

**Department of Veterans Affairs****Proposed Permanent Rules Relating to Veterans Homes****9050.0030 COMPLIANCE WITH STATUTES, RULES, AND CODES.**

The commissioner of ~~veterans affairs~~ shall ensure compliance by the facility and staff with applicable statutes, with applicable rules of the Minnesota Department of Health and the Minnesota Department of Human Services, and with applicable health, safety, sanitation, building, zoning, and operations codes, including the following:

*[For text of items A to K, see Minnesota Rules]*

L. the ~~patient's~~ Health Care Bill of Rights in Minnesota Statutes, section 144.651, and the complaint and resident's rights provisions of Minnesota Statutes, section 144A.13; and

~~M. the United States Department of Veterans Affairs Code M-1, part 1, chapter 3; and~~

~~N~~ M. the United States Department of Veterans Affairs Guide to Inspection of State Veterans Homes: Domiciliary Care Standards and Guide to Inspection of State Veterans Homes Nursing Home Care Standards.

**9050.0040 DEFINITIONS.**

*[For text of subparts 1 to 4, see Minnesota Rules]*

Subp. 5. **Admissions agreement.** "Admissions agreement" means a written contract entered into by the resident or the resident's legal representative or spouse, if any, or both, and the commissioner of ~~veterans affairs~~ or the commissioner's designated representative at the time of admission of the resident to a facility operated by the commissioner. The agreement must:

A. identify the service obligations of the facility with respect to the resident, as determined by the commissioner ~~of veterans affairs~~ according to licensure requirements and applicable statutes and rules, as specified in part 9050.0030;

B. identify the responsibilities of the resident with respect to the facility and other residents, including the resident's responsibilities with respect to the facility's policies and safety practices; and

*[For text of item C, see Minnesota Rules]*

*[For text of subpart 5a, see Minnesota Rules]*

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

*[For text of subpart 7, see Minnesota Rules]*

Subp. 8. **Applicant.** "Applicant" means a person seeking admission to a facility operated by the commissioner ~~of veterans affairs~~.

*[For text of subparts 9 to 13, see Minnesota Rules]*

Subp. 14. **Bed hold.** "Bed hold" means a particular bed occupied by a Minnesota veterans home resident, or a comparable bed, that is held open for the resident during the resident's absence from a facility operated by the commissioner ~~of veterans affairs~~ for medically necessary treatment at another health care facility, for a rehabilitation program, or during the resident's absence, with notice, from a facility operated by the commissioner ~~of veterans affairs~~.

Subp. 15. [Repealed, L 2008 c 297 art 2 s 30]

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

*[For text of subpart 17, see Minnesota Rules]*

Subp. 17a. **Business days.** "Business days" means Monday through Friday, excluding state-recognized legal holidays.

Subp. 18. **Facility operated by the commissioner of veterans affairs.** "~~Facility operated by the commissioner of veterans affairs~~" means a Minnesota veterans home campus, including, but not limited to, buildings, units, and grounds, at which nursing care or boarding care is provided.

*[For text of subparts 19 and 20, see Minnesota Rules]*

Subp. 21. **Care plan review.** "Care plan review" means an assessment of a resident's ~~physical and mental condition and treatment needs by the care plan team~~ medical, nursing, mental, and psychological needs. Care plan review includes:

*[For text of items A to C, see Minnesota Rules]*

D. a review of the appropriateness, duration, and outcome of treatment and care provided at the facility operated by the commissioner ~~of veterans affairs~~; and

E. a review and appropriate revision of the treatment and care recommendations of the ~~multidisciplinary~~ interdisciplinary staff, in conjunction with the resident, resident's family, surrogate, or representative, as appropriate.

*[For text of subpart 22, see Minnesota Rules]*

Subp. 23. **Chemical abuse.** "Chemical abuse" has the same meaning given it in part 9530.4100, subpart 5 "abuse" in Minnesota Statutes, section 148F.01, subdivision 2.

Subp. 24. **Chemical dependency counselor.** "Chemical dependency counselor" means a person who is licensed under Minnesota Statutes, ~~sections 148C.01 to 148C.11~~ chapter 148F, or who has met the minimum qualifications of a chemical dependency counselor under the examination process of the state of Minnesota or the Minnesota Merit System.

*[For text of subpart 25, see Minnesota Rules]*

Subp. 26. **Chemically dependent; chemical dependency.** "Chemically dependent" or "chemical dependency" ~~has the meaning given it in part 9530.4100, subpart 6.~~ means a pattern of pathological use, accompanied by the physical manifestations of increased tolerance to a chemical or chemicals being used or withdrawal syndrome following cessation of chemical use. Chemical dependency includes a pattern of pathological use, accompanied by the physical manifestations of increased tolerance to a chemical or chemicals being used or withdrawal, which has been interrupted by a period of incarceration or hospitalization.

*[For text of subpart 26a, see Minnesota Rules]*

Subp. 26b. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Veterans Affairs or another department employee who has delegated authority from the commissioner.

Subp. 27. **Conservator.** "Conservator" ~~has the meaning given it in Minnesota Statutes, section 525.539, subdivision 3.~~ means a person who is appointed by a court to manage the estate of a protected person.

Subp. 28. **Contract.** "Contract" means a legally enforceable agreement entered into by the commissioner ~~of veterans affairs~~ and an applicant, resident, or the resident's legal representative or spouse, if any, or a provider or by a provider and a subcontractor, that sets forth the rights and responsibilities of the parties.

[For text of subpart 29, see Minnesota Rules]

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

Subp. 30a. **Delinquent account.** "Delinquent account" means an account created for a resident during the resident's stay at a facility operated by the commissioner and that is over 30 days past due.

Subp. 30b. **Department.** "Department" means the Department of Veterans Affairs.

Subp. 31. **Dependent.** "Dependent" means an individual whom a person is entitled to claim as a dependent on the Minnesota or United States income tax return. An individual may not be claimed as a full unallocated dependent by more than one person. When two or more persons are entitled to claim the dependent, the dependent must be allocated equally among the persons unless the persons choose another allocation.

A "dependent" must be an unmarried person who is:

A. either living with or receiving support contributions from the applicant or resident;

[For text of items B and C, see Minnesota Rules]

[For text of subparts 32 to 35, see Minnesota Rules]

Subp. 36. **Discharge.** "Discharge" means a termination of residence in the skilled nursing home facility or boarding care home that is documented in the discharge summary signed by the attending physician provider. A discharge includes the permanent movement of a resident from the campus of one facility operated by the commissioner of ~~veterans affairs~~ to another, whether to the same or to a different level of care. For purposes of this definition, a discharge does not include:

[For text of items A and B, see Minnesota Rules]

C. an absence from the skilled nursing home facility or boarding care home for hospitalization, treatment purposes, or ~~personal reasons~~ therapeutic leave when the resident is expected to return to the same skilled nursing home facility or boarding care home and complies with the bed hold requirements of part 9050.0150.

[For text of subpart 37, see Minnesota Rules]

Subp. 38. **Educational expenses.** "Educational expenses" means the actual amounts paid for a nonskilled resident or dependent child's tuition, mandatory fees, transportation to and from high school, supplies and equipment required for coursework, and child care while the person is in school or in transit. For a nonskilled resident to be eligible for educational expenses, the educational program must be part of the resident's approved care plan. If there is a dispute over whether or not an item is an educational expense, the administrator shall make a final determination on the issue.

[For text of subparts 39 to 40a, see Minnesota Rules]

Subp. 41. **Goal.** "Goal" means the desired medical alleviation or behavioral outcome of an activity that can be observed and reliably measured by ~~two or more multidisciplinary~~ an interdisciplinary team members member.

[For text of subpart 42, see Minnesota Rules]

Subp. 43. **Guardian.** "Guardian" ~~has the meaning given it in Minnesota Statutes, section 525.539, subdivision 2.~~ means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment, but excludes one who is merely a guardian ad litem.

Subp. 44. **Health care facility.** "Health care facility" means a hospital, nursing home, skilled nursing facility, boarding care home, or supervised living facility licensed by the

Minnesota Department of Health under Minnesota Statutes, sections 144.50 to 144.56 or 144A.01 to 144A.18.

*[For text of subparts 45 to 49, see Minnesota Rules]*

Subp. 50. **Hospital absence.** "Hospital absence" means an absence from a facility operated by the commissioner ~~of veterans affairs~~ for medically necessary treatment in a hospital.

*[For text of subparts 51 and 52, see Minnesota Rules]*

Subp. 53. **Inappropriate and harmful use.** "Inappropriate and harmful use" ~~has the meaning given it in part 9530.4100, subpart 14.~~ means use of a chemical that exceeds social or legal standards of acceptability, the outcome of which is characterized by three or more of the following:

- A. weekly use to intoxication;
- B. inability to function in a social setting without becoming intoxicated;
- C. driving after consuming sufficient chemicals to be considered legally impaired under Minnesota Statutes, section 169A.20, whether or not an arrest takes place;
- D. excessive spending on chemicals that results in an inability to meet financial obligations;
- E. loss of friends due to behavior while intoxicated; or
- F. chemical use that prohibits the individual from meeting work, school, family, or social obligations.

*[For text of subparts 54 and 55, see Minnesota Rules]*

Subp. 56. **Independent physician.** "Independent physician" means a physician licensed to practice medicine under Minnesota Statutes, chapter 147, who is not the applicant's or

resident's ~~attending physician~~ provider. The independent physician may be a Minnesota veterans home staff physician of a facility operated by the commissioner of veterans affairs other than the one in which the individual in question resides.

*[For text of subpart 57, see Minnesota Rules]*

Subp. 58. **Individual care plan.** "Individual care plan" means a written plan developed for implementing and coordinating a resident's care and treatment that is developed and maintained by the ~~multidisciplinary~~ interdisciplinary staff on the basis of assessment results for each resident. The purpose of the individual care plan is to integrate care, identify and meet the service and care needs of the resident, set treatment goals and objectives, identify outcomes or resolution of treatment for the resident, and identify responsibilities of the ~~multidisciplinary~~ interdisciplinary staff for the resident's care and treatment.

Subp. 58a. **Initial admission.** "Initial admission" means the first time an individual is admitted for residency at any of the Minnesota veterans homes (~~MVH~~) facilities for services such as skilled care or domiciliary care. If a resident is admitted to a ~~MVH~~ Minnesota veterans home facility within one calendar year of being discharged from the same or another ~~MVH~~ facility, the admission to the first facility is the resident's "initial admission" for the purposes of residency at both facilities.

Subp. 58b. **Interdisciplinary staff.** "Interdisciplinary staff" means health care professionals, mental health practitioners, and mental health professionals employed by or under contract with the Department of Veterans Affairs to provide clinical and evaluative services in the treatment of conditions of the residents.

Subp. 59. **International Classification of Diseases; ~~ICD-9-CM~~ ICD-10-CM.** "International Classification of Diseases" or "~~ICD-9-CM~~" "ICD-10-CM" means the current edition of the Clinical Manual of the International Classification of Diseases, as published by the Commission on Professional and Hospital Activities, 1968



Green Road, Ann Arbor, Michigan. This publication is incorporated by reference and is available through the Minitex interlibrary loan system. It is not subject to frequent change.

*[For text of subparts 60 and 61, see Minnesota Rules]*

Subp. 62. **Level of care.** "Level of care" means the licensure level of the facility operated by the commissioner ~~of veterans affairs~~ in which a resident lives and is assigned an appropriate bed through the use of a patient classification system.

Subp. 63. **Level of care change.** "Level of care change" means movement of a resident from one level of care to another within a facility operated by the commissioner ~~of veterans affairs~~ or from one facility to another on the same campus.

Subp. 64. **Licensed psychologist.** "Licensed psychologist" means a person licensed under Minnesota Statutes, section ~~148.91, subdivision 5~~ 148.907.

*[For text of subparts 65 to 69, see Minnesota Rules]*

Subp. 69a. **Make available.** "Make available" means to assist a resident in obtaining information about and arrange for a resident's access to a particular service, but not necessarily assure payment for that service. The commissioner ~~of veterans affairs~~ shall determine annually which services will be paid for by the facilities operated by the commissioner ~~of veterans affairs~~, based on appropriations.

*[For text of subpart 70, see Minnesota Rules]*

Subp. 71. **Market value.** "Market value" means the most probable price in terms of money that property should bring in a competitive open market under all conditions requisite to a fair sale. The value on the most recent property tax statement must be presumed to be the market value for purposes of calculating the maintenance charge unless the person or the commissioner ~~of veterans affairs~~ or the commissioner's designated representative provides convincing evidence to overcome the presumption.

Subp. 72. **Medical condition.** "Medical condition" means the diagnosis or diagnoses listed in current editions of ~~ICD-9-CM~~ ICD-10-CM or DSM-MD, made by the applicant's or resident's attending physician provider.

Subp. 73. **Medical director.** "Medical director" means a physician licensed under Minnesota Statutes, chapter 147, and employed by or under contract ~~to~~ with the ~~commissioner~~ Department of Veterans Affairs ~~who is responsible for the purpose of the~~ overall direction of medical practice in a facility to ensure the appropriateness of the medical services provided to the residents.

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

*[For text of subparts 75 to 79, see Minnesota Rules]*

Subp. 80. [See repealer.]

*[For text of subparts 81 to 83, see Minnesota Rules]*

Subp. 84. [See repealer.]

*[For text of subparts 85 to 88a, see Minnesota Rules]*

Subp. 88b. **Patient classification system.** "Patient classification system" means a system that categorizes present patients on the basis of certain care needs.

Subp. 89. [See repealer.]

*[For text of subparts 90 to 94a, see Minnesota Rules]*

Subp. 94b. **Provider.** "Provider" means a physician licensed to practice medicine under Minnesota Statutes, chapter 147, who is an applicant's or resident's primary treating or supervising physician.

*[For text of subpart 95, see Minnesota Rules]*

Subp. 95a. **Psychological practitioner.** "Psychological practitioner" means a person licensed under Minnesota Statutes, section ~~148.91, subdivision 6~~ 148.907.

*[For text of subparts 96 to 99, see Minnesota Rules]*

Subp. 100. **Reporting year.** "Reporting year" means the period from March 1 to the last day of February immediately preceding the rate year, for which the skilled nursing home facility or boarding care home calculates its costs, and which is the basis for the determination of the cost of care for the following rate year.

*[For text of subparts 101 to 105, see Minnesota Rules]*

Subp. 105a. **Skilled nursing facility.** "Skilled nursing facility" means a facility licensed by the commissioner of health under chapters 4655 and 4660 and Minnesota Statutes, section 144A.

Subp. 106. **Social worker.** "Social worker" means a person who is licensed under Minnesota Statutes, ~~sections 148B.18 to 148B.289~~ chapter 148E, or who has met the minimum qualifications of a social worker under the examination process of the state of Minnesota or the Minnesota Merit System.

*[For text of subpart 106a, see Minnesota Rules]*

Subp. 107. **Staff physician.** "Staff physician" means a physician licensed to practice medicine under Minnesota Statutes, chapter 147, who is employed by or under contract to the commissioner of ~~veterans affairs~~ to provide services in a facility operated by the commissioner of ~~veterans affairs~~.

Subp. 108. **Staff psychiatrist.** "Staff psychiatrist" means a psychiatrist who is employed by or under contract to the commissioner ~~of veterans affairs~~ to provide psychiatric services in a facility operated by the commissioner ~~of veterans affairs~~.

Subp. 109. **Staff psychologist.** "Staff psychologist" means a person licensed under Minnesota Statutes, sections 148.88 to 148.98, who is employed by or under contract to the commissioner ~~of veterans affairs~~ to provide psychological services in a facility operated by the commissioner ~~of veterans affairs~~.

Subp. 109a. **Therapeutic leave.** "Therapeutic leave" means an absence from a facility operated by the commissioner for family visits, vacations, or other personal, nontreatment-related reasons.

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

A. movement of a resident to or from another health care facility for purposes of hospitalization or other health care services if a bed is held at the particular facility operated by the commissioner ~~of veterans affairs~~ for the resident pending completion of medically necessary treatment and the resident's anticipated return to the same facility operated by the commissioner ~~of veterans affairs~~; or

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

*[For text of subpart III, see Minnesota Rules]*

Subp. 112. **Treatment absence.** "Treatment absence" means an absence of a resident from a facility operated by the commissioner ~~of veterans affairs~~, with the expectation of the resident's return to the facility operated by the commissioner ~~of veterans affairs~~. The absence

must be to be placed in a residential institutional setting, including a detoxification facility, a rehabilitation program, or health care facility other than a hospital.

*[For text of subpart 113, see Minnesota Rules]*

Subp. 114. **Unemployment compensation.** "Unemployment compensation" means the insurance benefits paid to an unemployed worker under Minnesota Statutes, sections 268.03 to ~~268.231~~ 268.23.

Subp. 115. **Utilization review.** "Utilization review" means the activity or function within the facility operated by the commissioner of ~~veterans affairs~~ responsible for the ongoing evaluation of the necessity for and the quality and timeliness of services provided in facilities operated by the commissioner of ~~veterans affairs~~, according to chapters 4655 and 4660, when the services are not under the responsibility of a professional standards review organization.

*[For text of subparts 115a to 119, see Minnesota Rules]*

Subp. 120. [See repealer.]

## **9050.0050 PERSONS ELIGIBLE FOR ADMISSION.**

Subpart 1. [See repealer.]

Subp. 2. **Veterans.** ~~A person must meet the criteria in Minnesota Statutes, sections 197.447 and 198.022, paragraphs (1) and (2), to be eligible for admission to a facility operated by the commissioner of veterans affairs as a veteran.~~ A veteran seeking admission to a facility operated by the commissioner must:

- A. meet the requirements of Minnesota Statutes, sections 197.447 and 198.01;
- B. be a permanent resident of the state of Minnesota as defined in subpart 3a; and
- C. meet the criteria in part 9050.0070.

The person must also provide current evidence of medical need for admission and financial information as specified in parts 9050.0800 to 9050.0900.

Subp. 3. **Nonveterans.** ~~A person who is not a veteran must meet the criteria in Minnesota Statutes, section 198.022, paragraphs (1) and (3), to be eligible for admission to a facility operated by the commissioner of veterans affairs.~~ A nonveteran seeking admission to a facility operated by the commissioner must:

A. meet the criteria of Minnesota Statutes, section 198.022;

B. be a permanent resident of the state of Minnesota as defined in subpart 3a;

C. meet the criteria in part 9050.0070; and

D. if the nonveteran is a spouse of a veteran, meet the requirements of Minnesota Statutes, sections 197.447 and 198.01.

The person must also provide current evidence of medical need for admission and financial information as specified in parts 9050.0800 to 9050.0900.

Subp. 3a. **Residency.** ~~For purposes of determining residency under Minnesota Statutes, section 198.022, paragraphs (2) and (3), a person is a permanent resident of Minnesota if:~~

~~A. the person currently resides in Minnesota and intends to reside in the state permanently rents, owns, maintains, or occupies a residence in Minnesota suitable for year round use for at least 90 days prior to application to a veterans home operated by the commissioner; and~~

~~B. the person does not rent, own or, maintain, or occupy a home in another state.~~

Subp. 4. [See repealer.]

Subp. 5. **Exclusion.** An applicant who has past unpaid bills to the state for maintenance charges for prior residence in a facility operated by the commissioner must satisfy the past debt for maintenance charges before that applicant will be placed on the waiting list. For

the purpose of this part, "satisfy" means that the applicant has either paid the debt or entered into an agreement to repay the debt. The agreement must conform with Minnesota Statutes, section 198.03, subdivision 3.

### **9050.0055 ADMISSIONS PROCESS, WAITING LIST, PRIORITY.**

Subpart 1. **Process.** A person seeking admission to a facility operated by the commissioner ~~of veterans affairs~~ may obtain an application form and information describing the required application procedures from the facility. The ~~social services~~ staff of the facility operated by the commissioner ~~of veterans affairs~~ shall assist the person to complete the application form and process. When an application is requested, the staff shall provide a checklist of items requiring documentation, information, or verification to complete the application.

Subp. 1a. **Preadmission screening.** The staff of the facility operated by the commissioner ~~of veterans affairs~~ shall conduct a preadmission screening of applicants, ~~similar to that prescribed in Minnesota Statutes, section 256B.0911,~~ in order to determine whether the person meets the general eligibility requirements in part 9050.0050. If these requirements are met, an applicant's name and application file must be referred to the admissions committee or be placed on the waiting list for the particular facility as specified in subpart 3.

Subp. 1b. **Admission application.** Prior to admission, the staff shall obtain the following information about an applicant. Any deviation from these procedures must be approved by the administrator. If the procedures are deviated from, the administrator or designee must obtain information that is equivalent to the following items:

*[For text of items A to C, see Minnesota Rules]*

D. medical and psychiatric information from previous or current placements and current ~~attending physicians~~ providers and, as appropriate, psychologists or psychiatrists, including level of care information from previous and current placements;

*[For text of items E and F, see Minnesota Rules]*

G. basic financial information on the applicant and the applicant's spouse and dependents. The data is limited to the information requested on the Minnesota veterans homes admission application. The financial information must not be used to determine eligibility for admission to the facility.

The appropriate clinical staff shall interview the applicant or the applicant's legal representative, if any, and the applicant's family members with the applicant's consent, and shall review the application for admission.

The staff of the facility operated by the commissioner of ~~veterans affairs~~ shall keep a checklist on which to record the date of receipt of information for the person's application file.

Subp. 2. **Timing of review by admissions committee.** The admissions committee shall review an application for admission according to items A and B, and determine the applicant's suitability for admission to a facility operated by the commissioner of ~~veterans affairs~~ as determined by the criteria in part 9050.0070, subparts 3 and 4.

A. If the facility operated by the commissioner of ~~veterans affairs~~ to which a person has applied has no waiting list, the admissions committee shall review the application file within five ~~working~~ business days of its ~~completion~~ submission.

B. If the facility operated by the commissioner of ~~veterans affairs~~ to which the person has applied has a waiting list, the admissions committee shall review the application file within five ~~working~~ business days from the time the applicant's name reaches the first place on the active waiting list and a bed becomes available.



Subp. 3. **Waiting lists.** Each facility operated by the commissioner ~~of veterans affairs~~ shall maintain an active admission waiting list ~~and an inactive waiting list~~ to determine the admission priority of applicants. The active admission waiting list is for applicants desiring the first available bed at the level of care appropriate to the applicant's needs. ~~The inactive waiting list is for those applicants who do not currently want to exercise their option for admission, or who have not yet met the established criteria for admission.~~

If an eligible applicant cannot be considered for immediate admission to a facility operated by the commissioner ~~of veterans affairs~~ with an appropriate level of care due to unavailability of a bed, the applicant must be placed on ~~either an active or inactive~~ the admission waiting list ~~according to preference. An applicant shall indicate preference for the active or inactive waiting list on the application form. As part of the preadmission screening, the applicant's indicated preference for the waiting lists must be reviewed and amended if appropriate. An applicant may request movement from one waiting list to another at any time, unless the request is precluded by subpart 5. An applicant requesting movement from one waiting list to another must be placed at the bottom of the waiting list to which movement was requested. The applicant's position on the waiting list is determined by the date on which the application form is received.~~

Subp. 4. **Priority.**

A. If it is determined by the utilization review committee that a current resident of a facility needs a level of care not offered at the facility operated by the commissioner ~~of veterans affairs where the resident is staying~~, the current resident has priority for consideration for admission to other facilities operated by the commissioner ~~of veterans affairs~~ at an appropriate level of care if ~~they meet~~ the resident meets the criteria for that level of care and a bed is available.

B. A person who is discharged for failure to meet bed hold criteria in part 9050.0150, subpart 2 or 3, has priority for consideration for admission to a facility operated

by the commissioner ~~of veterans affairs~~ at an appropriate level of care if the person meets the criteria for that level of care and a bed is available.

C. A person on the ~~active~~ admission waiting list must be considered for admission and, if approved by the admissions committee, offered a bed consistent with the person's position on the ~~active~~ admission waiting list and the patient classification system and level of care needs as determined by the admissions committee.

D. A person offered admission to a facility operated by the commissioner has three ~~working~~ business days to ~~consider~~ accept the offer. If the person declines the offer of admission, the person's name must be put on the bottom of the ~~active~~ admission waiting list, ~~unless the person requests removal from the active waiting list or transfer to the inactive waiting list.~~ If the person fails to respond to the offer of admission within three ~~working~~ business days from the date the offer is made, the person's application file must be closed and the person's name removed from ~~all~~ the admission waiting lists. A person whose name is removed from ~~all~~ the admission waiting lists for failure to respond to an offer for admission must reapply.

~~A bed must be held without charge for an approved applicant for up to three working days from the date of acceptance of the offer of admission. The bed may be held open for an additional period of time at the discretion of the administrator. A bed held under this subpart is a reserved bed.~~

Subp. 5. **Limitations on refusals to exercise option for admission from active admission waiting list.** A person who is placed on the admission waiting list and who twice refuses an opportunity for admission must be removed from the ~~active~~ admission waiting list and ~~placed on the inactive waiting list~~ must reapply to be considered for future admission. ~~The person is not permitted to transfer to the active waiting list for one year from the date the person refused an opportunity for admission unless the person can verify by an attending physician a significant change in health status since the date of last refusal.~~

~~"Significant change" means the worsening of an applicant's medical condition due to an unexpected health condition such as a sudden stroke or heart attack.~~

Subp. 6. **Initial financial status review.** The facility ~~financial~~ staff shall evaluate the financial status resources of a person who ~~has either been approved for admission or who is anticipated to be within 60 days of reaching the top of the waiting list~~ admission to the facility. The purpose of the initial financial status review is to determine the person's ability to pay toward the cost of care and to calculate the person's maintenance charge. The financial status review must be conducted according to parts 9050.0800 to 9050.0900. The maintenance charge calculation must be according to part 9050.0560.

#### **9050.0060 ADMISSIONS COMMITTEE; CREATION, COMPOSITION, AND DUTIES.**

*[For text of subpart 1, see Minnesota Rules]*

Subp. 2. **Composition of admissions committee.** The admissions committee must consist of the following staff members of the facility operated by the commissioner ~~of veterans affairs~~: the administrator or a designee, a registered nurse, and a social worker. The admissions committee may consult with any ~~of the following staff members, as indicated by other interdisciplinary team members based on the diagnosis or diagnoses of the applicant to be reviewed: a chemical dependency counselor, a mental health professional or mental health practitioner, a physical therapist, an occupational therapist, a speech therapist, a dietitian, a chaplain, or a staff psychologist or psychiatrist.~~ The applicant's attending physician must be consulted or given the opportunity to present information to the admissions committee if the physician chooses to participate.

*[For text of subparts 3 and 4, see Minnesota Rules]*

#### **9050.0070 TYPES OF ADMISSIONS.**

*[For text of subpart 1, see Minnesota Rules]*

Subp. 2. **Selection of residents.** Of those applicants eligible for admission under part 9050.0050 and Minnesota Statutes, sections ~~198.01, 198.022, and 198.03~~, the admissions committee of the facility operated by the commissioner ~~of veterans affairs~~, in consultation with the applicant's ~~attending physician~~ provider, shall determine whether an applicant is to be admitted by applying the criteria for each type of facility in subparts 3 and 4.

Subp. 3. **Criteria for admission to and continued stay in a boarding care facility.** The decision about admission to or continued stay in a facility operated by the commissioner ~~of veterans affairs~~ licensed to provide boarding care must be based on the facility's ability to meet the care needs of the applicant or resident. A person whose care needs can be met by the facility operated by the commissioner ~~of veterans affairs~~ must be admitted, placed on the waiting list, or retained as a resident if the admissions committee or utilization review committee determines the person meets the criteria in items A to N. A person whose care needs cannot be met must be denied admission or continued stay if the admissions committee or utilization review committee determines the person does not meet the criteria in items A to N.

*[For text of item A, see Minnesota Rules]*

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

C. The person's ~~attending physician~~ provider must document the person's need for the services provided in a boarding care facility. If a resident has not specified ~~an attending physician~~ a provider, the ~~attending physician~~ provider must be a Minnesota veterans homes staff physician. If an applicant for admission has not specified ~~an attending physician~~ a provider, Minnesota veterans ~~homes~~ home facility staff must assist the applicant in finding a physician to provide an admitting diagnosis.

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

E. A person must be able to recognize and appropriately react to hazards in the environment. A person who has a diagnosis of mental illness must be reviewed and may be assessed by a staff psychiatrist or psychologist, for whom the psychiatrist or psychologist must conclude that the person does not pose a risk to themselves or other residents. The case mix indicator for orientation and self-preservation skills must be used to determine whether the individual has the mental judgment or physical ability necessary to function in a changing environment and a potentially harmful situation.

*[For text of items F to H, see Minnesota Rules]*

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

*[For text of item J, see Minnesota Rules]*

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

L. A person who has an active substance use disorder must be ~~evaluated~~ assessed by an attending psychologist or psychiatrist. The evaluation must include an assessment of the person's chemical health needs, the current severity of the person's disorder, and whether the facility operated by the commissioner ~~of veterans affairs~~ can meet the care needs of the

person. If the medical records obtained by the admissions committee do not adequately document a person's substance disorder status, the person's status may be verified by a collateral contact. For purposes of this part, "collateral contact" means an oral or written communication initiated by facility staff for the purpose of gathering information from an individual or agency, other than the applicant, to verify or supplement information provided by the applicant. Collateral contact includes contact with family members, criminal justice agencies, educational institutions, and employers.

*[For text of item M, see Minnesota Rules]*

N. ~~An attending physician~~ A provider shall determine whether the person is free from any communicable disease or infection that poses a threat to the health and safety of others. Exceptions may be made, however, subject to the authority granted by a waiver issued by the Minnesota Department of Health. This subpart complies with Minnesota Statutes, section 144.50, subdivision 7.

Subp. 4. **Criteria for admission to and continued stay in a skilled nursing home facility.** The decision about admission or continued stay in a facility operated by the commissioner ~~of veterans affairs~~ licensed as a skilled nursing home facility must be based on the facility's ability to meet the care needs of the person. A person whose care needs can be met by the facility must be admitted, placed on the waiting list, or retained as a resident if the admissions committee or utilization review committee determines that the person meets all of the criteria in items A to G. A person whose care needs cannot be met must not be admitted or retained as a resident if the admissions committee determines the person fails to meet all of the criteria in items A to G.

A. The person must ~~have or be assigned to an appropriate bed through a patient~~ be reviewed through the current state or federal resident classification system to assist with skilled nursing facility admission determinations.

B. The person must have a medical and, if appropriate, psychiatric diagnosis from the ~~attending physician provider~~ indicating placement in a skilled nursing home facility is a medical necessity. If a resident has not specified ~~an attending physician a provider~~, the ~~attending physician provider~~ must be a Minnesota veterans ~~homes~~ home staff physician. If an applicant for admission has not specified ~~an attending physician a provider~~, Minnesota veterans homes facility staff must assist the applicant in finding a ~~physician~~ provider to provide an admitting diagnosis.

C. The person's ~~attending physician provider~~ must document the person's need for the services provided in a skilled nursing home facility.

D. The person must demonstrate a history of cooperation with an individual treatment or care plan or with the medical treatment plan prescribed by the ~~attending physician provider~~. Cooperation may be demonstrated by a documented history of cooperation in a prior placement, if any, or other relevant evidence which demonstrates cooperation. Continuing cooperation must be measured as specified in the care plan review process in part 9050.0300.

E. ~~An attending physician~~ A provider shall determine whether the person is free from any communicable disease or infection that poses a threat to the health and safety of others. Exceptions may be made, however, subject to the authority granted by a waiver issued by the Minnesota Department of Health. This subpart complies with Minnesota Statutes, section 144.50, subdivision 7.

F. An attending psychiatrist ~~or~~ psychologist, provider, or the skilled nursing facility medical director must assess persons with a history of violent or self-abusive behavior and determine if significant risk factors currently exist that suggest that the individual poses a threat of harm to self or others to determine the facility's ability to meet the safety needs of the person and other persons at the facility.

G. A person who has an active substance use disorder must be ~~evaluated~~ assessed by an attending psychologist ~~or~~, psychiatrist, provider, or the skilled nursing facility medical director. The evaluation must include an assessment of the person's chemical health needs, the current severity of the person's disorder, and whether the facility operated by the commissioner ~~of veterans affairs~~ can meet the care needs of the person. If the medical records obtained by the admissions committee do not adequately document the person's substance disorder status, the person's status may be verified by a collateral contact. For purposes of this part, "collateral contact" means an oral or written communication initiated by facility staff for the purpose of gathering information from an individual or agency, other than the applicant, to verify or supplement information provided by the applicant. Collateral contact includes contact with family members, criminal justice agencies, education institutions, and employers.

#### **9050.0080 ADMISSION DECISION; NOTICE AND REVIEW.**

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

#### Subp. 2. **Review and reconsideration.**

A. An applicant or the applicant's legal representative may request a review of a decision of the admissions committee to deny the applicant's admission. The applicant or applicant's legal representative desiring the review shall forward the request, in writing, to the administrator of the facility within 30 calendar days of the applicant's receipt of a notice of denial. The review must be completed within 30 calendar days of receipt of the request.



B. The administrator may request that the admissions committee reconsider its decision or the administrator may review the existing minutes to determine the basis for a negative decision. If a reconsideration is requested, it must be conducted at the next scheduled admissions committee meeting. The decision resulting from the reconsideration and the reasons for the decision must be forwarded to the administrator in writing. The applicant or applicant's legal representative desiring a reconsideration of the review shall forward the request, in writing, to the administrator within 14 calendar days of the applicant's receipt of the review. The administrator shall conduct a final review of the admissions committee's decision, based on the admissions criteria in part 9050.0070, subpart 3 or 4, and shall issue a final decision within 30 calendar days from the receipt of the request of reconsideration. The decision of the administrator shall constitute final agency action.

#### **9050.0100 TRANSFER.**

Subpart 1. **Generally.** A resident may be transferred from a facility operated by the commissioner of veterans affairs to another health care facility or rehabilitation program or detoxification program if:

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

*[For text of item B, see Minnesota Rules]*

C. an emergency situation exists.

A resident may be transferred only with the resident's consent or the consent of the legal representative, if any, except in an emergency when obtaining consent before transfer is not possible. A resident who refuses consent for transfer to another health care facility or rehabilitation program or detoxification program on recommendation of the attending physician provider or the utilization review committee, or both, may be subject to discharge for noncompliance with the resident's individual care plan. The utilization review committee's

decision to recommend discharge of a resident for refusing consent for transfer is limited by the Patient's Health Care Bill of Rights established in Minnesota Statutes, section 144.651, and must be based on the facility's ability to meet the person's care needs as determined by the criteria in part 9050.0070, subparts 3 and 4. A resident transferred from another facility back to the facility operated by the commissioner of ~~veterans affairs~~ does not need to reapply for admission.

Subp. 2. **Notice.** Unless a situation occurs that is outside the control of the facility operated by the commissioner of ~~veterans affairs~~, such as a utilization review, the accommodation of newly admitted residents, a change in the resident's medical or treatment program, or the resident's own or another resident's welfare, a resident for whom the utilization review committee or the attending physician recommends a transfer must be notified of the recommendation at least, the resident must be notified, in writing, of the transfer within:

A. 30 days before the anticipated transfer date, if to a facility or program not operated by the commissioner of ~~veterans affairs~~, according to Minnesota Statutes, section 144.651, subdivision 29;

B. seven days before the anticipated transfer to another bed or level of care within the same facility operated by the commissioner of ~~veterans affairs~~, or to another facility operated by the commissioner of ~~veterans affairs~~ located at the same campus, according to Minnesota Statutes, section 144.651, subdivision 29; or

C. a reasonable time before the anticipated transfer in situations outside the control of the facility operated by the commissioner of ~~veterans affairs~~. The reasonable time must be determined by the facility administrator or designee, based upon the particular facts of the situation prompting the transfer.

*[For text of subpart 3, see Minnesota Rules]*

Subp. 4. **Transfers to United States Department of Veterans Affairs Medical Center.** The facility operated by the commissioner ~~of veterans affairs~~ must not guarantee access or admission to or treatment at the United States Department of Veterans Affairs Medical Center, nor does residence at a facility operated by the commissioner ~~of veterans affairs~~ grant residents preference with regard to access, admissions, or treatment at the United States Department of Veterans Affairs Medical Center. If the United States Department of Veterans Affairs Medical Center agrees to accept the resident and has an available bed, the resident must be transferred to that facility. If the United States Department of Veterans Affairs Medical Center denies the resident treatment or admission, the resident must be transferred to a hospital or other health care facility that is able to provide the appropriate service. The Minnesota veterans home facility, the Minnesota Department of Veterans Affairs, or the state of Minnesota are not responsible for the costs of a resident's hospitalization or treatment at a facility that is not a facility operated by the commissioner ~~of veterans affairs~~.

*[For text of subpart 5, see Minnesota Rules]*

#### **9050.0150 BED HOLD.**

Subpart 1. **Generally.** A resident's bed or a comparable bed at an appropriate level of care must be held for the resident if the resident is absent from the facility operated by the commissioner ~~of veterans affairs~~ for a circumstance specified in subparts 2 to 4 and continues payment as required in subpart 5 ~~and part 9050.0540~~.

Subp. 2. **Hospital absence.** A resident's bed must be held during a resident's hospital absence if the treatment in the hospital is on the order of the resident's ~~attending physician~~ provider or is a result of a medical emergency. A hospital absence in excess of 30 days must be periodically monitored by facility staff with regard to the resident's progress and likelihood the resident can be cared for on return to the facility operated by the commissioner ~~of veterans affairs~~ as determined by the criteria in part 9050.0070, subpart 3 or 4. If satisfactory

progress is not being made, discharge proceedings must be started by the utilization review committee.

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

Subp. 4. ~~Personal absence~~ **Therapeutic leave.** A resident's bed must be held when the person leaves the facility operated by the commissioner ~~of veterans affairs~~ on a ~~personal absence~~ therapeutic leave. A ~~personal absence~~ therapeutic leave may be no longer than 96 hours, unless the resident has made a definitive arrangement with the administrator or administrator's designee regarding a longer absence. The resident shall advise the administrator or administrator's designee of the total length of the absence and the resident shall agree to pay the maintenance charge during the absence. The resident's therapeutic leave must not exceed a total of 12 calendar days per calendar year, unless the resident has made a definitive arrangement with the administrator or administrator's designee regarding a longer absence.

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

[For text of subpart 6, see Minnesota Rules]

Subp. 7. **Monitoring of bed hold status.** The appropriateness of continued bed hold must be reviewed by the utilization review committee of the facility operated by the commissioner of veterans affairs at least once every ~~30~~ seven days during the resident's ongoing absence. A decision about approval of continued bed hold must be based on the resident's satisfactory progress toward recovery from the condition for which the resident was hospitalized or completion of the treatment program or rehabilitation program, and the existence of a reasonable expectation that the facility will be able to care for the resident upon return to the facility operated by the commissioner of veterans affairs and the resident's compliance with subpart 5 if applicable. ~~Continued bed hold or continued residency with personal absences exceeding 36 cumulative days per year must be reviewed by the utilization review committee.~~ Continued bed hold or continued residency with personal absences therapeutic leave that ~~are~~ is contraindicated in the resident's care plan may, upon the recommendation of the direct care staff, be reviewed by the utilization review committee. The decision about continued residence must be based on the resident's continuing need for care as determined by the utilization review committee. The determination must be according to the criteria in part 9050.0070, subparts 3 and 4.

#### **9050.0200 DISCHARGE.**

Subpart 1. **General criteria.** As allowed in this part, a resident may be discharged from any veterans home facility. Discharge from a skilled nursing ~~care~~ facility or a boarding care facility constitutes permanent release from that facility operated by the commissioner of veterans affairs and terminates the duties and responsibilities of the commissioner of veterans affairs and the facility staff with respect to the discharged individual. Once discharged, a former resident must reapply for admission to a Minnesota veterans home facility.

Subp. 2. **Types of discharge and grounds for discharge.** A resident must be discharged from the facility ~~either voluntarily or~~, involuntarily, or immediately according to items A ~~and~~, B, and C.

A. A discharge is voluntary if there is mutual consent between the resident, or the resident's legal representative or spouse, if any, the resident's attending physician, and the administrator of the facility. Voluntary discharge begins when the resident or the resident's legal representative submits a written notice to the facility for discharge of the resident.

B. A discharge is involuntary if it is without mutual consent ~~of~~ between the resident, or the resident's legal representative who has the legal authority, or spouse, if any, the resident's attending physician, and the administrator of the facility. Involuntary discharge procedures start if one of the following circumstances exist:

(1) the resident or resident's legal representative fails or refuses to comply with payment obligations in the admission agreement as determined by the veterans home facility financial staff as provided for in part 9050.0040, subpart 5, item C;

(2) the veterans home facility is unable to meet the care needs of the resident, as determined by the utilization review committee according to part 9050.0070, subpart 3 or 4;

(3) the resident no longer has a medical need for the services provided by a veterans home facility as determined by the utilization review committee according to part 9050.0070, subpart 3 or 4;

(4) the resident's behavior exhibits willful or deliberate disregard for the veterans home facility's regulatory requirements or policies;

(5) the resident is absent without notice from the veterans home facility for more than 96 consecutive hours, or a definitive arrangement has been made for an absence longer than 96 hours and the resident fails to comply with that arrangement; or

(6) the resident or resident's legal representative:

(a) falsifies or incorrectly represents required information on income disclosure and verification forms;

(b) refuses to provide information or releases;

(c) fails to report substantial change accurately and timely to the facility;

or

(d) falsifies or incorrectly represents information relating to criteria in part 9050.0070, subpart 3 or 4.

C. A discharge is immediate if the resident willfully or deliberately disregards state or federal laws, rules, and regulations. Immediate involuntary discharge begins when the resident's behavior poses an immediate threat to the health or safety of the resident, other residents, or staff of a veterans home facility as determined by the utilization review committee according to part 9050.0070, subpart 3 or 4, and the home administrator.

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

*[For text of subpart 6, see Minnesota Rules]*

**9050.0210 VOLUNTARY DISCHARGE PROCEDURES.**

Subpart 1. **When used.** Voluntary discharge procedures must be used when a discharge from the facility operated by the commissioner of veterans affairs is voluntary as in part 9050.0200, subpart 2, item A, or following review of an appeal from an involuntary discharge order when a court has issued an enforcement order or the resident has agreed to comply with the order for discharge.

Subp. 2. **Responsibilities of facility staff.** The staff of the facility operated by the commissioner of veterans affairs shall effect a discharge under this part according to items A to E.

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

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

*[For text of subitem (2), see Minnesota Rules]*

B. The attending ~~physician~~ provider and facility ~~multidisciplinary~~ interdisciplinary staff shall complete the resident's medical record. The resident's medical record must be retained as specified in parts 4655.3200 to 4655.4000.

*[For text of items C to E, see Minnesota Rules]*

## **9050.0220 INVOLUNTARY DISCHARGE PROCEDURES.**

Subpart 1. **Generally, recommendations.** Involuntary discharge for a reason specified in part 9050.0200, subpart ~~3~~ 2, item ~~C~~ B, must be based on the recommendation of either the utilization review committee, facility financial staff, or facility social services staff. ~~Involuntary discharge under part 9050.0200, subpart 3, item A, F, or G, must be based on the recommendation of the facility financial staff or social services staff.~~ The recommendation by the utilization review committee, facility financial staff, or facility social services staff must be provided to the administrator of the facility.



Subp. 1a. **Neutral administrator.** A neutral administrator as used within the involuntary or immediate discharge process must be an administrator of one of the Minnesota veterans homes but must not be the administrator of the Minnesota veterans home who issued the notice of involuntary discharge or notice of immediate discharge to the resident. An identified neutral designee as used within the involuntary or immediate discharge process must be the department's senior director of health care, deputy commissioner, or chief of staff.

Subp. 2. **Notice, Review of recommendation, notice, and service.**

A. A notice for involuntary discharge must be issued by the administrator of the facility operated by the commissioner of veterans affairs or administrator's designee if, after review of the recommendations and documentation from the utilization review committee or Management and Budget Department, the administrator agrees with the recommendations. The administrator shall review the recommendation and documentation from the utilization review committee, facility financial staff, or facility social services staff. If the administrator agrees with the recommendation and documentation for involuntary discharge, the administrator must issue a notice of involuntary discharge to the resident or the resident's legal representative.

B. A resident must be notified in writing by the administrator or administrator's designee of the facility of its intent to proceed with involuntary discharge of the resident at least 30 days before the scheduled date of discharge as provided by Minnesota Statutes, section 144.651, subdivision 29. The 30-day period may be extended by the administrator of a facility operated by the commissioner if a situation arises that is outside the facility's control. The 30-day period may be lessened if the involuntary discharge is being recommended under subpart 7.

C. The notice must:

- (1) state that the discharge is involuntary or immediate involuntary;

- (2) state the grounds for the discharge as specified in part 9050.0200, subpart 2;
- (3) contain documentation supporting the grounds alleged for the discharge;
- (4) be signed by the administrator or administrator's designee; and
- (5) state that the resident has the right to appeal the discharge and a description of the appeal procedures.

D. The notice of involuntary discharge or immediate discharge must be delivered to the resident through personal service or United States mail. If the resident is to be discharged under part 9050.0200, subpart 2, item B, subitem (5), a notice of involuntary discharge must be sent to the resident's last known address and to the address of a person listed by the resident as the person to be contacted during an emergency. The notice of discharge must be sent by certified mail within five business days following the determination that the resident is absent without notice.

**Subp. 3. Reconsideration hearing.**

A. A reconsideration must be scheduled by a facility representative at least ten days from the date of the notice of involuntary discharge, unless it is impractical to do so or unless the parties agree otherwise. A resident or the resident's legal representative may request a attend the reconsideration of hearing on the notice of involuntary discharge. The request must be made in writing within ten days of receipt of the notice of involuntary discharge. Reconsideration must be before the a neutral administrator of the facility operated by the commissioner of veterans affairs under or an identified neutral designee. The reconsideration hearing must follow the procedures in subpart 4. The resident may waive the reconsideration hearing and the resident may proceed directly to an appeal. The appeal must be made in writing within ten days of receipt of the notice of involuntary discharge. Any such appeal must otherwise follow the procedures in subpart 6.

B. Any reconsideration hearing may be conducted via telephone if the resident requests it or the parties mutually decide it would be advisable. If a telephone reconsideration hearing is held, the parties must document the resident's consent for the telephone hearing and why the hearing was held via telephone.

C. The date and time of the hearing may be extended for the resident or resident's representative for good cause shown. Good cause is determined by the neutral administrator or an identified neutral designee when a resident cannot attend because of:

(1) illness or injury of the resident;

(2) illness, injury, or death of a member of the resident's family that requires the resident's presence during the date and time the review is scheduled;

(3) an inability to obtain necessary assistance;

(4) employment, school, or employment and training service obligations that are scheduled during the reconsideration and that cannot be changed to allow the resident's participation;

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

(6) a nonmedical emergency that requires the resident's presence at a different location during the hours when the reconsideration is scheduled; or

(7) any other reason as determined by the neutral administrator or an identified neutral designee.

D. "Emergency" under this subpart means a sudden unexpected occurrence or situation of a serious or urgent nature that requires immediate action.

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

A. The general procedure for reconsideration is as follows.

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

~~B. (2) A resident or the resident's representative may question witnesses and present reasons why the resident should not be discharged.~~

~~C. (3) The neutral administrator or an identified neutral designee shall record the proceedings electronically ~~or stenographically~~. The cost must be borne by the facility.~~

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

~~(1) illness or injury of the resident;~~

~~(2) illness, injury, or death of a member of the resident's family that requires the resident's presence during the time the review is scheduled;~~

~~(3) an inability to obtain necessary assistance;~~

~~(4) employment, school, or employment and training service obligations that are scheduled during the reconsideration and that cannot be changed to allow the resident's participation;~~

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

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

(4) The resident or resident's representative, and the facility, shall submit all evidence in a time and manner prescribed by the neutral administrator or an identified neutral designee.

(5) Upon the resident's or representative's request, the facility shall provide a copy of all information.

B. The reconsideration hearing must be conducted as follows.

(1) The neutral administrator or an identified neutral designee shall open with introductions and a statement of the case.

(2) The facility may present their facts and supporting evidence. This may include, but is not limited to, questioning the resident, questioning witnesses, and presenting the reasons why the resident should be discharged.

(3) After the facility presents its case, the resident or the resident's representative may present their facts and supporting evidence. This may include, but is not limited to, a statement by the resident, questioning the facility staff, questioning other witnesses, and presenting the reasons why the resident should not be discharged.

(4) The neutral administrator or an identified neutral designee may request further clarification in the form of questions from both the resident or resident's representative and the facility.

(5) The facility may provide a closing statement to clarify its position as to why the resident should be discharged.

(6) The resident or the resident's representative may provide a closing statement to clarify their position as to why the resident should not be discharged.

(7) The neutral administrator or an identified neutral designee shall close the hearing and provide the date by which a decision and order will be issued pursuant to part 9050.0220, subpart 5.

Subp. 5. **Administrator's Reconsideration decision and order.** The neutral administrator, or an identified neutral designee shall issue a decision and order within ten calendar days after the reconsideration proceeding and on review of the record, shall review the question of discharge and issue an administrator's order supporting or reversing the involuntary discharge notice and state the reasons for the involuntary discharge hearing. The decision and order must identify the basis for the decision made by the neutral administrator or an identified neutral designee. The decision and order must also identify the resident's appeal rights pursuant to subpart 6.

Subp. 6. **Appeals process.** A resident or the resident's legal representative may appeal an administrator's discharge or transfer order a neutral administrator's or an identified neutral designee's order. A resident or the resident's legal representative has ten working business days after issuance of the administrator's discharge or transfer neutral administrator's or an identified neutral designee's order to request an administrative appeal.

~~If a resident is voluntarily or involuntarily discharged from a facility while an appeal is pending and fails to notify the administrator in writing as to whether or not the appeal is to continue, the steps in items A to D must be taken.~~

~~A. The appeal must be placed on hold.~~

~~B. The administrator shall send the resident a written notice via certified mail to the resident's forwarding address informing the resident that if no written response is received within 30 days of the date of the letter, the appeal must be dismissed. If the resident wishes the appeal to proceed, the resident must notify the administrator in writing.~~

~~C. If the resident has left no forwarding address, the facility shall document its good faith efforts to attempt to locate the resident.~~

~~D. If the resident fails to respond to the certified letter or cannot be located despite good faith efforts, the appeal must be dismissed 30 days after the certified letter has been sent or the location efforts were commenced. If the resident notifies the facility of a desire to continue with the appeal, the appeal hearing must be scheduled as soon as feasible for all parties.~~

Appeals must be in accordance with contested case procedures under the Administrative Procedure Act, Minnesota Statutes, section 14.48 et. seq., until rules are adopted under Minnesota Statutes, section 144A.135, by the commissioner of health. Once the rules adopted under Minnesota Statutes, section 144A.135, have taken effect, all appeals must be in accordance with those rules. The administrator shall inform the resident of the rules that govern the appeal in the notice provided under part 9050.0100, subpart 2, or 9050.0200, subpart 4. The final discharge order shall be issued by the commissioner of veterans affairs, after review of the entire record including the recommendations of the administrative law judge. A final discharge order issued by the commissioner of veterans affairs following the Office of Administrative Hearings' review remains in effect pending judicial review under Minnesota Statutes, section 14.63, et. seq. Notwithstanding this provision, the administrator may, for good cause shown, waive imposition of the discharge order until all appeals have been concluded.

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

**Subp. 7. Immediate involuntary discharge.**

A. When a resident's behavior poses an immediate threat to the health or safety of the resident, other residents, or staff of a facility operated by the commissioner, as determined by the utilization review committee according to part 9050.0070, subpart 3 or

4, and confirmed by the facility administrator, a resident can be immediately and involuntarily discharged from the facility.

B. The administrator shall review the recommendation and the documentation from the utilization review committee. If the administrator or administrator's designee agrees with the recommendation and documentation for immediate involuntary discharge, the administrator or administrator's designee must issue a notice of immediate involuntary discharge to the resident or the resident's legal representative.

C. A resident must be notified in writing by the administrator or administrator's designee of the facility of its intent to proceed with immediate involuntary discharge of the resident at least 48 hours before the scheduled date of discharge. The 48 hours may be extended by the administrator or administrator's designee of a facility operated by the commissioner if a situation arises that is outside of the facility's control.

D. Contents of the notice must follow the requirements set forth in subpart 2c.

E. A reconsideration hearing must be scheduled by the facility at least 24 hours from the date of the notice of immediate involuntary discharge. A resident or the resident's legal representative may attend the reconsideration hearing of the notice of immediate involuntary discharge. Reconsideration must be before a neutral administrator of a facility operated by the commissioner or an identified neutral designee. The reconsideration hearing must follow the procedures in subpart 4.

Any reconsideration hearing may be conducted via telephone if the resident or resident's legal representative requests it, or the neutral fact finder determines it would be advisable.

F. The neutral fact finder or an identified neutral designee shall issue a decision and order within 24 hours after the reconsideration hearing. The decision and order must identify the basis for the decision made by the neutral fact finder or an identified neutral designee. The decision and order must also identify the resident's appeal rights pursuant to



part 9050.0020, subpart 6. If the order confirms immediate involuntary discharge of the resident, an appeal under subpart 6 does not delay the discharge date noted within the order.

Subp. 8. **When the resident no longer resides at the facility.** If a resident no longer resides at the facility while an active involuntary discharge or immediate involuntary discharge administrative appeal under this part is pending, and fails to notify the administrator in writing as to whether or not the appeal is to continue, the steps in items A to D must be taken.

A. The appeal must be placed on hold.

B. The administrator shall send the resident a written notice via certified mail to the resident's forwarding address informing the resident that if no written response is received within 14 days of the date of the letter, the appeal must be dismissed. If the resident wishes the appeal to proceed, the resident must notify the administrator in writing.

C. If the resident has left no forwarding address, the facility shall document its good faith efforts to attempt to locate the resident.

D. If the resident fails to respond to the certified letter or cannot be located despite good faith efforts, the appeal must be dismissed 14 days after the certified letter had been sent or the location efforts were commended. If the resident notifies the facility of a desire to continue with the appeal, the appeal hearing must be scheduled as soon as feasible by all parties.

### **9050.0230 ENFORCEMENT OF FINAL DISCHARGE ORDER.**

A final discharge order is the order issued by the commissioner ~~of veterans affairs~~ following reconsideration or review of the administrator's discharge order under Minnesota Statutes, chapter 14, or the discharge order issued by the neutral administrator or an identified neutral designee of a facility operated by the commissioner ~~of veterans affairs~~ if no review was requested. A final discharge order is the final agency decision. When a resident refuses

to comply with the terms of a final discharge order issued following review under Minnesota Statutes, chapter 14, and the final agency decision, the administrator may seek enforcement of the final discharge order by applying to the district court for an order enforcing the discharge order. Pursuant to Minnesota Statutes, section 198.045, the district court may order the sheriff of the county in which the facility operated by the commissioner of ~~veterans affairs~~ is located to remove the resident from the facility operated by the commissioner of ~~veterans affairs~~ and authorize the administrator to remove the resident's property and hold it until it can be returned to the former resident. Upon issuance of the court order, the procedures in part 9050.0210 regarding voluntary discharge must be followed, to the extent possible, to effect the discharge.

### **9050.0300 CARE PLANNING.**

Subpart 1. **Generally.** A facility operated by the commissioner of ~~veterans affairs~~ must have and implement a care planning procedure. Under the procedure, a resident's care plan is initiated and reviewed by ~~the care plan~~ an interdisciplinary team to ensure that the resident's needs are addressed and the facility has the ability to competently and safely care for the resident according to the criteria in part 9050.0070, subparts 3 and 4. The ~~care plan~~ interdisciplinary team is comprised of the facility staff members who are directly involved with the resident's care, ~~including~~. The interdisciplinary team may include a physician provider, licensed nurse, social worker, and other staff as indicated by related to the resident's condition.

Subp. 2. **Requirements of procedure.** A care planning procedure must provide for:

*[For text of items A to D, see Minnesota Rules]*

E. an accelerated review procedure to be used when the seriousness of the resident's behavior endangers the health and safety of the resident, other residents, or staff members of the facility operated by the commissioner of ~~veterans affairs~~;

*[For text of item F, see Minnesota Rules]*

G. notice to the resident that a recommendation for discharge may occur if the facility operated by the commissioner ~~of veterans affairs~~ is unable to meet the care needs of the resident according to part 9050.0070, subparts 3 and 4.

*[For text of subpart 3, see Minnesota Rules]*

#### **9050.0400 UTILIZATION REVIEW COMMITTEE.**

Subpart 1. **Appointment and duties.** The administrator of a facility shall appoint a utilization review committee composed of persons as specified in subpart 2 who are employed by or under contract to the facility operated by the commissioner ~~of veterans affairs~~ or the commissioner. The committee shall have the duties specified in subpart 3.

Subp. 2. **Composition.** The utilization review committee ~~consists~~ may consist of one ~~physician~~ a provider and must consist of at least one of each of the following professionals: a registered nurse, the administrator or the administrator's designee, a social worker, and a medical records technician, ~~who shall~~ or designee. The medical records technician or designee must not participate in a voting capacity. Additional committee members may include any of the following staff members as indicated by the diagnosis or diagnoses of the resident to be reviewed: a chemical dependency counselor, a mental health practitioner or mental health professional, or a dietitian. The administrator or the administrator's designee, ~~one~~ and two other committee ~~member~~ members, ~~and at least~~ which may include one ~~physician~~ provider, must be in attendance to hold a meeting and to take action.

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

*[For text of item A, see Minnesota Rules]*

B. recommend to the administrator of the facility operated by the commissioner ~~of veterans affairs~~ criteria for use in admitting residents for care plan reviews and discharge;

C. perform ~~medical~~ care evaluation studies at the request of the commissioner of ~~veterans affairs~~ and review ~~assessments of residents~~ care needs of residents based on the state licensure of the facility;

D. provide reports and recommendations to the administrators and the commissioner of ~~veterans affairs~~;

*[For text of items E and F, see Minnesota Rules]*

G. review ~~each~~ a resident's case record annually medical and minimum data set records as required to:

*[For text of subitems (1) to (4), see Minnesota Rules]*

*[For text of subpart 4, see Minnesota Rules]*

#### **9050.0500 COST OF CARE; BASIS FOR MAINTENANCE CHARGE; BILLING.**

*[For text of subpart 1, see Minnesota Rules]*

Subp. 2. **Costs to be included in calculating cost of care.** The calculation of the cost of care includes both the direct and indirect costs of providing resident care. These costs must be compiled separately for each facility operated by the commissioner of ~~veterans affairs on the basis of whether nursing home or boarding care services are provided.~~

A. Direct costs include the costs of staff care ~~directly attributable to boarding care or nursing home services that directly benefit the resident. An example of a direct cost is nursing service~~ provided to the resident of the facility that can be traced directly to a specific cost center or cost object such as department process or product.

B. Indirect costs include costs incurred for common or joint purposes ~~that are identified with more than one level of care and are for services~~ that are provided on behalf of a resident of the facility ~~or facilities~~. Examples are the costs of housekeeping, laundry, administration, and food services. Indirect costs must be reduced by the amount of receipts

received, not to include reimbursement, by the facility operated by the commissioner of ~~veterans affairs for lease or rent payments, meals, and other common purpose sources.~~

C. Calculation of the cost of care does not include the expenses of the commissioner of ~~veterans affairs~~ and capital expenditures or ~~revenues~~ receipts, including federal matching funds and designated contributions, and resident fund accounts as specified in parts 4655.4100 to 4655.4170.

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

A. total the direct costs for a particular campus or facility operated by the commissioner of ~~veterans affairs~~ for a reporting year;

*[For text of item B, see Minnesota Rules]*

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

D. total the indirect costs for a particular campus or facility operated by the commissioner of ~~veterans affairs~~ for a reporting year;

*[For text of item E, see Minnesota Rules]*

F. divide item E by the average number of residents at a particular campus or facility operated by the commissioner of ~~veterans affairs~~ for a reporting year; and

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

Subp. 4. **Cost of care related to maintenance charge.** The cost of care as calculated in subpart 3 must be used to determine the maintenance charge to the resident. The maintenance charge must be based on the resident's ~~ability to pay~~ financial assessment as

specified in parts 9050.0700, 9050.0710, and 9050.0720. The maintenance charge must be calculated as specified in part 9050.0560. The maintenance charge must be reviewed and adjusted as specified in parts 9050.0560 and 9050.0580. Additionally, when applicable, the resident's maintenance charge must be reduced by the amount of the per diem reimbursement paid on behalf of a resident by the United States Department of Veterans Affairs.

*[For text of subparts 5 and 6, see Minnesota Rules]*

**9050.0510 MAINTENANCE CHARGE; ADDITIONAL SERVICES; ~~VETERAN EXCLUSIVE SERVICES.~~**

Subpart 1. **Additional services at resident's own expense.** In addition to the services in the resident's admissions agreement, a resident may use additional health care services at the resident's own expense ~~if the health care services do not exceed the level of care for which the facility is licensed and if the service provider complies with documentation requirements of the facility operated by the commissioner of veterans affairs.~~ A resident who chooses to use additional health care services at the resident's own expense shall continue to pay the maintenance charge determined under part 9050.0560.

Subp. 2. [See repealer.]

**9050.0520 MAINTENANCE CHARGE; DELINQUENT ACCOUNTS; INTEREST; DISCHARGE.**

*[For text of subpart 1, see Minnesota Rules]*

Subp. 2. **Discharge for nonpayment.** Discharge proceedings must be instituted under part 9050.0200, subpart ~~3~~ 2, item ~~A~~ B, subitem (1), when an account is delinquent. Discharge proceedings for nonpayment must be stopped when full payment, including accrued interest, is made.

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

~~¶~~ For a person is admitted under Minnesota Statutes, section 198.03, a written admissions agreement must be made between the commissioner ~~of veterans affairs~~ or the commissioner's designated representative and the resident or the resident's legal representative about maintenance charges for care and services, obligations concerning payment of the resident's maintenance charge, and the commissioner's refund policy.

**9050.0550 MAINTENANCE CHARGE; RESOURCES CONSIDERED.**

Subpart 1. **In general.** The applicant's or resident's ability to pay must be determined from any applicable insurance and other benefits; and assets including the value of property owned; and income. The applicant's or resident's property must be used first to pay the maintenance charge. The applicant's or resident's income must be used after the applicant's or resident's property is reduced to the limits in subpart 3 and part 9050.0600 to pay the maintenance charge.

Subp. 2. **Long-term care insurance benefits.** When the investigation of the applicant's or resident's financial status discloses eligibility for long-term care insurance benefits, the applicant or resident must be determined to be able to pay the cost of care provided to the full extent of insurance benefits available. When the long-term care insurance benefits pay less than the full cost of care, the ability of the applicant or resident to pay the remaining part must be determined from the applicant's or resident's nonexcluded property and income.

Subp. 3. **Property.** If the applicant or resident of a skilled nursing facility owns property in excess of \$3,000 that is not excluded under part 9050.0600, subparts 2 and 3, the applicant or resident must be determined able to pay the full cost of care according to part 9050.0755. The person shall pay the full cost of care until the property is reduced to the limits in parts 9050.0560 and 9050.0600. A resident of a boarding care facility who is in transition from the boarding care facility to the community is allowed to own property in excess of \$3,000 up to six months prior to discharge from the boarding care facility.

Subp. 4. **Chargeable income.** The applicant's or resident's chargeable income is the income remaining after deductions from gross income have been made according to part 9050.0720 and after deductions from net income have been made according to part 9050.0755. The applicant's or resident's entire chargeable income must be considered available to pay the cost of care. If an applicant or resident qualifies for governmental benefits or reimbursements or other benefits, the benefits must be included as income in determining the maintenance charge payable by or on behalf of a resident, unless an assignment of benefits naming the facility operated by the commissioner of veterans affairs as representative payee has been executed in favor of the facility. Residents not paying the maximum maintenance fee who receive retroactive increases in income must have their maintenance fee recalculated and the part of the increase owed to the home must be paid. The maintenance fee must be recalculated for the period of the resident's stay that coincides with the period for retroactive payment of income to the resident. If the applicant or resident has applied for government benefits and is awarded a retroactive lump sum amount after admission to a facility, but the retroactive lump sum is not received by the resident prior to death or discharge, the maintenance charge must be recalculated for the period of the resident's stay that coincides with the period for retroactive payment of income to the resident.

*[For text of subpart 5, see Minnesota Rules]*

**9050.0560 MAINTENANCE CHARGE DETERMINATION; TIME AND CALCULATION METHOD.**

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

A. a person is admitted to a facility operated by the commissioner of veterans affairs and thereafter at least annually after admission while a resident;

*[For text of items B to D, see Minnesota Rules]*



E. the resident is being discharged.

For purposes of the subpart, "substantial change" in financial status means a change that increases the person's net worth above the \$3,000 limit or a plus or minus ten percent change in the person's total monthly expenses or income. An expense that would constitute a substantial change includes a major vehicle expense, major medical or dental expenses not covered by insurance, major home repair not covered by homeowner's insurance, or major appliance failure that requires repair or replacement. A substantial change must be reported to the facility financial officer ten days after the applicant or resident, legal representative, or spouse of the applicant or resident learns of the change. The administrator shall make the final determination of whether the change is a substantial change. Failure of the applicant or resident to report the substantial change accurately and timely to the facility may result in a discharge in accordance with part 9050.0200.

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

*[For text of items A and B, see Minnesota Rules]*

#### **9050.0580 REVIEW OF MAINTENANCE CHARGE DETERMINATION.**

An applicant or resident or legal representative may request ~~that~~ to the administrator of a facility operated by the commissioner of ~~veterans affairs~~ to reconsider a maintenance charge determination. The request must be submitted in writing to the administrator within ten business days of receipt of the maintenance charge notice. The administrator shall, within ten business days of receipt of the request, conduct a review of the maintenance charge determination. The review must be in the same format and time frames as the reconsideration procedures under part 9050.0220, subparts 3 and 4. The administrator's determination is final upon receipt by the applicant or resident, or legal representative, and is the final agency action.

**9050.0590 MAINTENANCE CHARGE; REFUND.**

If an applicant or resident who has paid, or on whose behalf payment has been made of, the maintenance charge for a billing month, is discharged from a facility operated by the commissioner of ~~veterans affairs~~ before the end of the month for which payment has been made, the applicant or resident is entitled to a refund. The amount of the refund to which an applicant or resident, or legal representative, is entitled must be calculated by prorating the monthly maintenance charge by the number of ~~unused days~~ bed days assigned to the resident, not to include the day of discharge.

**9050.0600 PROPERTY LIMITATIONS.**

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

A. If real or personal property is jointly owned by two or more persons, the facility financial staff shall assume that each person owns an equal share. When the owners document greater or smaller ownership, the facility financial staff shall use that greater or smaller share to determine the equity value held by or on behalf of an applicant or resident. Other types of ownership, such as a life estate, must be evaluated ~~according to law~~ using the life estate table in the Department of Human Services Minnesota Health Care Programs Eligibility Policy Manual. Ownership of any property in joint tenancy shall be treated as ownership as tenants in common for purposes of its designation as available or excluded property.

B. Real or personal property owned by or on behalf of an applicant or resident is presumed legally available unless the applicant or resident documents that the property is not legally available to the applicant or resident. If real or personal property is not legally available, its equity must not be applied against the limits of subparts 2 and 3. Examples of

property not available to a person are an estate that has not been probated, property owned together with one or more other people that the facility financial staff determines cannot be liquidated or reduced to cash through exercise of the applicant's or resident's legal rights, and property of an applicant or resident who is determined incompetent by a court and whose guardianship is pending. The facility financial staff shall consider as available property that property which a person has failed to make available for purposes of gaining admission to a facility operated by the commissioner of veterans affairs or avoiding payment of the maintenance charge. An example of a person's failure to make property available occurs when the person refuses to accept a share of an inheritance.

*[For text of item C, see Minnesota Rules]*

D. The facility financial staff shall consider as available an individual retirement account, ~~Keogh account~~, or other pension or deferred compensation plan account of the resident. The facility financial staff shall ~~evaluate~~ determine the value of the accounts on the basis of the funds deposited in the account and the interest accrued on the funds less the penalty for early withdrawal.

*[For text of item E, see Minnesota Rules]*

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

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

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

*[For text of subitems (2) and (3), see Minnesota Rules]*

(4) When real property that has been used as a ~~home~~ homestead by an applicant or resident, the spouse of an applicant or resident, or the dependent child or children of an applicant or resident is sold, the facility financial staff shall treat the proceeds from that sale as excluded property for a period of two years if the person intends to reinvest them in another ~~home~~ homestead and maintains those proceeds, unused for other purposes, in a separate account. If the property is held jointly, any earnings that accrue on the sales proceeds before reinvestment or any excess proceeds not used for reinvestment must be treated as joint income or property and divided according to subpart 1, item A.

*[For text of items B to D, see Minnesota Rules]*

E. Real property that is ~~not salable must be excluded. If the property a resource under part 9050.0550 and not excluded under this part is an asset that must be liquidated for the resident or applicant to meet the financial needs established by the maintenance charge calculations;~~ The real property must be sold within six months of the determination of financial need or within six months of the date of initial admission, whichever is later; unless the property is not salable. For purposes of this item, "not salable" means: If the real property is not sold within six months, the real property must continue to list for sale. If the resident or applicant continues to make a reasonable effort to sell the real property, the real property will be excluded until it is sold. A reasonable attempt to sell the real property is determined by the following:

~~(1) two neutral licensed professionals agree that the property is not salable due to a specified condition; if the nonsalable condition is due to an action taken by the applicant or resident within the 12 months prior to the initial admission, there is a presumption that the action was an improper transfer pursuant to part 9050.0650, subpart 3, and is subject to the considerations listed in that subpart; or~~

~~(2)~~ (1) an actual good faith sale attempt was made at a fair market value price not more than an estimate of based on the highest current market value obtained within six

~~months of application for admission or since the last determination of the maintenance charge, but no offer to purchase was received. The market value price estimate must be based upon the written estimates from two licensed real estate professionals~~ current property tax evaluation for the property. If a purchase offer at the ~~lowest professional market value price estimate~~ current property tax evaluation amount was received but was rejected by the ~~seller~~ resident or applicant, it is presumed that the failure to sell the property was due to an improper action on the part of the ~~seller~~ resident or applicant. Upon failure by the resident or applicant to attempt to sell the real property, the lowest market price estimate current property tax evaluation must be the figure taken into account in determining the resident's maintenance charge or the spousal allowance.

(2) For purposes of ~~subitems (1) and (2), the source of information must be from the same geographic area as the property and knowledgeable about the value of the type of property offered for sale. For purposes of subitem (2) this item,~~ "an actual sale attempt" means the individual has listed the property with a licensed real estate broker or salesperson or, if the property is offered for sale by the owner, the owner has affixed to the property a prominently posted, conspicuous sign that is readable from the road or driveway entrance. The sign must include in large, legible type a notice of the sale and the address or phone number of the owner. The owner must prominently advertise the property for sale in the official newspaper of the county, the newspaper of largest circulation in the county, ~~or the local shopper~~ a creditable property listing website. ~~The minimum period of an actual sale attempt is 90 consecutive days. If a property has been determined to be nonsalable, the owner of the property must offer it for sale again or establish it is still nonsalable within two years after the date of the last determination of nonsalability.~~ Proof of this listing can be requested by the facility at any time until the property is sold.

*[For text of item F, see Minnesota Rules]*

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

*[For text of item A, see Minnesota Rules]*

B. the value of ~~a~~ an irrevocable prepaid burial account, burial plan, burial contract, or burial trust established in compliance with Minnesota Statutes, section 149A.97, up to an amount set by the commissioner ~~of veterans affairs~~ or the entire amount of an investment made prior to the date of initial admission, whichever is greater. The commissioner ~~of veterans affairs~~ shall establish and annually review the items categorized under "burial account," "burial plan," "burial contract," and "burial trust" and establish maximum value allowance limits on those items. The allowance set by the commissioner ~~of veterans affairs~~ for total burial and funeral costs must not be below \$5,000;

*[For text of items C to F, see Minnesota Rules]*

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

#### **9050.0650 TRANSFERS OF PROPERTY.**

Subpart 1. **Generally.** A person whose application for admission is pending or a current resident of a facility operated by the commissioner ~~of veterans affairs~~ shall declare all transfers or sales of property within ten days of the transfer or sale. The value of property transferred or sold must be treated as an available resource for payment of the resident's maintenance charge. The value of the property transferred or sold that will be applied against the property limits in parts 9050.0560 and 9050.0600 is the market value of the property at the time of the sale or transfer less any encumbrances on the property. For real property,

the market value is the current property tax evaluation. A transfer for purposes of preserving an estate for heirs is the same as a transfer for the purposes of establishing eligibility for admission to a facility operated by the commissioner of ~~veterans affairs~~ or avoiding payment of a maintenance charge, except for transfers permitted under subpart 2, item B. If the real property is transferred, the effective date for the purpose of application for admission or residency is the date the document is recorded with the county property records office.

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

A. takes place more than 12 months before the person's admission to a facility operated by the commissioner of ~~veterans affairs~~;

B. is to the applicant's or resident's spouse or dependent child or children before the person's admission to a facility operated by the commissioner of ~~veterans affairs~~; or

*[For text of item C, see Minnesota Rules]*

Subp. 3. **Incorrect transfers.** A transfer or sale of property for less than market value within 12 months before admission or during the resident's stay in a facility operated by the commissioner of ~~veterans affairs~~, unless permitted under subpart 2, is presumed to be for the purpose of establishing or maintaining eligibility for admission to or continued residence in a facility operated by the commissioner of ~~veterans affairs~~ or to avoid payment of the maintenance charge, unless the person furnishes convincing evidence to show that the transfer was for another purpose. Convincing evidence must include evidence that the person had no health or economic reasons to believe that skilled nursing home or boarding care would be needed. Upon discovery of an incorrect transfer, a retroactive adjustment must be made in the maintenance charge assessed to the resident. If the property that was incorrectly transferred was in the resident's name, the maintenance charge must be increased to the full cost of care until the facility has been paid the value of the property that was incorrectly transferred in addition to the maintenance charge that would have otherwise

been received. If the property that was incorrectly transferred was in the spouse's name only, the spousal allowance must be eliminated for the number of months which, when multiplied by the amount of the spousal allowance that would have been granted but for the incorrect transfer, equals the value of the property that was incorrectly transferred.

If a resident's maintenance charge or a spousal allowance is adjusted because of a transfer for less than fair market value, the resident, spouse, dependent, or their legal representative may request from the administrator a waiver if the adjusted maintenance charge or spousal allowance will cause undue hardship resulting in an imminent threat to the individual's health or well-being. In evaluating a request for a waiver, the administrator shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the administrator does not approve a waiver, the administrator shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the decision. The decision may be appealed to the commissioner of veterans affairs. An appeal to the commissioner of veterans affairs must be handled in the same manner as a hearing under part 9050.0580.

Subp. 4. **Loans of property.** An applicant or resident who lends property or on whose behalf property is loaned is considered to have transferred the property. The facility financial staff shall evaluate the transaction as a transfer of property under subparts 1 and 2. If the person receives adequate compensation for the loan or made the loan more than 12 months before the person's entrance into a facility operated by the commissioner of veterans affairs, the facility financial staff shall honor the loan. Adequate compensation must be shown by a written loan agreement and receipt of payments according to the schedule in the agreement. If the loan is payable on demand, is due, or is otherwise negotiable, the property is presumed to be available to the applicant or resident. This presumption may be overcome by convincing evidence presented by the person that the loan will not be repaid. Interest payments made



by the borrower to the person are considered income in the month received and an asset if retained. Principal payments made by the borrower to the person are considered as assets.

*[For text of subpart 5, see Minnesota Rules]*

#### **9050.0700 INCOME.**

*[For text of subpart 1, see Minnesota Rules]*

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

A. Funds distributed from a trust, whether from the principal holding or sale of trust property or from the interest and other earnings of the trust holdings, must be considered income when the income is legally available to or on behalf of an applicant or resident. Trusts are presumed legally available unless an applicant or resident can document by court order that the trust is not legally available. Trusts established other than by will by the person or the person's spouse under which the person may be the beneficiary of all or part of the payments from the trust and the distribution of the payments are determined by one or more trustees who may exercise discretion about the distribution to the person must be considered an available resource. This item applies regardless of whether the trust is irrevocable or is established for purposes other than to enable a person to qualify for admission to a facility operated by the commissioner of veterans affairs or whether the discretion of the trustees is exercised. A trust fund established or amended by the applicant or resident on behalf of another person within 12 months before admission or during the resident's stay in a facility operated by the commissioner of veterans affairs must be considered transferred property under part 9050.0650. If the trust fund is amended within the 12 months before admission and it has no change to the financial distribution of the trust fund, then the amendment is not considered a transfer of property under part 9050.0600.

*[For text of item B, see Minnesota Rules]*

[For text of subpart 3, see Minnesota Rules]

**9050.0710 CALCULATION OF GROSS INCOME.**

[For text of subpart 1, see Minnesota Rules]

Subp. 1a. **Earned income.** Earned income is treated according to items A to ~~C~~ E.

[For text of items A to C, see Minnesota Rules]

D. Contractual payment or retroactive payment of benefits shall be proportionally calculated as of the date of admission and considered as an asset prior to the date of admission and income upon admission.

E. Refunds or rebates of federal taxes and state taxes is considered income in the month received and an asset the subsequent month.

[For text of subparts 2 to 4, see Minnesota Rules]

Subp. 5. **Unearned income.** Unearned income is treated according to items A ~~and B~~ to C.

[For text of items A and B, see Minnesota Rules]

C. The amount received or that should be received by the applicant or the resident of an annuity is unearned income. If the applicant or resident can withdraw the cash value of the annuity, then the amount of cash value is the amount of unearned income, regardless of whether or not it is actually withdrawn.

Subp. 6. **Lump sums.** A lump sum is considered ~~an asset~~ available income immediately upon receipt ~~unless it is a~~ A lump sum is available income in the month received and considered an asset the subsequent month. A lump sum is not considered income if it is a contractual payment or retroactive payment of benefits. ~~Rebates of federal taxes and state taxes are not considered a means of support.~~ Contractual payment or retroactive payment of benefits shall be proportionally calculated as of the date of admission, and considered as

an asset prior to the date of admission and income upon admission. Refunds or rebates of federal taxes and state taxes will be considered income in the month received and an asset the subsequent month.

**9050.0720 CALCULATION OF NET INCOME; DEDUCTIONS FROM INCOME.**

*[For text of subpart 1, see Minnesota Rules]*

Subp. 2. **Deductions from income of applicant or resident.** The facility financial staff shall deduct the expenses in this part and parts 9050.0730 and 9050.0740 from gross income to determine net income. Deductible items include:

*[For text of items A to N, see Minnesota Rules]*

O. payment of documented medical expenses not related to long-term care, incurred prior to the person's admission to the facility operated by the commissioner of ~~veterans affairs~~, for which the person is legally responsible. For the purposes of this item, long-term care expense or debt includes expenses incurred for nursing homes, skilled nursing, hospice care, home health care, foster care, adult day care, or ~~similar nonacute care~~, the medical and basic needs portion of assisted living or supportive services that were incurred more than 30 days prior to the resident's admission;

P. educational expenses actually paid by the person that are not covered by United States Department of Veterans Affairs educational expense benefits or other government or private scholarships, loans, or grants if there is demonstrated progress by the person ~~towards~~ toward completion of an educational program as part of the person's individual care plan. If there is a dispute over whether or not an item is an educational expense, the ~~administrator~~ commissioner or designee shall make a final determination of the issue;

*[For text of items Q and R, see Minnesota Rules]*

**9050.0750 DEDUCTION FOR VOLUNTARY SUPPORT OF DEPENDENT SPOUSE OR HOUSEHOLD.**

Subpart 1. **Generally.** The facility financial staff shall deduct from the applicant's or resident's gross monthly income calculated under part 9050.0710 the amount necessary to meet the basic needs of the dependent spouse or household as calculated under this part. The applicant or resident or spouse of an applicant or resident who requests a deduction under this part must verify the monthly expenses of the dependent spouse or household that are not met by income or resources otherwise available to the dependent spouse or household. If an applicant or resident does not qualify for federal aid and attendance under Code of Federal Regulations, title 38, section 3.351, due to excess spousal assets, the spouse does not qualify for spousal allowance under this part until the total of all assets owned by the spouse and resident are consistent with the federal veterans administration threshold limit for aid and attendance qualification.

*[For text of subpart 1a, see Minnesota Rules]*

Subp. 1b. **Commissioner of veterans affairs authority to establish, review, and revise spousal allowance basic needs and personal needs expenditures.** The commissioner of veterans affairs shall establish and annually review the items categorized under "basic needs" and "personal needs" and allowance limits on categories of expenses covered within those definitions. The commissioner of veterans affairs shall revise the allowances as necessary to reflect a reasonable sum for the average person. If the commissioner of veterans affairs does not take action to review the allowance, the allowance must be adjusted by multiplying it by the percentage of change of the Consumer Price Index (CPI) on the first day of each calendar year. The initial recommendations presented to the commissioner of veterans affairs must be based upon a review of the actual allowances currently being used at each home, data from the Bureau of Labor Statistics, or a combination of the two. Future recommendations must be based upon the current allowances, requests for increased

allowances that have been received by the homes, and data from the Bureau of Labor Statistics.

If a spouse believes that an allowance as based upon the allowance limits is insufficient to meet the spouse's needs, the spouse or a legal representative may submit a written request to the administrator for a waiver. The decision to grant or deny a waiver must be based on assets, income, or expense information provided under subpart 1a. The reasons for granting or denying the waiver must be put in writing and delivered to the spouse or the legal representative. If the waiver is approved and granted by the commissioner or designee, the administrator shall indicate the amount of the revised spousal allowance and the duration of the waiver. No waiver may be granted for more than one calendar year. A spouse may apply for an additional waiver upon the expiration of an existing waiver.

Subp. 1c. **Spousal benefit applications.** If a spouse or dependent wishes to obtain spousal allowance payments, the spouse, dependent, or legal representative must apply for the maximum of every benefit for which the spouse or dependent may be eligible that will increase the income of the spouse or dependent. The benefit must be applied for ~~only~~ if the spouse or dependent is eligible to receive ~~the full amount of the benefit, without penalty for making the claim or withdrawal at that time.~~ The amount of the benefit received by the spouse or dependent should be the maximum amount allowed, unless it would cause the spouse or dependent undue financial hardship. The facility staff shall provide a spouse, dependent, or legal representative information about possible available benefits or programs of assistance and shall assist in applying for those benefits.

Subp. 2. **Determination of spouse's or dependent's monthly expenses.** The deduction for the basic needs of the dependent spouse or household is the sum of the following expenses, prorated on a monthly basis as they are incurred or can be estimated with reasonable certainty:

A. expenses related to the homestead as follows:

[For text of subitem (1), see Minnesota Rules]

(2) costs of supporting a dependent child or children residing with the spouse. Allowances for education of the child beyond high school or the equivalent of high school must not be considered. Student loans must not be considered as an allowance expense. If there is a dispute over whether or not an item is an education expense, the ~~administrator~~ commissioner or designee shall make a final determination on the issue;

[For text of subitems (3) to (10), see Minnesota Rules]

[For text of items B to E, see Minnesota Rules]

F. medical expense payments, except for expenses related to long-term care treatment. For the purposes of this item, long-term care expense includes expenses incurred for nursing homes, skilled nursing, hospice care, home health care, foster care, adult day care, or ~~similar nonacute care~~ the medical and basic needs portion of assisted living or supportive services;

[For text of item G, see Minnesota Rules]

H. payments for documented consumer debts incurred before the resident's admission to a facility operated by the commissioner of ~~veterans affairs~~ for which the spouse is legally responsible. The payments ~~may~~ must be limited to the minimum monthly payment due; and

I. court-ordered support payments ~~actually~~ paid by the spouse to a former spouse or dependents who do not reside with the spouse.

Subp. 2a. **Resources excluded.** In determining a spouse's or household's available resources, the facility financial staff shall exclude from consideration the following:

A. ~~real~~ homestead property excluded under part 9050.0600, subpart 2, that is actually used as the primary residence of the spouse;

[For text of items B to E, see Minnesota Rules]

F. ~~individual~~ individually owned retirement accounts, ~~Keogh accounts~~, or other pension or deferred compensation plan accounts;

G. burial accounts, burial plans, burial contracts, or burial trusts established in compliance with Minnesota Statutes, section 149A.97;

[For text of item H, see Minnesota Rules]

I. individually owned savings accounts or other monetary investment instruments that are income producing.

[For text of subpart 2b, see Minnesota Rules]

Subp. 2c. Waiver for undue hardship. If a maintenance charge or a spousal allowance is adjusted because of an incorrect transfer, the resident, spouse, or dependent or their legal representative may request from the administrator a waiver if the adjusted maintenance charge or spousal allowance will cause undue hardship resulting in an imminent threat to the individual's health and well-being. In evaluating a waiver, the administrator shall take into account whether the individual was a victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the administrator does not approve a waiver, the administrator shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the decision. The decision may be appealed to the commissioner of ~~veterans affairs~~. An appeal to the commissioner of ~~veterans affairs~~ must be handled in the same manner as a hearing under part 9050.0580.

[For text of subpart 3, see Minnesota Rules]

**9050.0760 ANTICIPATING INCOME.**

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

*[For text of items A to F, see Minnesota Rules]*

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

**9050.0770 BENEFITS APPLICATION REQUIRED.**

An applicant ~~or~~<sub>2</sub> resident<sub>2</sub> or legal representative, if any, must apply for the maximum of every benefit for which the applicant or resident may be eligible that will increase the income or eligible benefits of the applicant or resident and reduce the facility's expenditures. The staff of the facility operated by the commissioner ~~of veterans affairs~~ shall provide an applicant or resident or legal representative information about possible available benefits or programs of assistance and assistance in making application for those benefits.

If the facility staff determines that an applicant or resident is not able to manage personal financial affairs, the facility staff shall recommend that the facility be authorized to receive and disburse benefit payments for which the applicant or resident may be eligible.

**9050.0800 FINANCIAL INFORMATION AND INTERVIEW.**

*[For text of subparts 1 and 1a, see Minnesota Rules]*

Subp. 2. **Rights, duties, and consequences of interview and providing information.** Before conducting an applicant's or resident's interview to determine financial status or ability to pay, the facility financial staff shall provide the following information to the applicant or resident, spouse or dependent as applicable:



A. inform the person that the person may choose an individual to assist in the determination process and any other contact with the commissioner ~~of veterans affairs~~ or the commissioner's designated representative by authorizing that assistance in writing;

*[For text of items B to E, see Minnesota Rules]*

F. provide the person with ~~an~~ a written information pamphlet on the cost of care and review with the applicant or resident how the commissioner ~~of veterans affairs~~ determines the cost of care and how the amount an applicant or resident must pay toward that cost is determined;

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

H. provide the person with forms approved by the commissioner ~~of veterans affairs~~ used to verify or investigate financial resources including:

*[For text of subitems (1) to (4), see Minnesota Rules]*

(5) other disclosure and verification forms the commissioner ~~of veterans affairs~~ reasonably requests to fully evaluate the applicant's or resident's financial status or the financial status of the applicant's or resident's legal representative or spouse, if any; and

I. ~~request~~ require that the person complete and sign the authorization forms provided and provide verification or documentation of financial information.

#### **9050.0820 VERIFICATION OF FINANCIAL INFORMATION.**

*[For text of subpart 1, see Minnesota Rules]*

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

*[For text of item A, see Minnesota Rules]*

B. any and all insurance benefits that may reduce the facility's expenditures;

[For text of items C to I, see Minnesota Rules]

[For text of subpart 3, see Minnesota Rules]

### **9050.0900 AUTHORIZATION FORMS.**

[For text of subparts 1 and 2, see Minnesota Rules]

Subp. 3. **Refusal to sign authorization forms; consequences.** Failure to complete and sign authorization forms on or by the day of admission must result in the resident being refused admission to the facility. The applicant or resident, applicant's or resident's legal representative, or spouse must complete the following tasks within 30 days of the financial interview or other authorized request:

[For text of items A to D, see Minnesota Rules]

E. provide verification of information given on financial disclosure forms.

Providing false information relating to items A to E results in disqualification of an application for admission or in discharge of a resident under part 9050.0200, subpart ~~3~~2, item ~~E~~C. The maintenance charge must be redetermined or the application for admission must be reinstated or the discharge proceeding discontinued if the applicant, resident, or spouse takes the required action.

### **9050.1000 RESIDENT CARE PLANNING.**

An individual care plan must be developed, implemented, and maintained for each Minnesota veterans ~~homes~~ home facility resident according to Department of Health and United States Department of Veterans Affairs nursing and domiciliary care regulatory standards.

The care plan must be consistent with the resident's medical treatment plan, as defined in part 9050.0040, subpart 74. The care plan must be developed by a ~~multidisciplinary~~ an interdisciplinary care plan team, as defined in part 9050.0040, subparts 58 and 80, based

on an assessment of the resident's functioning, attitudes, behavior, and medical condition for use in integrating care and identifying service needs.

Residents may be involved in their individual care plans according to part 9050.1070, subpart 4.

The resident's care plan must be used by the facility staff involved in the resident's care, and reviewed and updated according to the regulatory standards of nursing and domiciliary care or when there is a significant change in the resident's condition. For the purposes of this part, "significant change in a resident's condition" means ~~a new problem or~~ a measurable improvement or worsening ~~of an existing problem or~~ in the resident's physical or mental condition.

### **9050.1030 RESIDENT CARE SERVICES.**

Subpart 1. **General.** Care services provided to residents of Minnesota veterans homes must be consistent with the overall goals and obligations of each facility as expressed in statute, the homes' mission statements, and rules governing the facilities operated by the commissioner ~~of veterans affairs~~, and must be consistent with available funding and limited if the service is not reimbursable by public or private resources according to Minnesota Statutes, section 144.651, subdivision 6.

Care services are provided according to Department of Health licensure regulations, federal Centers for Medicare and Medicaid Services regulations, and the certification requirements of the United States Department of Veterans Affairs. Laws pertaining to resident care services include chapters 4655 and 4658; Minnesota Statutes, chapters 144 and 144A; ~~United States Department of Veterans Affairs Code M-1, part 1, chapter 3~~; United States Department of Veterans Affairs Guide for Inspection of State Veterans Homes Nursing Home Care Standards; and United States Department of Veterans Affairs Guide for Inspection of State Veterans Homes: Domiciliary Care Standards. United States Department of Veterans

Affairs publications shall be available for review at each facility operated by the commissioner ~~of veterans affairs~~.

Payment of resident care services that are made available must be authorized by the commissioner ~~of veterans affairs~~. The commissioner ~~of veterans affairs~~ shall determine annually which services will be paid for by the facilities operated by the commissioner ~~of veterans affairs~~, based on appropriations.

A resident, resident's guardian, legal representative, family member, conservator, or other person designated by the resident must be informed in writing by the ~~admission~~ staff of each facility operated by the commissioner ~~of veterans affairs~~ or the resident's social worker, before or at the time of admission and when changes occur, of services that are included in the facility's basic per diem and of other services that may be available at additional charges.

The facility staff shall assist residents in obtaining information and making application for possible benefits or programs to which the residents are entitled according to parts 9050.0770 and 9050.0800, subpart 2, item G, and Minnesota Statutes, section 144.651, subdivision 17. Facility staff shall assist the resident in applying for the maximum amount of benefits for which the resident is eligible in order to assist in reducing the facility's expenditures by reducing costs and maximizing third-party liability for resident care services.

Subp. 1a. **Provided services.**

A. Each facility operated by the commissioner ~~of veterans affairs~~ shall provide at least the following services:

*[For text of subitem (1), see Minnesota Rules]*

(2) an attending ~~physician~~ provider;

*[For text of subitem (3), see Minnesota Rules]*

(4) dietary services, including an adequately equipped kitchen at each facility operated by the commissioner of ~~veterans affairs~~, and qualified facility staff to supply the necessary food requirements of the residents;

(5) specialized rehabilitation services when prescribed by a provider, such as physical therapy, occupational therapy, and speech therapy, to improve and maintain maximum functioning;

*[For text of subitems (6) and (7), see Minnesota Rules]*

(8) transportation to and from ~~approved~~ appointments for medical services approved by the agency's medical providers ~~provided or arranged for by each facility operated by the commissioner of veterans affairs~~, if the providers appointments are located within the area regularly serviced by the transportation staff of the facility;

*[For text of subitem (9), see Minnesota Rules]*

(10) ~~on-site~~ social work services; ~~and~~

(11) chaplain services, and private space provided for residents to meet with clergy of the residents' choice; and

(12) pharmaceutical services.

B. For purposes of item A, subitem (2), each resident must be assigned an attending ~~physician~~ provider who is responsible for overall medical care of the resident. A resident may choose a private attending ~~physician~~ provider at the resident's own expense if the ~~physician~~ private attending provider agrees to comply with regulatory standards governing the facility. The medical director or designee of the department must approve any and all care plans, treatments, or procedures of the resident ordered by the private attending provider.

The attending ~~physician~~ provider shall prescribe a planned regimen of resident care based on a medical evaluation of the resident's immediate and long-term needs. The attending ~~physician~~ provider must be identified on the resident's medical chart.

The attending ~~physician~~ provider shall make arrangements for the medical care of the resident in the event of an on-site emergency or a planned absence by the attending ~~physician~~ provider.

C. For purposes of item A, subitem (4), a qualified dietitian, as defined in part 9050.0040, subpart 34, or dietary supervisor if qualified, must be employed or contracted with to supervise the food service department of each facility. A qualified dietary supervisor is a person trained or experienced in the planning and preparation of meals as stated in part 4655.8510 or 4658.0605, subpart 2. A dietitian shall ensure that nutritional care plans are developed according to each resident's nutritional needs and that an individual diet card is maintained for each resident. The dietary staff shall prepare therapeutic diets as ordered by the resident's attending ~~physician~~ provider, according to federal and state standards.

Subp. 1b. **Services made available.** Each facility operated by the commissioner of ~~veterans affairs~~ must make the following services available:

*[For text of item A, see Minnesota Rules]*

B. dental care services, including, but not limited to, cleaning of teeth by a dentist or dental hygienist, an examination of the resident's teeth and mouth by the dentist, taking of necessary X-rays as determined by the dentist, proper fitting of dentures, repair of dentures, ~~and~~ treatment of abnormalities caused by dentures as determined by the dentist. ~~Each facility must have a written agreement with a licensed dentist or dentists to provide,~~ and emergency dental care when necessary;

C. podiatric care services, ~~through a podiatrist or physician, with the approval of the resident's attending physician;~~

*[For text of item D, see Minnesota Rules]*

E. diagnostic services ~~on written order of the resident's attending physician~~, examples of which include, but are not limited to, X-rays and laboratory work, such as blood tests;

F. ~~pharmaceutical services;~~

~~G~~ F. transportation to and from medical providers; and

~~H~~ G. chiropractic care services, according to Minnesota Statutes, section 198.065, on written order of the resident's attending ~~physician~~ provider.

*[For text of subparts 2 to 19, see Minnesota Rules]*

## **9050.1070 RESIDENT RIGHTS AND RESPONSIBILITIES.**

Subpart 1. **Scope.** Residents of each facility operated by the commissioner ~~of veterans affairs~~ are guaranteed all rights expressed in Minnesota Statutes, section 144.651. Residents also have the right to exercise freedom of expression and assembly as guaranteed by the United States Constitution, Amendment I, the Minnesota Constitution, and Minnesota Statutes, section 198.32.

Residents shall cooperate with facility rules as specified in this chapter.

Subp. 2. **Information about rights.** On admission, a resident, resident's guardian, legal representative, family member, conservator, or other person designated by the resident must be informed of and given a copy of the ~~Patient's and Resident's~~ Health Care Bill of Rights expressed in Minnesota Statutes, section 144.651. If changes occur in the ~~Patient's and Resident's~~ Health Care Bill of Rights during the resident's stay at the facility operated by the commissioner ~~of veterans affairs~~, a resident, resident's guardian, legal representative, family member, conservator, or other person designated by the resident must be informed of and given a copy of the changes.

The ~~Patient's and Resident's~~ Health Care Bill of Rights must be posted in a conspicuous place in each facility operated by the commissioner ~~of veterans affairs~~.

Subp. 3. **Resident care.** Residents have the right to appropriate and regular medical and personal care based on individual needs to promote continuity of care by facility staff and other persons providing health care services according to Minnesota Statutes, section 144.651. "Appropriate care" means care designed to enable residents to achieve their highest level of physical and mental functioning. Residents must be treated courteously and with respect.

Competent residents have the right to refuse treatment according to Minnesota Statutes, section 144.651, subdivision 12. Residents who refuse treatment, medication, or dietary restrictions must be informed of the likely medical or major psychological results of the refusal, with documentation in the resident's medical record. If a resident is incapable of understanding the circumstances but has not been adjudicated incompetent, or if legal requirements limit the right to refuse treatment, the conditions and circumstances must be fully documented by the attending ~~physician~~ provider in the resident's medical record.

A resident whose care needs cannot be met according to part 9050.0070, subparts 3 and 4, must be denied continued stay subject to the appeals procedures in part 9050.0220.

Resident care must meet the standards of the Vulnerable Adults Protection Act found in Minnesota Statutes, section 626.557.

Subp. 4. **Resident care plan participation.** Residents have the right to participate in care planning and implementation of the care plan according to Minnesota Statutes, section 144.651, subdivision 10, unless medically contraindicated. Medical contraindication must be documented by the attending ~~physician~~ provider in the resident's chart.



Subp. 5. **Resident handbook.** On admission, a resident must be given a resident handbook. The handbook must be reviewed by social services staff or ~~nursing staff~~ designee with the resident or the resident's representative.

After reviewing the handbook, the resident or resident's representative must sign a statement indicating that the resident or representative received a copy of the handbook and reviewed the handbook. This statement must be kept with the resident's admission agreement.

The resident handbook must contain:

*[For text of items A to C, see Minnesota Rules]*

D. ~~Patient's and Resident's~~ the Health Care Bill of Rights found in Minnesota Statutes, section 144.651; and

E. grievance procedures.

If changes occur concerning the information in the resident handbook, a resident must be informed of and given a copy of the changes. The resident or resident's representative must sign a statement indicating that the resident or representative received a copy of the changes as appropriate.

Subp. 6. **Resident councils.** Residents may organize, maintain, and participate in a resident advisory council with elected officers to express feelings and thoughts about the facility, facility policies, and resident care issues according to Minnesota Statutes, sections 144.651, subdivision 27, and 144A.33; ~~United States Department of Veterans Affairs Code M-1, part 1, chapter 3;~~ and United States Department of Veterans Affairs Guide for Inspection of State Veterans Homes Nursing Home Care Standards and Guide for Inspection of State Veterans Homes: Domiciliary Care Standards. United States Department of Veterans Affairs publications shall be available for review at each facility operated by the commissioner of ~~veterans affairs~~.

Space for resident council meetings must be provided at each facility operated by the commissioner of ~~veterans affairs~~. Staff or visitors may only attend resident council meetings at the council's invitation.

The administrator shall designate a staff person, with approval of the resident council, to assist the council and respond to written requests that result from council meetings.

Minutes of resident council meetings must be kept and made available to residents and other persons as the resident council determines. Minutes of resident council meetings must also be made available to the Department of Health and the United States Department of Veterans Affairs to show that resident council meetings are being held at each facility.

The designated staff person or other appropriate staff persons shall inform the resident council of:

*[For text of items A to F, see Minnesota Rules]*

Subp. 7. **Family councils.** Each facility operated by the commissioner of ~~veterans affairs~~ shall have a family council that gives members an opportunity to express feelings and thoughts about the facility and facility conditions, resident care, rules and the effect of rules, policies, and procedures according to Minnesota Statutes, sections 144.651, subdivision 20, and 144A.33.

The facility shall support and encourage development of and participation in family councils and shall provide a private meeting place and necessary administrative support through a staff liaison appointed by the administrator and approved by the council. Attendance at family council meetings of individuals other than family council members must be at council invitation only.

Minutes of family council meetings must be kept and made available to family council members and other persons as the family council determines. Minutes must also be made

available to the Department of Health to show that family council meetings are being held at each facility.

Subp. 8. **Legal assistance for residents.** Residents have the right of reasonable access to outside advocacy and legal services according to Minnesota Statutes, section 144.651, subdivision 30. On a resident's request, a designated staff person shall instruct and assist that resident in obtaining advocacy and legal assistance.

The opportunity for private communication between the resident and the resident's representative must be provided at the facility operated by the commissioner ~~of veterans affairs~~ ~~affairs~~.

Subp. 9. **Resident grievances and complaints.** A resident may voice grievances and complaints and recommend changes in rules, policies, and services of the facility operated by the commissioner ~~of veterans affairs~~ without retaliation according to Minnesota Statutes, sections 198.32, 144.651, subdivision 20, and 144A.13; ~~United States Department of Veterans Affairs Code M-1, part 1, chapter 3~~; and United States Department of Veterans Affairs Guide for Inspection of State Veterans Homes Nursing Home Care Standards and Guide for Inspection of State Veterans Homes: Domiciliary Care Standards. United States Department of Veterans Affairs publications shall be available for review at each facility operated by the commissioner ~~of veterans affairs~~.

On admission, each resident must be informed in writing of the right to complain. A notice of the right to complain must be posted in a conspicuous place in each facility operated by the commissioner ~~of veterans affairs~~.

Residents may complain through the facility grievance and complaint procedures. A resident may also voice grievances to the administrator, the commissioner ~~of veterans affairs~~, the commissioner of health, facility staff, other residents, the family council, or outside representatives of the resident's choice.

The grievance procedure at each facility operated by the commissioner of ~~veterans~~ ~~affairs~~ must include the following:

*[For text of items A to F, see Minnesota Rules]*

Subp. 10. **Restraints.** A resident has the right to be free from physical and chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical condition according to part 4655.6600.

Chemical and physical restraints may be imposed on a resident only on written order of a ~~physician~~ medical director or designee that specifies the duration and circumstances under which the restraints are to be used, except in emergency circumstances when administrative nursing staff takes temporary emergency measures until an order can reasonably be obtained. If the resident's behavior poses a significant threat of harm to self or others, the resident may be discharged or transferred to an appropriate care facility.

Locked restraints must not be used on residents. Doors to resident rooms must not be locked in a manner that would prevent immediate opening in case of an emergency.

Use of restraints must be recorded in the resident's record. The record must include a description of the precipitating behavior, the expected behavioral outcome, the actual behavioral outcome, an assessment of the need for continued use of the restraint, and the duration of use of the restraint.

Subp. 11. **Right to associate; visitors.** A resident may meet with or refuse to meet with visitors and participate in activities of commercial, religious, political, and community groups without interference, unless the activities infringe on the rights of other residents. This subpart complies with Minnesota Statutes, section 144.651, subdivisions 21 and 26.

Residents may receive visitors during visiting hours and, on request and availability, be provided privacy for visits during visiting hours. Visiting hours must be established by

the facility administrator and be posted in plain view. Visitors to each facility operated by the commissioner of ~~veterans affairs~~ must follow facility rules.

Residents may receive private visits at any time from the resident's external personal physician provider, religious ~~adviser~~ adviser, or attorney. Residents diagnosed as critically ill may have visits from relatives, guardians, conservators, legal representatives, and persons designated by the resident at any time according to part 4655.1910.

Subp. 12. **Identity of ~~physician and outside service providers~~.** In accordance with Minnesota Statutes, section 144.651, subdivision 7, facility staff shall give a resident, in writing, the name, business address, telephone number, and specialty of the physician provider responsible for coordination of the resident's care.

Residents receiving services from approved outside providers must be given, on request from the resident or resident's guardian, written information about the identity of the provider, including the name of the outside provider, address, telephone number, specialty of the physician provider, and a description of the service to be given.

*[For text of subpart 13, see Minnesota Rules]*

Subp. 14. **Married residents.** Married residents have a right to privacy for spousal visits according to Minnesota Statutes, section 144.651, subdivision 28. If both spouses are residents of the facility, the couple must be permitted to share a room unless medically contraindicated and documented by the attending physicians providers in the medical records.

Subp. 15. **Privacy of resident records.** A resident has a right to confidential treatment of personal and medical records and may approve or refuse release of the records to any individual outside the facility operated by the commissioner of ~~veterans affairs~~.

Medical records must be made available to persons at the facility operated by the commissioner of ~~veterans affairs~~ who are responsible for the direct care of the resident. All information contained in the resident's records must be handled in a manner consistent with

chapters 1205 and 4655; the Government Data Practices Act under Minnesota Statutes, chapter 13, and sections 144.291 to 144.298 and 144.651, subdivision 16.

Written consent of the resident or the resident's guardian or conservator is required for the release of information concerning the resident to persons not otherwise authorized to receive it. Written consent of the resident must be handled in a manner consistent with Minnesota Statutes, section 13.04, subdivision 2.

Information to be released is limited to the items or information specified in the consent form.

Written consent for release of information need not be given when:

*[For text of items A to D, see Minnesota Rules]*

Subp. 16. **Resident access to records.** On request, a resident must be given access to personal, financial, and medical records concerning the resident as provided under Minnesota Statutes, sections 13.04 and 144.291 to 144.298, and Code of Federal Regulations, title 42, part 2, section 2.23.

The facility staff shall supply to a resident complete and current information concerning diagnosis and treatment of the resident in terms and language the resident can reasonably be expected to understand. If it is medically inadvisable that the information be given to the resident, as documented by the attending ~~physician~~ provider in the resident's medical record, the information may be given to the resident's guardian, representative, or appropriate third party as specified in Minnesota Statutes, section 144.292. The resident, guardian, or appropriate third party must be shown the data without any charge.

On a resident's written request, facility staff shall furnish to the resident copies of the resident's records within five days, excluding Saturdays, Sundays, and legal holidays. With the consent of the resident, a summary of the record may be furnished instead. A reasonable fee related to the costs of copying may be requested.

If facility staff is unable to comply with a resident's request for information within five days, excluding Saturdays, Sundays, and legal holidays, staff shall inform the resident and may have an additional five days within which to comply with the resident's request, excluding Saturdays, Sundays, and legal holidays. If records are required in fewer than five days, facility staff shall make all reasonable efforts to comply with the request.

*[For text of subpart 17, see Minnesota Rules]*

Subp. 18. **Telephone access and use.** Residents must have access to a pay telephone, at a convenient location within the facility operated by the commissioner of veterans affairs, where residents can make and receive calls. ~~There must be at least one non-coin-operated telephone accessible at all times in case of an emergency according to part 4655.1910, subpart 4. "Emergency" has the meaning given in part 9050.0040, subpart 39.~~

For residents who need to speak privately, reasonable arrangements must be made by facility staff to accommodate the privacy of the resident's calls.

If restrictions on telephone access are medically advisable, the restrictions must be documented by the attending physician provider in the resident's medical record according to Minnesota Statutes, section 144.651, subdivision 21.

Subp. 19. **Resident vehicles.** Nonskilled care residents may keep one passenger vehicle, motorcycle, or motorized bicycle on the grounds of the facility operated by the commissioner of veterans affairs in which the resident resides. "Passenger vehicle" means a passenger automobile as defined in Minnesota Statutes, section 168.002, subdivision 24; a pickup truck as defined in Minnesota Statutes, section 168.002, subdivision 26; or a van as defined in Minnesota Statutes, section 168.002, subdivision 40. "Motorcycle" has the meaning given in Minnesota Statutes, section 168.002, subdivision 19. "Motorized bicycle" has the meaning given in Minnesota Statutes, section 168.002, subdivision 20.

A resident who wants to maintain a vehicle on the grounds of the facility shall register the make, model, color, year, and license number of the vehicle with the transportation service of the facility. The resident shall comply with applicable state statutes, including Minnesota Statutes, chapter 169, regarding payment of taxes, registration of vehicles, and safety standards; Minnesota Statutes, chapter 171, regarding operators' licenses and driving privileges; Minnesota Statutes, chapter 65B, regarding insurance coverage; and relevant rules.

Resident vehicles must be parked in designated parking areas with properly displayed facility identification decals.

A resident vehicle that is an abandoned vehicle as defined in Minnesota Statutes, section ~~168B.02~~ 168B.011, subdivision 2, must be handled in a manner consistent with Minnesota Statutes, chapter 168B.

Subp. 20. **Pets.** The administrator at each facility operated by the commissioner ~~of veterans affairs~~, after consultation with facility staff and residents, shall determine whether pets, such as dogs and cats, will be allowed in the facility and whether individual residents will be permitted to keep the pets.

If pets are allowed in the facility, the requirements in items A to C, in accordance with part 4638.0200, must be met.

A. The facility staff, in consultation with a veterinarian and physician, shall develop and implement written policies and procedures describing the types of pets allowed and the procedures for maintaining and monitoring the health and behavior of the pets, and identify areas in the facility where pets are not permitted. Pets are not permitted in kitchen areas, medication storage and administration areas, or clean or sterile supply storage areas. Guide dogs accompanying a blind or deaf individual are permitted at each facility operated by the commissioner ~~of veterans affairs~~.



*[For text of item B, see Minnesota Rules]*

C. The facility staff shall ensure that pets, including fish, do not jeopardize the health, safety, comfort, treatment, or well-being of residents or others, and shall assume overall responsibility for pets in the facility.

Pets or animals brought to the facility for visits must be preapproved by facility recreation staff or designee and comply with this subpart.

Subp. 21. **Resident work therapy programs.** A resident may take part in a resident work therapy program on approval of the resident's attending physician provider or as recommended by the resident's attending physician provider and the resident's care team as part of the individual treatment or care plan.

The labor or services that the resident performs must be for therapeutic purposes and appropriately goal-related in the resident's care plan according to Minnesota Statutes, section 144.651, subdivision 23.

The labor performed by the resident must be other than labor of a housekeeping nature with respect to the resident's own living area and the resident must be compensated appropriately and in compliance with Minnesota law and the Federal Fair Labor Standards Act.

Earnings derived from participating in a resident work therapy program while the resident is living at the home may not be considered a means of support according to part 9050.0700, subpart 3, item A, and Minnesota Statutes, section 198.03.

Subp. 22. **Resident funds.** Resident funds must be handled according to parts 4655.1910, subpart 6; 4655.4100 to 4655.4170; and Minnesota Statutes, sections 144.651, subdivision 25; and 198.265, and be in compliance with items A to E.

*[For text of items A and B, see Minnesota Rules]*

C. Residents may keep money in a personal fund account at the facility operated by the commissioner of ~~veterans affairs~~, as defined in part 9050.0040, subpart 90, and according to Minnesota Statutes, section 198.265, or in fund accounts off facility premises.

Resident fund accounts at the facility are solely for the resident's use, and the facility cashier shall retain sufficient liquid funds to satisfy normal demand withdrawal requests of residents and other anticipated needs. Resident accounts of \$100 or more must be credited with interest earned from the investment of resident accounts. Interest must be credited to each resident's account on a quarterly basis. The commissioner of ~~veterans affairs~~ is not required to pay interest on any resident accounts of less than \$100. If the commissioner of ~~veterans affairs~~ does not pay interest on a resident account of less than \$100, the interest must be used by the commissioner of ~~veterans affairs~~ only for the direct benefit of the residents of the homes. Before depositing money in a fund account at the facility, a resident must sign an agreement that the resident is willing to have money in an account that may not draw interest directly to the resident, if the account balance is less than \$100.

Restrictions placed on a resident's personal funds by the resident, resident's guardian, or person responsible for the resident's fund account must be documented in the resident's treatment plan.

*[For text of items D and E, see Minnesota Rules]*

*[For text of subpart 23, see Minnesota Rules]*

Subp. 24. **Resident clothing.** Each resident must have a supply of personal clothing relative to individual needs. The administrator at each facility operated by the commissioner of ~~veterans affairs~~ shall determine the standards for marking the resident's clothing for laundering and identification purposes.

A resident or resident's representative is responsible for the condition of the resident's personal clothing and should contact the facility for assistance in maintenance of clothing.

*[For text of subpart 25, see Minnesota Rules]*

Subp. 26. **Room cleanliness and conditions.** Residents shall maintain personal rooms and personal items in a manner consistent with the safety, sanitary, and health regulations required by the Department of Health, United States Department of Veterans Affairs, state fire marshal, ~~and~~ other regulatory agencies, and internal facility policies.

Candles, oil lamps, or other items identified as flammable or hazardous by the state fire marshal are not allowed in resident rooms.

Floors in resident rooms must be clear of boxes, luggage, debris, and other materials to prevent congestion and health and safety hazards.

Residents may have electrical personal grooming items, clocks, audio and visual equipment, and approved portable fans as space and electrical capacity of the resident's room permits. Other electrical items may be permitted on written approval of administration or on written order of the resident's ~~attending physician~~ provider, and must be documented in the resident's medical record.

Items such as unapproved extension cords, hot plates, coffee makers, and electrical food appliances are prohibited in resident rooms.

*[For text of subparts 27 to 29, see Minnesota Rules]*

Subp. 30. **Storage of resident's property.** Storage of a resident's property must be handled in compliance with items A to C.

A. The administration of each facility operated by the commissioner ~~of veterans affairs~~ may determine an assigned amount of storage space for a resident needing storage space for personal property outside of the resident's personal living area. Particular kinds of personal property may be excluded from the facility for reasons of space limitations or safety.

Facility staff shall maintain an updated, itemized inventory of each resident's property in storage, including the resident's name and signature, guardian's signature, date of the inventory, a detailed listing of the resident's property, and the storage location. The list must be kept in a separate location, with one copy kept with the inventoried property and one copy given to the resident.

Residents must have access to storage areas during hours that are determined by administration and must be accompanied by the facility staff member who is in charge of storage, or that person's designee. The hours for access to storage areas must be posted in one or more conspicuous places in each of the facilities operated by the commissioner of ~~veterans affairs~~.

Cash may not be placed into storage.

Secure and temporary storage of a resident's possessions may be provided during a resident's emergency absence from the facility or on a specific request to the nursing staff from a resident leaving the facility on a ~~personal absence~~ therapeutic leave.

The facility shall not accept resident possessions that cannot be accommodated in the facility storage areas.

B. A central, locked depository or locked storage area over which the facility has responsibility, in which residents may store valuables for safekeeping, must be provided at each facility operated by the commissioner of ~~veterans affairs~~.

Facility staff shall maintain an updated, itemized inventory of each resident's valuables in storage, including the resident's name and signature, guardian's signature, date of the inventory, a detailed listing of the resident's property, and the storage location. The list must be kept in a separate location, with one copy kept with the inventoried property and one copy given to the resident.

*[For text of item C, see Minnesota Rules]*

Subp. 31. **Smoking.** The administrator of each facility operated by the commissioner of veterans affairs shall designate smoking and nonsmoking areas according to chapter 4620 and Minnesota Statutes, sections 144.411 to 144.417. Residents may smoke in designated smoking areas only and only during designated smoking times. The administrator of each facility must take the necessary interventions to assure the safety of the residents and others.

~~Smoking in resident rooms is prohibited, except that a bedridden resident may smoke with direct assistance from a staff person and only under written orders of the resident's attending physician. The orders must be documented in the resident's care plan.~~

Subp. 32. **Leaving the facility campus.** Residents or authorized representatives shall notify administration or direct care staff before leaving the facility campus. The resident shall indicate to the appropriate staff member when the resident is leaving the facility campus, the expected time of return, and, if possible, the destination and telephone number where the resident can be contacted in case of an emergency. The resident shall notify direct care staff on return to the facility.

If a resident's departure is likely to cause immediate serious physical harm to the resident or others, reasonable efforts may be made to inform the resident of the likely consequences of the resident's actions or departure.

Subp. 33. **Coffee shop and canteen.** Depending on space, resources, and available funds, a coffee shop with posted hours may be provided at each facility operated by the commissioner of veterans affairs. A canteen with posted hours where persons may purchase personal care items may also be provided.

Where canteens and coffee shops are operated by the facility, profits derived must be used only for the direct benefit of the residents of the homes according to Minnesota Statutes, section 198.261.

Subp. 34. **Alcoholic beverages and illegal narcotics.** The sale, distribution, consumption, and possession of alcoholic beverages and illegal narcotics are not allowed on the campuses of the Minnesota veterans homes ~~or~~. Alcohol during facility-sponsored events ~~according to~~ is managed in accordance with Minnesota Statutes, section 198.33, ~~except~~. Alcohol consumption may be allowed when consumption is prescribed by the resident's attending ~~physician~~ provider and documented in the resident's chart. An alcoholic beverage is a beverage containing any amount of alcohol.

*[For text of subparts 35 and 36, see Minnesota Rules]*

Subp. 37. **Contraband.** A resident may not possess contraband items at the facility campus. Contraband includes all illegal articles, firearms, weapons, ammunition, alcoholic beverages, nonprescribed prescription drugs, including narcotics ~~and~~, controlled substances, and other items identified by facility policy.

Contraband is subject to seizure according to Minnesota Statutes, section 198.33, and must be disposed of according to applicable laws. A receipt must be given to the resident and the information must be documented in the resident's chart.

*[For text of subpart 38, see Minnesota Rules]*

Subp. 39. **Photographs, voice recordings, or videotapes.** Informed written consent is required before a resident may be photographed, voice recorded, or videotaped for nonbusiness or nonresident care purposes. Written consent is not needed for identification photographs of the resident that are kept in the resident's chart at the facility operated by the commissioner of veterans affairs.

### **9050.1080 ADULT DAY HEALTH CARE PROGRAM.**

Subpart 1. **Scope.** This part applies to any adult day health care program administered by the commissioner.

Subp. 2. **Applicability.** The commissioner shall ensure compliance by the facility and staff with all applicable laws and rules of this state, and with all applicable health, safety, sanitation, building, zoning, and operations codes as they pertain to an adult day health care program.

Subp. 3. **Eligibility.**

A. An applicant must meet the criteria in part 9050.0050 to participate in any adult day health care program.

B. An adult day health care program shall have internal policies and procedures that take into consideration a participant's financial status and establish co-payments and private pay charges. The commissioner shall annually determine the daily charge for a participant in an adult day health care program. A change in daily charge for cost of service of a program becomes effective July 1 of the rate year.

C. The commissioner shall make available at admission or upon any change in policy or procedure all policies and procedures regarding financial implications to participants or their representatives. The commissioner shall provide a notice of any change in the cost of services to all participants of a program or their legal representatives 30 days before the effective date of the change.

**9050.1090 VETERANS AFFAIRS PHARMACEUTICAL SERVICES.**

Subpart 1. **Scope and applicability.** This part governs the operations of the centralized pharmacy program for residents of the facilities operated by the commissioner.

Subp. 2. **Eligibility.** Residents of the facilities in need of the centralized pharmaceutical services must comply with the following:

A. a resident must meet the criteria under part 9050.0050; and

B. a resident must meet the resident's financial obligation as determined in accordance with part 9050.0550, and Minnesota Statutes, section 198.003, subdivision 7, and veterans affairs policies and procedures covering a resident's financial status, insurance coverage, and established third-party billing.

Subp. 3. **Compliance.** The commissioner shall ensure that all facilities:

A. comply with the applicable laws and rules of the Department of Health and Department of Human Services as they pertain to pharmaceutical services; and

B. comply with applicable requirements under Minnesota Statutes, chapter 151.

**REPEALER.** Minnesota Rules, parts 9050.0040, subparts 80, 84, 89, and 120; 9050.0050, subparts 1 and 4; 9050.0200, subparts 3, 4, and 5; 9050.0510, subpart 2; and 9050.0540, are repealed.