2), the source of  
27 information must be from the same geographic area as the  
28 property and knowledgeable about the value of the type of  
29 property offered for sale. For purposes of subitem (2), "an  
30 actual sale attempt" means the individual has listed the  
31 property with a licensed real estate broker or salesperson or,  
32 if the property is offered for sale by the owner, the owner has  
33 affixed to the property a readable sign that includes the  
34 address or phone number of the owner and the owner has  
35 advertised the property for sale in the official newspaper of  
36 the county, the newspaper of largest circulation in the county,

1 or the local shopper. The minimum period of an actual sale  
2 attempt is 90 consecutive days.

3 F. Other real property must be excluded **according**  
4 **to if required by** federal law, federal regulations, or state law.

5 Subp. 3. **Other property limitations.** The facility  
6 financial staff shall exclude the value of the following  
7 personal property:

8 A. one motor vehicle, for personal use;

9 B. the value of a prepaid burial account, burial  
10 plan, burial contract, or burial trust up to \$2,500 for persons  
11 who are already residents of a board-operated facility when the  
12 investment is made, ~~regardless of the amount invested or value,~~  
13 ~~if made by the person before admission to a board-operated~~  
14 ~~facility.~~ If the investment is made by the person before  
15 admission to a board-operated facility, the entire amount of the  
16 investment must be excluded;

17 C. 50 percent of property owned jointly with a  
18 spouse;

19 D. household goods and furniture and personal  
20 effects, wearing apparel, and jewelry regularly used by the  
21 applicant or resident in day-to-day living;

22 E. the value of personal property needed to produce  
23 income, including tools, implements, farm animals and inventory,  
24 or capital and operating assets of a trade or business necessary  
25 to income production, and if the property is sold, the proceeds  
26 must be treated as lump sum payments; and

27 F. other personal property specifically excluded by  
28 federal law, federal regulation, or state law.

29 Subp. 4. **Separate account for excluded funds.** Funds  
30 excluded from consideration as an available resource by subpart  
31 2 or 3 must be placed in an account separate from other funds to  
32 retain the exclusion. Upon application for admission and  
33 redetermination of a maintenance charge, the facility financial  
34 staff shall inform the person in writing of the requirement to  
35 place excluded funds in a separate account.

1 9050.0650 TRANSFERS OF PROPERTY.

2 Subpart 1. Generally. A person whose application for  
3 admission is pending or a current resident of a board-operated  
4 facility shall declare all transfers or sales of property within  
5 ten days of the transfer or sale. The value of property  
6 transferred or sold must be treated as an available resource for  
7 payment of the resident's maintenance charge. The value of the  
8 property transferred or sold that will be applied against the  
9 property limits in parts 9050.0560 and 9050.0600 is the market  
10 value of the property at the time of the sale or transfer less  
11 any encumbrances on the property. A transfer for purposes of  
12 preserving an estate for heirs is the same as a transfer for the  
13 purposes of establishing eligibility for admission to a  
14 board-operated facility or avoiding payment of a maintenance  
15 charge, except for transfers permitted under subpart 2, item B.

16 Subp. 2. Permitted transfers. Transfer or sale of  
17 property by or on behalf of an applicant or resident is  
18 permitted if the transfer or sale:

19 A. takes place more than 12 months before the  
20 person's admission to a board-operated facility;

21 B. is to the applicant's or resident's spouse or  
22 dependent child or children before the person's admission to a  
23 board-operated facility; or

24 C. is for market value with the proceeds available  
25 for payment toward the person's cost of care.

26 Subp. 3. Fraudulent transfers. A transfer or sale of  
27 property for less than market value within 12 months before  
28 admission or during the resident's stay in a board-operated  
29 facility, unless permitted under subpart 2, is presumed to be  
30 for the purpose of establishing or maintaining eligibility for  
31 admission to or continued residence in a board-operated facility  
32 or to avoid payment of the maintenance charge, unless the person  
33 furnishes convincing evidence to show that the transfer was for  
34 another purpose. Convincing evidence must include evidence that  
35 the person had no health or economic reasons to believe that  
36 nursing home or boarding care would be needed.

1 Subp. 4. Loans of property. An applicant or resident who  
2 lends property or on whose behalf property is loaned is  
3 considered to have transferred the property. The facility  
4 financial staff shall evaluate the transaction as a transfer of  
5 property under subparts 1 and 2. If the person receives  
6 adequate compensation for the loan or made the loan more than 12  
7 months before the person's entrance into a board-operated  
8 facility, the facility financial staff shall honor the loan.  
9 Adequate compensation must be shown by a written loan agreement  
10 and receipt of payments according to the schedule in the  
11 agreement. If the loan is payable on demand, is due, or is  
12 otherwise negotiable, the property is presumed to be available  
13 to the applicant or resident. This presumption may be overcome  
14 by convincing evidence presented by the person that the loan  
15 will not be repaid. Interest payments made by the borrower to  
16 the person are considered income in the month received and an  
17 asset if retained. Principal payments made by the borrower to  
18 the person are considered as assets.

19 Subp. 5. Unacceptable compensation for transfer of  
20 property. Services are not considered acceptable compensation  
21 for the transfer or sale of property. For purposes of this  
22 subpart, "services" means labor performed by one person for  
23 another person or entity. Goods are not considered compensation  
24 unless supported by contemporaneous receipts or other evidence  
25 of expenditure. The purchase of paid up life insurance with no  
26 cash surrender value available to the person while the person is  
27 a resident or within 12 months before admission must be  
28 considered a transfer of an asset without acceptable  
29 compensation.

30 9050.0700 INCOME.

31 Subpart 1. Evaluation of income. The facility financial  
32 staff shall evaluate only income received by or on behalf of an  
33 applicant or resident when determining the maintenance charge  
34 payable by or on behalf of an applicant or resident. All  
35 payments, unless specifically excluded in subpart 3, must be



1 counted as income. All income must be counted in the calendar  
2 month received. Income becomes property if retained after the  
3 month in which it is received, unless this part specifically  
4 states otherwise.

5 Subp. 2. **Availability of income.** Income must be  
6 attributed to the person who earns it or to the beneficiary of  
7 the income according to items A and B.

8 A. Funds distributed from a trust, whether from the  
9 principal holding or sale of trust property or from the interest  
10 and other earnings of the trust holdings, must be considered  
11 income when the income is legally available to or on behalf of  
12 an applicant or resident. Trusts are presumed legally available  
13 unless an applicant or resident can document by court order that  
14 the trust is not legally available. Trusts established other  
15 than by will by the person or the person's spouse under which  
16 the person may be the beneficiary of all or part of the payments  
17 from the trust and the distribution of the payments are  
18 determined by one or more trustees who may exercise discretion  
19 about the distribution to the person must be considered an  
20 available resource. This item applies regardless of whether the  
21 trust is irrevocable or is established for purposes other than  
22 to enable a person to qualify for admission to a board-operated  
23 facility or whether the discretion of the trustees is  
24 exercised. A trust fund established by the applicant or  
25 resident on behalf of another person within 12 months before  
26 admission or during the resident's stay in a board-operated  
27 facility must be considered transferred property under part  
28 9050.0650.

29 B. Income from jointly owned property must be divided  
30 equally among the property owners unless the terms of ownership  
31 provide for a different distribution of equity.

32 Subp. 3. **Excluded income.** The facility financial staff  
33 shall exclude the following from calculation of the applicant's  
34 or resident's gross income:

35 A. earnings derived from participation in a work  
36 therapy program while the person is a participant in the

1 program; and

2 B. 50 percent of income received by or paid to an  
3 applicant or resident and spouse, jointly.

4 9050.0710 CALCULATION OF GROSS INCOME.

5 The facility financial staff shall calculate gross income  
6 by adding together the amounts of income from sources in  
7 subparts 1 to 6.

8 Subpart 1. Earned income. Earned income is treated  
9 according to items A to C.

10 A. Sick leave and vacation payments for earned or  
11 accrued leave time are earned income.

12 B. Earned income received by persons employed on a  
13 contractual basis must be prorated over the period covered by  
14 the contract even when the payments are received over a lesser  
15 period of time.

16 C. The earned income tax credit, whether received  
17 from an employer or from the federal government, is earned  
18 income. An applicant or resident or spouse of an applicant or  
19 resident who is eligible for the earned income tax credit is  
20 required to apply for it. An applicant or resident may choose  
21 to apply for the credit either when the applicant or resident  
22 files an income tax return for the year in which the applicant  
23 or resident was eligible or in advance through the applicant's  
24 or resident's employer.

25 Subp. 2. Self-employment earnings. The facility financial  
26 staff shall determine gross earned income from self-employment  
27 by totaling gross receipts. Gross receipts from self-employment  
28 must be budgeted in the month in which they are received.  
29 Expenses must be budgeted against gross receipts in the month in  
30 which those expenses are paid, except for items A to C.

31 A. The purchase cost of inventory items, including  
32 materials that are processed or manufactured, must be deducted  
33 as an expense at the time payment is received for the sale of  
34 those inventory items, processed materials, or manufactured  
35 items, regardless of when those costs are incurred or paid.

1           B. Expenses to cover employee federal insurance  
2 contributions act payments (FICA), employee tax withholding,  
3 sales tax withholding, employee worker compensation, business  
4 insurance, property rental, property taxes, and other costs that  
5 are commonly paid at least annually, but less often than  
6 monthly, must be prorated forward as deductions from gross  
7 receipts over the period they are intended to cover, beginning  
8 with the month in which payment for those items is made.

9           C. Gross receipts from self-employment may be  
10 prorated forward to equal the period of time over which the  
11 expenses were incurred except that gross receipts must not be  
12 prorated over a period that exceeds 12 months. This provision  
13 applies only when gross receipts are not received monthly but  
14 expenses are incurred on an ongoing monthly basis.

15         Subp. 3. **Farm income.** Farm income is the difference  
16 between gross receipts and operating expenses, subject to the  
17 provisions about self-employment income. Gross receipts include  
18 sales, rents, subsidies, soil conservation payments, production  
19 derived from livestock, and income from the sale of  
20 home-produced foods. Farm income must be annualized.

21         Subp. 4. **Rental income.** Income from rental property must  
22 be considered self-employment earnings when effort is expended  
23 by the owner to maintain or manage the property. When no effort  
24 is expended by the owner to maintain or manage the property,  
25 income from rental property must be considered unearned income.  
26 The facility financial staff shall total gross rental receipts  
27 to determine rental income. When an applicant or resident or  
28 spouse lives on the rental property, the facility financial  
29 staff shall divide the expenses for upkeep, taxes, insurance,  
30 utilities, and interest by the number of rooms to determine  
31 expense per room. The facility financial staff shall deduct  
32 expenses from rental income only for the number of rooms rented,  
33 not for rooms occupied by an applicant, resident, spouse, or  
34 household member.

35         Subp. 5. **Unearned income.** Unearned income is treated  
36 according to items A and B.

1           A. An amount must be deducted for costs necessary to  
2 secure payments of unearned income. These costs include legal  
3 fees, medical fees, and mandatory deductions such as federal and  
4 state income taxes.

5           B. Payments for illness or disability, except those  
6 payments described as earned income in part 9050.0710, subpart  
7 1, item A, must be considered unearned income whether the  
8 premium payments are made wholly or in part by an employer or by  
9 an applicant or resident.

10          Subp. 6. Lump sums. Lump sums received by or on behalf of  
11 an applicant or resident must be considered earned income under  
12 subparts 1 to 4 or unearned income according to subpart 5. Lump  
13 sums are considered income in the month received and property if  
14 retained beyond the month of receipt, unless it is a contractual  
15 payment or retroactive payment of benefits.

16 9050.0720 CALCULATION OF NET INCOME; DEDUCTION FOR EMPLOYMENT  
17 EXPENSES.

18          Subpart 1. Calculation method. The facility financial  
19 staff shall calculate the net income of an applicant or resident  
20 by totaling all sources of gross income identified in part  
21 9050.0710 and subtracting from gross income the applicable  
22 deductions allowed in subpart 2.

23          Subp. 2. Deduction for employment expenses of applicant or  
24 resident. The facility financial staff shall deduct the  
25 expenses in this part and parts 9050.0730 and 9050.0740 from  
26 gross income to determine net income. Deductible items include:

27           A. state and federal income tax payments and  
28 withholdings consistent with the number of allowable exemptions;

29           B. FICA payments;

30           C. mandatory retirement fund payments;

31           D. actual reasonable unreimbursed expenses of child  
32 care necessary to earn an income and paid to anyone other than a  
33 parent of the child;

34           E. union dues;

35           F. professional association dues if they are required

1 to obtain or retain employment;

2 G. health and dental insurance premiums whether  
3 mandatory or voluntary, if cost effective;

4 H. cost of uniforms, tools, and equipment used on the  
5 job that are required to retain a job but are not furnished by  
6 the employer;

7 I. cost of meals during employment hours for each day  
8 the person is employed;

9 J. public liability insurance premiums if they are  
10 required by the employer when an automobile is used in  
11 employment and the premiums are not paid by the employer;

12 K. court ordered support payments actually paid  
13 directly by the applicant or resident or withheld by the  
14 employer and transferred to a child or spouse not living with  
15 the applicant or resident or to a different former spouse of the  
16 applicant or resident;

17 L. voluntary support payments for dependent spouse or  
18 household according to part 9050.0750;

19 M. Medicare insurance payments;

20 N. Medicaid spend-down payments actually made  
21 according to part 9505.0065, subpart 11;

22 O. payment of documented debts, incurred prior to the  
23 person's admission to the board-operated facility, for which the  
24 person is legally responsible;

25 P. educational expenses actually paid by the person  
26 that are not covered by United States Department of Veterans  
27 Affairs educational expense benefits or other government or  
28 private scholarships, loans, or grants if there is demonstrated  
29 progress by the person towards completion of an educational  
30 program as part of the person's individual care plan;

31 Q. guardianship or conservatorship fees to the extent  
32 allowed by Minnesota law or by court order;

33 R. hospital and medical insurance premiums and  
34 supplemental health care premiums for the resident or applicant,  
35 if cost effective; and

36 S. cost of transportation related to employment. For

1 the person who uses public transportation or takes part in a car  
2 pool, the facility financial staff shall deduct the fare or fee  
3 the person actually pays. For the person who uses a private  
4 motor vehicle, the facility financial staff shall deduct the  
5 amount per mile allowed on the most recent federal income tax  
6 return for actual miles driven for business purposes.

7 9050.0730 DEDUCTIONS FROM RENTAL INCOME.

8 In calculating net rental income, the facility financial  
9 staff shall deduct the rental property costs in items A to C  
10 from total rental receipts. The rental property costs must be  
11 prorated according to shares of ownership if the property is  
12 jointly owned. Money deducted from rental income under items A  
13 to C must be excluded as income in the month of receipt and as  
14 an asset if the funds are retained after the month of receipt.  
15 The retained funds must be placed in a separate account until  
16 used for:

17 A. upkeep and repairs, an annual amount equal to a  
18 maximum of two percent of the property's market value or a  
19 lesser amount as requested by the person;

20 B. real estate taxes, premiums for insurance on the  
21 property, and mortgage or contract for deed payments, payment of  
22 interest and principal; and

23 C. utilities specified as the owner's responsibility  
24 in the rental agreement.

25 9050.0740 DEDUCTIONS FROM SELF-EMPLOYMENT INCOME.

26 In calculating net self-employment income, the facility  
27 financial staff shall deduct from the total business receipts  
28 the costs of producing the income as allowed on the United  
29 States income tax schedule. However, capital expenditures,  
30 depreciation, and carryover losses claimed for business purposes  
31 on the most recent federal income tax return are not deductible  
32 business expenses. Net self-employment income, if greater than  
33 zero, must be added to other earned and unearned income to  
34 determine income for purposes of calculating the maintenance  
35 charge payable by or on behalf of an applicant or resident.

1 Losses from self-employment income may not be deducted from  
2 other earned or unearned income.

3 9050.0750 DEDUCTION FOR VOLUNTARY SUPPORT OF DEPENDENT SPOUSE OR  
4 HOUSEHOLD.

5 Subpart 1. **Generally.** The facility financial staff shall  
6 deduct from the applicant's or resident's gross monthly income  
7 calculated under part 9050.0710 the amount necessary to meet the  
8 basic needs of the dependent spouse or household as calculated  
9 under this part. The applicant or resident or spouse of an  
10 applicant or resident who requests a deduction under this part  
11 must verify the monthly expenses of the dependent spouse or  
12 household that are not met by income or resources otherwise  
13 available to the dependent spouse or household.

14 Subp. 2. **Determination of spouse's monthly expenses.** A  
15 spouse's monthly expenses are the sum of:

- 16 A. monthly rent or house payment;
- 17 B. costs of supporting a dependent child or children  
18 residing with the spouse;
- 19 C. real estate taxes;
- 20 D. homeowner's or renter's insurance;
- 21 E. home maintenance costs;
- 22 F. electric and gas charges;
- 23 G. water and sewer charges;
- 24 H. solid waste removal charges;
- 25 I. telephone costs;
- 26 J. transportation costs, including costs of public  
27 transportation and costs of acquiring and maintaining a  
28 privately owned motor vehicle;
- 29 K. food;
- 30 L. clothing;
- 31 M. medical insurance for the spouse and the  
32 applicant's or resident's dependent child or children residing  
33 with the spouse;
- 34 N. medical expense payments;
- 35 O. personal needs of the spouse or dependent child or

1 children;

2 P. payments for documented consumer debts incurred  
3 before the resident's admission to a board-operated facility for  
4 which the spouse is legally responsible; and

5 Q. support payments actually paid by the spouse to  
6 his or her former spouse or dependents who do not reside with  
7 him or her.

8 Subp. 3. Calculation of amount of deduction. The facility  
9 financial staff shall calculate the amount to be deducted from  
10 the applicant's or resident's monthly income for support of a  
11 dependent spouse or household as follows:

12 A. calculate the spouse's gross monthly income using  
13 the method for calculation of the applicant's or resident's  
14 gross income in part 9050.0710;

15 B. total the spouse's monthly expenses as determined  
16 under subpart 2;

17 C. subtract item B from item A; and

18 D. the amount by which item B exceeds item A is the  
19 amount allowed as a deduction for the dependent spouse or  
20 household.

21 9050.0755 CALCULATION OF CHARGEABLE INCOME OF APPLICANT OR  
22 RESIDENT.

23 The chargeable income of an applicant or resident is as  
24 follows:

25 A. total the person's gross income according to part  
26 9050.0710;

27 B. subtract from the total gross income the  
28 applicable expenses or deductions in parts 9050.0720 to  
29 9050.0750 to get the net income;

30 C. subtract from net income \$85 for personal needs;

31 D. multiply item C by 0.05 and deduct this amount  
32 from item C; and

33 E. the sum calculated in item D is the applicant's or  
34 resident's monthly chargeable income.

35 9050.0760 ANTICIPATING INCOME.



1 Income must be anticipated on a semiannual basis for all  
2 applicants or residents. Anticipated income must be determined  
3 using the method in items A to G that most accurately reflects  
4 the circumstances of the person.

5 A. If income is unvarying in amount and timing of  
6 receipt, an eligibility statement or wage stub must be used to  
7 verify the amount of the income. Examples of unvarying income  
8 are social security payments, pensions, unemployment  
9 compensation, and fixed salaries. For purposes of this item,  
10 "eligibility statement" means a document from a payer informing  
11 the person of eligibility for the amount of income.

12 B. Income that is expected to fluctuate slightly must  
13 be anticipated by using the income in the month of admission or  
14 redetermination. Monthly income must be calculated by  
15 multiplying:

- 16 (1) average weekly income by 4.3;  
17 (2) average biweekly income by 2.16; or  
18 (3) average semimonthly income by 2.

19 C. If income is expected to fluctuate but does not  
20 follow a seasonal pattern, monthly income is the average of  
21 monthly income received during the three most recent months.

22 D. If income fluctuates within a seasonal pattern but  
23 is reasonably stable from year to year, monthly income is the  
24 average of monthly income during the most recently completed  
25 calendar year.

26 E. Except as provided in item G, monthly farm income  
27 is the average of monthly income for the three most recent years  
28 during which the farm has been in operation.

29 F. Zero income must be used for any month in which no  
30 source of income is reasonably certain.

31 G. If the applicant or resident has had a recent  
32 financial change that makes a method in item C, D, or E an  
33 inaccurate predictor of future income, the facility financial  
34 staff shall make a reasonable estimate of future income and  
35 document the income basis used.

1 9050.0770 BENEFITS APPLICATION REQUIRED.

2 An applicant or resident or legal representative, if any,  
3 must apply for the maximum of every benefit for which the  
4 applicant or resident may be eligible that will increase the  
5 income of the applicant or resident. The board-operated  
6 facility staff shall provide an applicant or resident or legal  
7 representative information about possible available benefits or  
8 programs of assistance and assistance in making application for  
9 those benefits.

10 9050.0800 FINANCIAL INTERVIEW.

11 Subpart 1. **General conduct.** An applicant or resident must  
12 be present at an interview held to determine the applicant's or  
13 resident's ability to pay or to obtain financial information  
14 from the applicant or resident unless the applicant's or  
15 resident's presence is medically contraindicated by the  
16 attending physician of the applicant or resident. If the  
17 applicant's or resident's participation in the interview is  
18 medically contraindicated, the secondary source of information  
19 in part 9050.0810, subpart 2, must be present. The signed  
20 statement of the applicant's or resident's attending physician  
21 that attests to the medical contraindication must be placed in  
22 the applicant's or resident's financial information file.

23 Subp. 2. **Rights, duties, and consequences of interview.**

24 Before conducting an applicant's or resident's interview to  
25 determine financial status or ability to pay, the interviewer  
26 shall:

27 A. inform the person that the person may choose an  
28 individual to assist in the determination process and any other  
29 contact with the board or its designated representative by  
30 authorizing that assistance in writing;

31 B. inform the person that the requested information  
32 will be used to determine ability to pay and to calculate the  
33 resident's maintenance charge;

34 C. inform the person that financial information  
35 obtained from or about the applicant or resident may not be

1 released without the applicant's or resident's written consent,  
2 except pursuant to Minnesota Statutes, chapter 13, to specific  
3 state and federal agencies including the Minnesota Department of  
4 Veterans Affairs, Legislative Auditor, and United States  
5 Department of Veterans Affairs;

6 D. inform the person of the person's legal obligation  
7 to provide sufficient information, required documents, and proof  
8 necessary to determine ability to pay and the consequences of  
9 failure to do so;

10 E. inform the person that failure to supply the  
11 requested information must result in a determination that the  
12 person is able to pay the full cost of care and that if a person  
13 supplies false information the resident may be subject to  
14 discharge;

15 F. provide the person with an information pamphlet on  
16 the cost of care and review with the applicant or resident how  
17 the board determines the cost of care and how the amount an  
18 applicant or resident must pay toward that cost is determined;

19 G. inform the person of county, state, and federal  
20 financial programs that may assist in paying the cost of care  
21 and meeting personal and family needs;

22 H. provide the person with board-approved forms used  
23 to verify or investigate financial resources including:

- 24 (1) statement of income and net worth;  
25 (2) statement of expenses;  
26 (3) authorization to release information;  
27 (4) maintenance rate affidavits; and  
28 (5) other disclosure and verification forms the  
29 board reasonably requests to fully evaluate the applicant's or  
30 resident's financial status or the financial status of the  
31 applicant's or resident's legal representative or spouse, if  
32 any; and

33 I. request that the person complete and sign the  
34 authorization forms provided and provide verification or  
35 documentation of financial information.

1 9050.0810 SOURCES OF FINANCIAL INFORMATION.

2 Subpart 1. Applicant or resident primary source. An  
3 applicant or resident is the primary source of financial  
4 information to determine ability to pay except when the  
5 management of the applicant's or resident's financial affairs is  
6 in the hands of a legal representative. If the applicant or  
7 resident is not the source of financial information, the reason  
8 must be noted in the applicant's or resident's financial  
9 information file.

10 Subp. 2. Secondary or alternate sources of information.

11 If an applicant or resident is not able to act on the  
12 applicant's or resident's own behalf, the person interviewed to  
13 obtain financial information must be, in order of priority, the  
14 applicant's or resident's legal representative or spouse, if any.

15 9050.0820 VERIFICATION OF FINANCIAL INFORMATION.

16 Subpart 1. Verification required. Information provided by  
17 the applicant or resident, spouse, or legal representative, if  
18 any, in the financial interview, on the signed financial  
19 information form, and a financial status review under part  
20 9050.0560, subpart 1, must be verified by the facility financial  
21 staff.

22 Subp. 2. Information to be verified. The following items  
23 must be verified:

- 24 A. income;
- 25 B. insurance benefits;
- 26 C. property;
- 27 D. expenses or deductions claimed;
- 28 E. number of dependents claimed;
- 29 F. social security benefits;
- 30 G. United States Department of Veterans Affairs  
31 benefits;
- 32 H. pensions and annuities; and
- 33 I. transfers of property according to part 9050.0650.

34 Subp. 3. Time of verification. The facility financial  
35 officer must request verification of the required information no

1 earlier than 60 days before admission and no later than the date  
2 of admission or date of financial status review or other review  
3 of financial status as provided in part 9050.0560, subpart 1.

4 9050.0900 AUTHORIZATION FORMS.

5 Subpart 1. **Required.** An applicant or resident, spouse, or  
6 legal representative, if any, shall provide a separate signed  
7 authorization form for each verification that must be obtained  
8 from a third party.

9 Subp. 2. **Content.** The authorization form must contain the  
10 following information above the person's signature:

- 11 A. person's name;
- 12 B. date;
- 13 C. information authorized;
- 14 D. who is authorized to give the information;
- 15 E. to whom the information is to be given;
- 16 F. information's use; and
- 17 G. date of expiration of the authorization.

18 A separate form must be signed and completed for each  
19 authorization of access. The period of the authorization must  
20 not exceed one year.

21 Subp. 3. **Refusal to sign authorization forms;**  
22 **consequences.** The applicant or resident, applicant's or  
23 resident's legal representative, or spouse must complete the  
24 following tasks within 30 days of the financial interview or  
25 other authorized request:

- 26 A. complete and sign a financial information or  
27 authorization form;
- 28 B. apply for insurance or other benefits for which an  
29 applicant, resident, or spouse of an applicant or resident may  
30 be eligible;
- 31 C. complete assignment of benefits forms required by  
32 third-party payers;
- 33 D. sign authorizations for release of medical  
34 records; and
- 35 E. provide verification of information given on

1 financial disclosure forms.

2 ~~Failure-to-comply-with-items-A-to-E-results-in-a~~  
3 ~~determination-that-the-applicant-or-resident-can-pay-the-full~~  
4 ~~cost-of-care.~~ Providing false information relating to items A  
5 to E results in disqualification of an application for admission  
6 or in discharge of a resident under part 9050.0200, item E. The  
7 maintenance charge must be redetermined or the application for  
8 admission must be reinstated or the discharge proceeding  
9 discontinued if the applicant, resident, or spouse takes the  
10 required action.