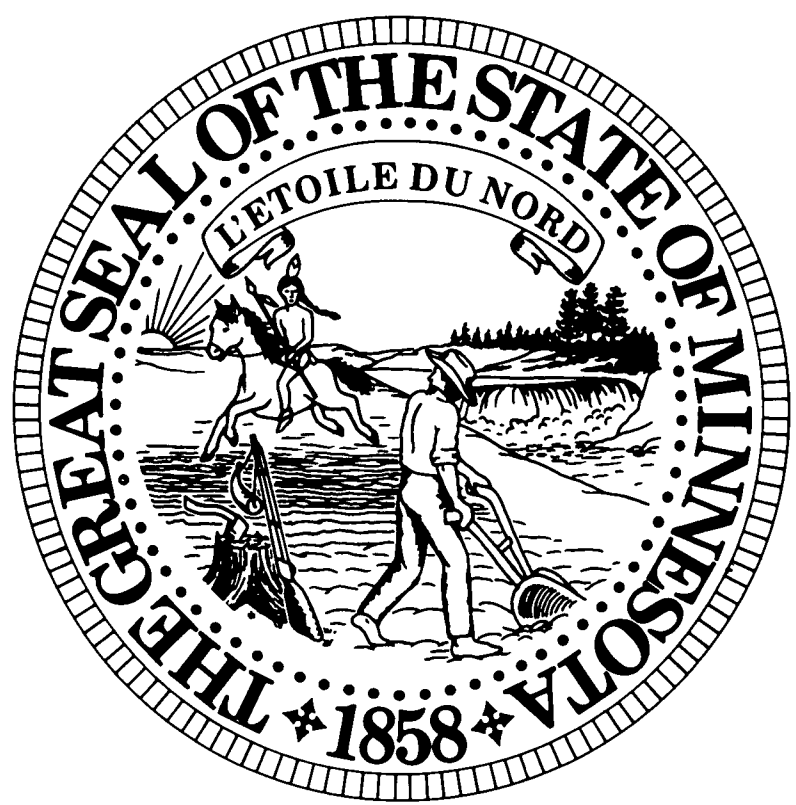


The Minnesota
**State
Register**

Department of Administration—Print Communications Division



Rules edition
Published every Monday
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Monday 14 January 1991
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State Register

Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, containing executive and commissioners' orders, proposed and adopted rules, official notices, state and non-state contracts, contract awards, grants, and announcements.

A *Contracts Supplement* is published every Thursday and contains additional state contracts and advertised bids, and the most complete source of state contract awards available in one source.

Printing Schedule and Submission Deadlines

| Vol. 15 Issue Number | *Submission deadline for Adopted and Proposed Rules, Commissioners' Orders** | *Submission deadline for Executive Orders, Contracts, and Official Notices** | Issue Date |
|----------------------------|--|--|--------------------|
| 29 | Friday 28 December | Monday 7 January | Monday 14 January |
| 30 | Monday 7 January | Monday 14 January | Tuesday 22 January |
| 31 | Monday 14 January | Friday 18 January | Monday 28 January |
| 32 | Friday 18 January | Monday 28 January | Monday 4 February |

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the *State Register* editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The *State Register* is published every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A *State Register Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme court; a monthly calendar of scheduled cases before the supreme court; and other announcements. The Thursday edition contains additional state contracts and advertised bids, and the most complete listing of contract awards available in one source.

In accordance with expressed legislative intent that the *State Register* be self-supporting, the following subscription rates have been established: the Monday edition costs \$140.00 per year and includes an index issue published in August (single issues are available at the address listed above for \$3.50 per copy); the combined Monday and Thursday editions cost \$195.00 (subscriptions are not available for just the *Contracts Supplement*); trial subscriptions are available for \$60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

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Subscribers who do not receive a copy of an issue should notify the *State Register* circulation manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

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FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

Contact: Senate Public Information Office
Room 231 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Session Summary—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
(612) 296-2146

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The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific *Minnesota Rule* chapter numbers. Every odd-numbered year the *Minnesota Rules* are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the *Official Notices* section of the *State Register*. When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the *State Register*, a subscription, the annual index, the *Minnesota Rules* or the *Minnesota Guidebook to State Agency Services*, contact the Print Communications Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-9747.

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Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

State Board of Chiropractic Examiners

Proposed Permanent Rules Relating to the Practice of Chiropractic

ALTERNATIVE NOTICES: Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing If Fewer Than 25 Persons Request a Hearing

I. Explanation of Alternative Notices

The Minnesota Board of Chiropractic Examiners (hereinafter "Board") is hereby giving notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes* section 14.22 to 14.28 (1990). However, in case 25 or more persons request a hearing, thus necessitating that one be held pursuant to *Minnesota Statutes* section 14.25 (1990), and in order to expedite the rulemaking process should that occur, the Board is at the same time hereby giving notice of the hearing on the proposed rules pursuant to *Minnesota Statutes* sections 14.131 to 14.20 (1990). The hearing will, of course, be cancelled if 25 or more people do not request that one be held. The comment period will close on February 14, 1991. This period will give interested persons time to contact the Board to find out whether the hearing will be cancelled and to plan accordingly.

II. Notice of Intent to Adopt Proposed Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN the Minnesota Board of Chiropractic Examiners (hereinafter "Board") proposed to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing. The Board has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* section 14.22 to 14.28 (1990).

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on February 14, 1991. Comment is encouraged. Each comment should identify the comment, and any change proposed to the rules by the comment. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Board and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made on the proposed rules or a portion thereof by February 14, 1991. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes* section 14.131 to 14.20 (1990) and the hearing notice provided below.

Comments or written requests for a public hearing should be submitted to:

Joel B. Wulff, DC
Executive Director
Minnesota Board of Chiropractic Examiners

2700 University Avenue, Suite 20
St. Paul, MN 55114
(612) 642-0591

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Proposed Rules

The statutory authority to adopt the rule is contained in *Minnesota Statutes* sections 148.08.

If adopted, the proposed rules would establish definitions, set forth acupuncture registration for doctors of chiropractic, independent medical examiners' registration for doctors of chiropractic, and regulation of rehabilitative treatment related to chiropractic.

The proposed rules are published below and a free copy of the rules may be obtained from the Board by writing or telephoning the Board at the address or the telephone number listed above.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and may be obtained from the Board by writing or telephoning the Board at the address and telephone number listed above.

Promulgation of the proposed rules will not result in the expenditure of public monies by public bodies nor have an impact on agricultural land. It is the position, and the Board's evaluation of the applicability of the methods contained in *Minnesota Statutes* section 14.115, subdivision 2 (1990) for reducing the impact of the proposed rules on small businesses, should it be determined that the Board is governed by section 14.115, are addressed in the Statement of Need and Reasonableness.

Upon completion of the proposed rules without a public hearing, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, the rules as adopted, and a statement explaining any difference between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the rules as adopted should submit a written request to the Board at the address listed above.

III. Notice of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing

PLEASE NOTE that if 25 or more persons submit written requests for a public hearing with respect to the above-captioned rules within the 30-day comment period pursuant to the notice given in part II above, a hearing will be held on February 14, 1991, in accordance with the following notice of public hearing.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes* section 14.131 to 14.20 (1990) in Rooms A and B, Colonial Office Park, 2700 University Avenue West, St. Paul, MN 55114, on February 25, 1991, commencing at 9:00 a.m. If additional time is necessary to conclude the hearing, the Board will hold the next hearing on February 26, 1991, commencing at 9:00 a.m.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to:

The Honorable Peter C. Erickson
Administrative Law Judge
Administrative Hearings Office
5th Floor, Flour Exchange Building
310 Fourth Avenue South
Minneapolis, MN 55415

Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Board and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by *Minnesota Statutes* Section 14.131 to 14.20 (1990) and by *Minnesota Rules* Parts 1400.0200 to 1400.1200 (1989). Questions about procedure may be directed to the administrative law judge.

If adopted, the proposed rules would establish definitions, set forth acupuncture registration for doctors of chiropractic, independent medical examiners' registration for doctors of chiropractic, and regulation of rehabilitative treatment related to chiropractic.

A free copy of the rules is attached and will be published in the *State Register* issue of January 14, 1991, and may be obtained from the Board by writing or telephoning the Board at the address or telephone number listed above.

The statutory authority to adopt the rules is contained in *Minnesota Statutes* 148.08, subdivision 3 (1990).

The proposed rules may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rules are therefore advised to participate in the process.

Minnesota Statutes Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after she or he commences lobbying. A lobbyist is defined in *Minnesota Statutes* section 10A.01, subdivision 11 as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) who spends more than \$250, not including his/her own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, MN 55101, telephone number (612) 296-5615.

NOTICE IS HEREBY GIVEN THAT A STATEMENT OF NEED AND REASONABLENESS is now available for review at the Board and at the Office of Administrative Hearings. This Statement of Need and Reasonableness includes a summary of all the evidence which the Board anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules.

Copies of the Statement of Need and Reasonableness may be reviewed at the Board or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

PLEASE NOTE that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Board may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day the rules are filed. If you want to be notified, you may so indicate at the hearing or send a request in writing to the Board at any time prior to the filing of the rules with the Secretary of State.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land. The Board's evaluation of the applicability of the methods contained in *Minnesota Statutes* section 14.115, subdivision 2 (1990) for reducing the impact of the proposed rule on small businesses, should it be determined that the Board is governed by section 14.115, are addressed in the Statement of Need and Reasonableness.

IV. Notice of Intent to Cancel Hearing If Fewer than 25 Persons Request a Hearing

PLEASE NOTE that the hearing, notice of which is given in part III above, will be cancelled if fewer than 25 persons request a hearing in response to the notice given in part II above.

To be informed whether the hearing notice in Part III above will be held, please call or write the Board before February 20, 1991, and leave your name, address, and telephone number. You will be notified as soon as possible after this date and prior to the hearing.

Dated: 28 December 1990

Joel B. Wulff, DC
Executive Director
Board of Chiropractic Examiners

Rules as Proposed (all new material)

2500.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Accredited school.** "Accredited school" means a school of chiropractic which has been approved by the Council on Chiropractic Education or fully accredited by an agency approved by the United States Office of Education or its successor as of January 1, 1988.

Subp. 3. **Acupuncture.** "Acupuncture" means a modality of treating abnormal physical conditions by stimulating various points of the body or interruption of the cutaneous integrity by needle insertion to secure a reflex relief of the symptoms by nerve stimulation as utilized as an adjunct to chiropractic adjustment.

Subp. 4. **Direct patient care.** "Direct patient care" means primary chiropractic care given to an individual who has sought such care from a doctor of chiropractic in a chiropractic office or clinic.

Subp. 5. **Independent medical examination.** "Independent medical examination" means a physical examination of a patient or a

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Proposed Rules

review of records by a doctor of chiropractic, for the purpose of generating a report or opinion to aid a reparation obligor under *Minnesota Statutes*, chapter 65B, in making a determination regarding the condition or further treatment of the patient.

Subp. 6. **Instructor.** "Instructor" means a full-time faculty member of an accredited school who is duly licensed in the state of Minnesota, has practiced a minimum of three years in the state of Minnesota, and has obtained a ranked status of professor, associate professor, assistant professor, or instructor. An instructor does not include adjunct faculty, post-graduate faculty, or part-time faculty.

Subp. 7. **Invasive.** "Invasive" means instrumental penetration of the viscera or nonsuperficial tissues of the body, specifically excluding acupuncture and venipuncture.

Subp. 8. **Qualified staff.** "Qualified staff" means a person who has specific training in an area of rehabilitative therapy and who will administer rehabilitative therapies to a patient.

Subp. 9. **Rehabilitative therapy.** "Rehabilitative therapy" means therapy that restores an ill or injured patient to the maximum medical improvement by employing within the practice of chiropractic those methods, procedures, modalities, devices, and measures which include mobilization; thermotherapy; cryotherapy; hydrotherapy; exercise therapies; nutritional therapy; meridian therapy; vibratory therapy; traction; stretching; bracing and supports; trigger point therapy; massage and the use of forces associated with low voltage myostimulation, high voltage myostimulation, ultraviolet light, diathermy, and ultrasound; and counseling on dietary regimen, sanitary measures, occupational health, lifestyle factors, posture, rest, work, and recreational activities that may enhance or complement the chiropractic adjustment.

2500.1160 INDEPENDENT MEDICAL EXAMINATION REGISTRATION.

Subpart 1. **Qualifications; proof.** Documentation establishing that a chiropractor meets the qualifications must be included with the application to register with the board as an independent medical examiner under *Minnesota Statutes*, section 148.09. A chiropractor must be licensed to practice in Minnesota and must have been in practice for the five years immediately preceding registration and must have been in practice in Minnesota for the three years immediately preceding registration.

The chiropractor/instructor must present to the board proof of instructor status with a minimum of three years' practice in the state of Minnesota or attest to being involved in direct patient care in the state of Minnesota for 50 percent of the time spent in practice during the two years immediately preceding the independent medical examination of a patient. An affidavit on a form as provided by the board must be filed with the board at the time of application to register.

Subp. 2. **Registration.** The chiropractor must apply for registration with the board not less than 30 days prior to the anticipated date of commencement of independent medical examinations. The chiropractor must pay a registration fee as established by the board in part 2500.1150, item G.

Subp. 3. **Annual renewal.** An annual renewal of registration is required by March 1 of each year after initial registration with the board. The chiropractor must pay an annual renewal fee as set by the board in part 2500.1150, item H. The chiropractor must fulfill the continuing education requirements set by the board in part 2500.1200, in addition to other continuing education requirements set by the board, before renewal is granted.

2500.3000 ACUPUNCTURE.

Subpart 1. **Sterilization; disposal.** Where nondisposable needles are used for acupuncture, the needles must be sterilized by:

- A. autoclave;
- B. dry heat sterilization; or
- C. ethylene oxide sterilization.

Needles must be individually packaged for each patient. The individually packaged needles must either be discarded following patient treatment or sterilized according to the above methods of sterilization when nondisposable needles are used.

Needles must be disposed of according to the Infectious Waste Control Act, *Minnesota Statutes*, sections 116.75 to 116.83. In addition, all needles to be discarded must be sterilized and placed in a rigid puncture-resistant container before disposal. Noncorrosive needles must be used. An infectious waste disposal plan must be filed with the Department of Health.

Subp. 2. **Qualifications and fees.** Prior to any licensed chiropractor engaging in acupuncture, the chiropractor must complete 100 hours of study, exclusive of other continuing education hours, in the utilization of acupuncture. Courses or seminars offered by accredited schools, the National Acupuncturists' Association, or separately approved by the board according to parts 2500.1300 to 2500.1600 shall be accepted by the board. The chiropractor must submit certification of completion of the approved course of study in addition to a \$100 registration fee.

Doctors of chiropractic who do not have proof of 100 hours of education in the practice of acupuncture may substitute the requirements in the preceding paragraph by providing the board with an affidavit stating the following:

- A. the doctor of chiropractic has obtained 100 hours of acupuncture-related education prior to December 31, 1989;

B. the doctor of chiropractic has performed 500 acupuncture-related patient visits per year for at least three years preceding application for registration; and

C. the doctor of chiropractic will obtain ten hours of continuing education in acupuncture technique within six months following registration with the board and submit it to the board upon receipt.

Upon applying to the board for registration, the doctor of chiropractic must submit the affidavit in addition to a \$100 registration fee. An annual renewal fee of \$50 is required in order to maintain registered status with the board.

Subp. 3. **Continuing education.** The doctor of chiropractic is required to fulfill the continuing education requirements as set by the board in part 2500.1200 before a renewal of registration is granted.

Subp. 4. **Sanitary office or clinic.** It is unprofessional conduct to maintain unsanitary or unsafe equipment as it relates to the utilization of acupuncture.

Subp. 5. **Registration certificate.** Upon receiving a registration certificate from the board, a doctor of chiropractic may utilize acupuncture to prepare for or complement a chiropractic adjustment.

2500.4000 REHABILITATIVE TREATMENT.

Rehabilitative therapy, within the context of the practice of chiropractic, may be done on days sequential to a day on which a chiropractic adjustment is rendered, provided the treating chiropractor initiates the development and authorization of the rehabilitative therapy.

The administration of the rehabilitative therapy is the responsibility of the treating chiropractor.

The rehabilitative therapy must be rendered under the direct supervision of qualified staff.

Department of Health

Proposed Permanent Rules Relating to the Registration of Respiratory Care Practitioners

ALTERNATIVE NOTICES: Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing If Fewer than 25 Persons Request a Hearing

I. Explanation of Alternative Notices

The Minnesota Department of Health (Department) is hereby giving notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes*, sections 14.22 to 14.28. However, if 25 or more persons request a hearing, thus necessitating that one be held pursuant to *Minnesota Statutes*, section 14.25, and in order to expedite the rulemaking process should that occur, the Department is at the same time hereby giving notice of the hearing on the proposed rules pursuant to *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will, of course, be cancelled if 25 or more people do not request that one be held. The hearing will also be cancelled if a sufficient number of people withdraw their request for a hearing. With the comment period closing on February 15, 1991, there will be ten days before the scheduled hearing date which is February 26, 1991. This ten day period will give interested persons ample time to contact the Department to find out whether the hearing will be cancelled and to plan accordingly.

II. Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Department proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing. The Department has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28.

Interested persons shall have until February 15, 1991, to submit comments in support of or in opposition to the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed to the rule by the comment. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

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In addition to submitting comments, interested persons may request in writing during the comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. If a person desires that a hearing be held on only a portion of the rules, it is requested that the Department be informed of the specific amendments on which the hearing is being requested at the time that the hearing request is made. This will enable the Department to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rules or a portion thereof by February 15, 1991. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes*, sections 14.131 to 14.20 and the hearing notice provided in Part III below.

Comments or written requests for a public hearing should be submitted to:

Annette C. Spencer
Health Systems Development
Minnesota Department of Health
P.O. Box 9441
717 Delaware Street Southeast
Minneapolis, MN 55440
(612) 623-5131

The statutory authority of the Department to adopt the proposed rules is contained in *Minnesota Statutes*, section 214.13.

If adopted, the proposed rules will: 1) establish a central registry of persons who are registered with the Board of Medical Examiners and are thereby entitled to use titles protected by the proposed rules, for example, "Minnesota Registered Respiratory Care Practitioner", "Registered Respiratory Care Practitioner" or "Respiratory Care Practitioner"; 2) designate titles to be protected by the proposed registration rules; 3) establish a scope of practice for registered respiratory care practitioners; 4) establish requirements and procedures for registration, registration by equivalence, registration by reciprocity, temporary registration, and transitional registration as a respiratory care practitioner; 5) establish requirements and procedures for annual registration renewal and for registration renewal after the registration has lapsed or expired; 6) establish continuing education requirements and procedures; 7) provide the grounds for and process for disciplinary actions to be followed by the Board of Medical Examiners in denying registration or in suspending, revoking, or taking other appropriate disciplinary action; 8) establish an advisory council to advise the Board of Medical Examiners on matters relating to the registration and regulation of respiratory care practitioners; 9) establish an annual registration fee and, for a period of five years following the effective date of the rules, a surcharge fee to be applied to registration applicants. The proposed rules will be published in the *State Register* issue of January 14, 1991, and a free copy of the rules may be obtained from the Department by writing or telephoning Annette C. Spencer at the address or telephone number listed above.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rules has been prepared and may be obtained from the Department by writing or telephoning Annette C. Spencer at the address or telephone number listed above.

Promulgation of the proposed rules will not result in the expenditure of more than \$100,000 in public monies by local public bodies for the two years immediately following adoption of the rule nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes*, section 14.11.

It is the position of the Department that these proposed rules are not subject to *Minnesota Statutes*, section 14.115 regarding small business considerations in rulemaking because they come within the exclusions contained in *Minnesota Statutes*, section 14.115, subd. 7 (2) and (3). The basis for this position is addressed in the statement of need and reasonableness.

Notwithstanding the Department's position, it may be determined that the rules are subject to the small business provisions of *Minnesota Statutes*, section 14.115. Should this occur, the Department has complied with the requirements of section 14.115. First, the Department's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subd. 2 for reducing the impact of the proposed rules is covered in the statement of need and reasonableness. Second, the Department is complying with *Minnesota Statutes*, section 14.115, subd. 4 by hereby giving notice of the probable quantitative and qualitative impact of the proposed rules upon affected classes of persons. The rules apply only to individuals who voluntarily decide to be registered as respiratory care practitioners. As registrants, these individuals may not operate as independent respiratory care practitioner small businesses, but instead provide respiratory care services only through other entities. The impact on small businesses, if any, is indirect, resulting from employment of registered respiratory care practitioners by small businesses. In this light, the rules might indirectly impact small businesses. The qualitative impact would be to provide employers with assurance of the qualifications of registered respiratory care practitioners they hire because the registration system requires registered respiratory care practitioners to meet and maintain minimum competency standards. Although no supporting evidence has been submitted, it has been argued that the registration system from the quantitative perspective will have an adverse economic impact on small businesses. It is argued that increased costs in the form of higher salaries and associated continuing education costs will be required to hire and maintain a staff of registered personnel if the registration system is promulgated.

If no hearing is required, upon adoption of the rules, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the amendments as adopted should submit a written request to Annette C. Spencer at the address listed above.

III. Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing

PLEASE NOTE that If 25 or More Persons Submit Written Requests For a Public Hearing With Respect to the Above-Captioned Rules Within the Comment Period Pursuant to the Notice Given in Part II Above, a Hearing Will Be Held on February 26, 1991, in Accordance With the Following Notice of Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes*, sections 14.131 to 14.20, and *Minnesota Rules*, parts 1400.0200 to 1400.1200 in the Veteran's Conference Room D on the fifth floor of the Veteran's Service Building, 20 West 12th Street, St. Paul, Minnesota, 55155, on February 26, 1991, commencing at 9:00 a.m. All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record should be mailed to:

Howard L. Kaibel, Jr.
Administrative Law Judge
Office of Administrative Hearings
Fifth Floor, Flour Exchange Building
310 Fourth Avenue South
Minneapolis, Minnesota 55415
(612) 341-7608

Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Department and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the administrative law judge.

If adopted, the proposed rules will: 1) establish a central registry of persons who are registered with the Board of Medical Examiners and are thereby entitled to use titles protected by the proposed rules, for example, "Minnesota Registered Respiratory Care Practitioner", "Registered Respiratory Care Practitioner" or "Respiratory Care Practitioner"; 2) designate titles to be protected by the proposed registration rules; 3) establish a scope of practice for registered respiratory care practitioners; 4) establish requirements and procedures for registration, registration by equivalence, registration by reciprocity, temporary registration, and transitional registration as a respiratory care practitioner; 5) establish requirements and procedures for annual registration renewal and for registration renewal after the registration has lapsed or expired; 6) establish continuing education requirements and procedures; 7) provide the grounds for and process for disciplinary actions to be followed by the Board of Medical Examiners in denying registration or in suspending, revoking, or taking other appropriate disciplinary action; 8) establish an advisory council to advise the Board of Medical Examiners on matters relating to the registration and regulation of respiratory care practitioners; 9) establish an annual registration fee and, for a period of five years following the effective date of the rules, a surcharge fee to be applied to registration applicants. The proposed rules will be published in the *State Register* issue of January 14, 1991, and a free copy of the rules may be obtained from the Department by writing or telephoning Annette C. Spencer at the address or telephone number listed in Part II of this notice.

The statutory authority of the Department to adopt the proposed rules is contained in *Minnesota Statutes*, section 214.13.

The proposed rules may be modified as a result of the rules hearing process. Those who are potentially affected in any manner by the substance of the proposed rules are therefore advised to participate in the process.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.10, subd. 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more

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than five hours in any month or more than \$250.00, not including the individual's own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) who spends more than \$250.00, not including the individual's own travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to:

Ethical Practices Board
625 North Robert Street
St. Paul, Minnesota 55101-2520
(612) 296-5616

NOTICE IS HEREBY GIVEN THAT A STATEMENT OF NEED AND REASONABLENESS is now available for review at the Department and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Department anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

PLEASE NOTE that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Department may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rules with the Secretary of State.

Promulgation of the proposed rules will not result in the expenditure of more than \$100,000 in public monies by local public bodies for the two years immediately following adoption of the rule nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes*, section 14.11.

It is the position of the Department that these proposed rules are not subject to *Minnesota Statutes*, section 14.115 regarding small business considerations in rulemaking because they come within the exclusions contained in *Minnesota Statutes*, section 14.115, subd. 7 (2) and (3). The basis for this position is addressed in the statement of need and reasonableness.

Notwithstanding the Department's position, it may be determined that the rules are subject to the small business provisions of *Minnesota Statutes*, section 14.115. Should this occur, the Department has complied with the requirements of section 14.115. First, the Department's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subd. 2 for reducing the impact of the proposed rules is covered in the statement of need and reasonableness. Second, the Department is complying with *Minnesota Statutes*, section 14.115, subd. 4 by hereby giving notice of the probable quantitative and qualitative impact of the proposed rules upon affected classes of persons. The rules apply only to individuals who voluntarily decide to be registered as respiratory care practitioners. As registrants, these individuals may not operate as independent respiratory care practitioner small businesses, but instead provide respiratory care services only through other entities. The impact on small businesses, if any, is indirect, resulting from employment of registered respiratory care practitioners by small businesses. In this light, the rules might indirectly impact small businesses. The qualitative impact would be to provide employers with assurance of the qualifications of registered respiratory care practitioners they hire because the registration system requires registered respiratory care practitioners to meet and maintain minimum competency standards. Although no supporting evidence has been submitted, it has been argued that the registration system from the quantitative perspective will have an adverse economic impact on small businesses. It is argued that increased costs in the form of higher salaries and associated continuing education costs will be required to hire and maintain a staff of registered personnel if the registration system is promulgated.

IV. Notice of Intent to Cancel Hearing If Fewer than 25 Persons Request a Hearing

PLEASE NOTE that the Hearing, Notice of Which Is Given in Part III Above, Will Be Cancelled If Fewer than 25 Persons Request a Hearing in Response to the Notice Given in Part II Above. Also, the Hearing Will Be Cancelled If a Sufficient Number of People Withdraw Requests for a Hearing in Response to Proposed Revisions of the Proposed Rules By the Department

To be informed whether the hearing in Part III above will be held, please telephone Annette C. Spencer at the telephone number listed above in Part II of this notice before February 26, 1991, and leave your name, address, and telephone number. You will be notified if the hearing has been cancelled. You may also telephone Annette C. Spencer after February 15, 1991, for oral confirmation regarding the scheduled hearing.

Dated: 27 December 1990

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed (all new material)**4760.0010 DEFINITIONS.**

Subpart 1. **Scope.** For the purpose of parts 4760.0010 to 4760.0300, the following terms have the meanings given them.

Subp. 2. **Advisory council.** "Advisory council" means the Respiratory Care Practitioner Advisory Council established under *Minnesota Statutes*, section 214.13, subdivision 4.

Subp. 3. **Applicant.** "Applicant" means an individual who applies to the board for initial registration as a respiratory care practitioner.

Subp. 4. **Approved continuing education program.** "Approved continuing education program" means a continuing education program meeting the continuing education requirements in part 4760.0090 and approved by the board.

Subp. 5. **Approved education program.** "Approved education program" means a university, college, or other postsecondary education program of respiratory care training that, at the time the student completes the program, is accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association in collaboration with the Joint Review Committee for Respiratory Therapy Education or other national accrediting organization approved by the board.

Subp. 6. **Board.** "Board" means the Minnesota Board of Medical Examiners.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Health.

Subp. 8. **Contact hour.** "Contact hour" means an instructional session of 50 consecutive minutes, excluding coffee breaks, registration, meals without a speaker, and social activities.

Subp. 9. **Continuing education program.** "Continuing education program" means a class, seminar, or structured learning process relating to respiratory care practice and offered for the purpose of advancing the knowledge and skills of the respiratory care practitioner.

Subp. 10. **Credential.** "Credential" means a license, permit, certification, registration, or other evidence of qualification or authorization to engage in respiratory care practice in this state or any other state.

Subp. 11. **Credentialing examination.** "Credentialing examination" means an examination administered by the National Board for Respiratory Care for credentialing as a certified respiratory therapy technician or registered respiratory therapist, or an examination for credentialing offered by a national testing service that is approved by the board.

Subp. 12. **Direct supervision.** "Direct supervision" means working under a registered respiratory care practitioner or qualified medical director who is present in the facility at the time the respiratory care services are being provided.

Subp. 13. **Health care facility.** "Health care facility" means a hospital as defined in *Minnesota Statutes*, section 144.50, subdivision 2, a medical facility as defined in *Minnesota Statutes*, section 144.561, subdivision 1, paragraph (b), or a nursing home as defined in *Minnesota Statutes*, section 144A.01, subdivision 5.

Subd. 14. **Qualified medical director.** "Qualified medical director" means a licensed physician who is on the staff of a health care facility and who has a special interest in and knowledge of the diagnosis and treatment of deficiencies, abnormalities, and diseases of the cardiopulmonary system.

Subp. 15. **Registered status.** "Registered status" refers to the status of an individual who meets the requirements of parts 4760.0010 to 4760.0300 and is authorized by the board to use the titles in part 4760.0030, subpart 1.

Subp. 16. **Registrant.** "Registrant" means an individual who meets the requirements of parts 4760.0010 to 4760.0300 and is authorized by the board to use the titles in part 4760.0030, subpart 1.

Subp. 17. **Registration.** "Registration" means a system in which practitioners, who will be the only individuals permitted to use the designated titles under part 4760.0030, subpart 1, are listed on an official roster after having met predetermined qualifications.

Subp. 18. **Registration by equivalency.** "Registration by equivalency" means a method of registration described in part 4760.0060, subpart 1, by which an individual who possesses credentialing from the National Board for Respiratory Care or other national credentialing organization approved by the board may qualify for Minnesota registration.

Subp. 19. **Registration by reciprocity.** "Registration by reciprocity" means a method of registration described in part 4760.0060, subpart 2, by which an individual who possesses a credential from another jurisdiction may qualify for Minnesota registration.

Subp. 20. **Respiratory care.** "Respiratory care" means the provision of services described under part 4760.0040 for the assessment, treatment, management, diagnostic evaluation, and care of patients with deficiencies, abnormalities, and diseases of the cardiopul-

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monary system, under the guidance of a qualified medical director and pursuant to a referral from a physician who has medical responsibility for the patient.

Subp. 21. **Respiratory care practitioner.** "Respiratory care practitioner" means an individual who engages in respiratory care as defined in subpart 20, meets the qualifications of parts 4760.0010 to 4760.0300, and registers with the board.

Subp. 22. **Temporary registration.** "Temporary registration" means a method of registration described in part 4760.0060, subpart 3, by which an individual who has completed an approved education program but has not met the examination requirement may qualify for Minnesota registration pending completion of the required examination.

Subp. 23. **Transitional registration.** "Transitional registration" means a method of registration described in part 4760.0060, subpart 4, in effect for a limited time, by which an individual who has not completed an approved education program and does not possess a credential from a national credentialing organization approved by the board or from another jurisdiction may qualify for Minnesota registration.

4760.0020 PURPOSE.

The purpose of parts 4760.0010 to 4760.0300 is to establish the administrative structure, procedures, and requirements for the registration and regulation of individuals seeking to be qualified as respiratory care practitioners in Minnesota.

4760.0030 PROTECTED TITLES AND RESTRICTIONS ON USE.

Subpart 1. **Protected titles.** No individual may use the titles "Minnesota Registered Respiratory Care Practitioner," "Registered Respiratory Care Practitioner," "Respiratory Care Practitioner," or use, in connection with the individual's name, the letters "R.C.P." or any other words, letters, abbreviations, or insignia indicating or implying that the individual is registered by the state unless they have been registered as a respiratory care practitioner according to parts 4760.0010 to 4760.0300.

Subp. 2. **Health care practitioners.** Individuals practicing in a health care occupation are not restricted in the provision of services included in part 4760.0040 as long as they do not hold themselves out as a respiratory care practitioner by or through the use of the titles provided in subpart 1 in association with provision of these services.

Subp. 3. **Identification of registered practitioners.** Respiratory care practitioners registered in Minnesota shall wear a name tag that identifies them as a registered respiratory care practitioner.

Subp. 4. **Sanctions.** Individuals who hold themselves out as a respiratory care practitioner by or through the use of any title provided in subpart 1 without prior registration according to parts 4760.0010 to 4760.0300 shall be subject to sanctions or action against continuing the activity according to *Minnesota Statutes*, section 214.11, or other statutory authority.

4760.0040 SCOPE OF PRACTICE.

Subpart 1. **Scope of services.** The practice of respiratory care by a registered respiratory care practitioner includes, but is not limited to, the following services:

A. obtaining physiological specimens and interpreting physiological data including:

- (1) analyzing arterial blood gas;
- (2) analyzing respiratory secretions;
- (3) measuring ventilatory volumes, pressures, and flows;
- (4) testing pulmonary function;
- (5) testing and studying the cardiopulmonary system; and
- (6) diagnostic testing of breathing patterns related to sleep disorders;

B. therapeutic application and monitoring of the administration of medical gases (exclusive of general anesthesia), aerosols, humidification, and pharmacological agents related to respiratory care procedures;

C. therapeutic application and monitoring of mechanical ventilatory support;

D. cardiopulmonary rehabilitation including postural drainage, chest physiotherapy, and breathing exercises;

E. cardiopulmonary resuscitation and maintenance of natural airways and insertion and maintenance of artificial airways;

F. hemodynamic monitoring of the cardiopulmonary system;

G. observing and monitoring signs and symptoms, general behavior, and general physical response to respiratory care treatment and diagnostic testing, including determination of whether the signs, symptoms, reactions, behavior, or general response exhibit abnormal characteristics;

H. observing and making suggestions for modifications in the treatment regimen based on abnormalities, protocols, or changes in patient response to respiratory care treatment;

I. instructing patients and their families in techniques for the prevention, alleviation, and rehabilitation of deficiencies, abnormalities, and diseases of the cardiopulmonary system; and

J. transcribing and implementing physician orders for respiratory care services.

Subp. 2. **Physician referral required.** Respiratory care services provided by a registered respiratory care practitioner, whether delivered in a health care facility or the patient's place of residence, must not be provided except upon referral from a physician.

4760.0050 GENERAL REGISTRATION REQUIREMENTS.

Subpart 1. **General requirements.** To be eligible for registration, each applicant for registration must:

A. Submit a completed application on forms provided by the board along with all fees required under part 4760.0300. The application must include:

- (1) the applicant's name, social security number, home address and telephone number, business address and telephone number, and business setting;
- (2) the name and location of the respiratory care education program the applicant completed for registration;
- (3) a list of the degrees received from educational institutions;
- (4) a description of the applicant's professional training beyond first degree received;
- (5) the applicant's work history for the five years preceding the application, including the average number of hours worked per week;
- (6) a list of any credentials held in other jurisdictions;
- (7) a description of any other jurisdiction's refusal to credential the applicant;
- (8) a description of all professional disciplinary actions initiated against the applicant in any jurisdiction; and
- (9) any history of drug or alcohol abuse, and any misdemeanor or felony conviction.

B. Submit a certificate of completion from an approved education program.

C. Achieve a qualifying score on a credentialing examination.

D. Submit additional information as requested by the board.

E. Sign a statement that the information in the application is true and correct to the best of the applicant's knowledge and belief.

F. Sign a waiver authorizing the board to obtain access to the applicant's records in this or any other state in which the applicant has completed an approved education program or engaged in the practice of respiratory care.

Subp. 2. **Applicant responsibility.** The applicant is responsible for making arrangements to take the credentialing examination, bearing all expenses associated with taking the credentialing examination, and signing a release to have the credentialing examination scores sent directly to the board from the National Board for Respiratory Care or other national testing service approved by the board.

4760.0060 EXCEPTIONS TO GENERAL REGISTRATION REQUIREMENTS.

Subpart 1. **Registration by equivalency.** To be eligible for registration by equivalency, the applicant must:

A. submit the application materials and fees as required under part 4760.0050, subpart 1, items A, D, E, and F; and

B. provide a verified copy from the National Board for Respiratory Care of a valid and current credential as a registered respiratory therapist or certified respiratory therapy technician.

Subp. 2. **Registration by reciprocity.** The board may issue temporary registration to an applicant for registration by reciprocity. To be eligible for registration by reciprocity, the applicant must:

A. submit the application materials and fees as required by part 4760.0050, subpart 1, items A, D, E, and F;

B. provide a verified copy from the appropriate government body of a current and unrestricted credential for the practice of respiratory care in another jurisdiction that has initial credentialing requirements equivalent to or higher than the requirements in part 4760.0050; and

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C. provide letters of verification from the appropriate government body in each jurisdiction in which the applicant holds a credential. Each letter must state the applicant's name, date of birth, credential number, date of issuance, a statement regarding disciplinary actions, if any, taken against the applicant, and the terms under which the credential was issued.

Subp. 3. **Temporary registration.** The board may issue temporary registration as a respiratory care practitioner to qualified applicants.

A. Except as provided in subpart 2, item A, relating to registration by reciprocity, an applicant for temporary registration must submit the application materials and fees as required by part 4760.0050, subpart 1, items A, B, D, E, and F.

B. Temporary registration as a respiratory care practitioner is issued for a period of one year. A respiratory care practitioner with temporary registration may qualify for full registered status upon submission of verified documentation that the respiratory care practitioner has achieved a qualifying score on a credentialing examination within one year after receiving temporary registered status.

C. A respiratory care practitioner with temporary registration is limited to working under the direct supervision of a registered respiratory care practitioner or qualified medical director as defined in part 4760.0010, subpart 12. A registered respiratory care practitioner may supervise no more than two respiratory care practitioners with temporary registration status.

Subp. 4. **Transitional registration.** For two years after the effective date of parts 4760.0010 to 4760.0300, an applicant may qualify for transitional registration by fulfilling the requirements of items A and B. The board shall notify potential registrants of the date that parts 4760.0010 to 4760.0300 are effective, signifying the beginning of this period and of the final date for submitting an application for transitional registration. Applications for registration under this subpart will not be accepted after the expiration of the two-year period. To be eligible for registration under the transitional requirements, the applicant must meet the requirements of items A and B.

A. The individual must submit the application materials and fees as required by part 4760.0050, subpart 1, items A, D, E, and F.

B. The individual must:

(1) obtain documentation from a qualified medical director verifying employment consisting of the performance of respiratory care procedures for at least 21 hours per week in respiratory care for four of the five years preceding the application under the supervision of a qualified medical director. This documentation must include identification of employment setting, diagnoses of patients seen for respiratory care, the type and frequency of procedures performed, and the type and frequency of diagnostic evaluations performed; or

(2) achieve a qualifying score on the credentialing examination within the two-year transitional registration period.

4760.0065 BOARD ACTION ON APPLICATIONS FOR REGISTRATION.

The board shall act on each application for registration according to items A to D.

A. The board shall determine if the applicant meets the requirements for registration under part 4760.0050, subpart 1 or under part 4760.0060, subpart 1, 2, 3, or 4. The board or advisory council may investigate information provided by an applicant to determine whether the information is accurate and complete.

B. The board shall determine the qualifying score on the credentialing examination based on guidelines provided by the National Board for Respiratory Care or the advisory council.

C. The board shall notify each applicant in writing of action taken on the application and of the grounds for denying registration if registration is denied.

D. Applicants denied registration may make a written request to the board, within 30 days of the board's notice, to appear before the advisory council and for the advisory council to review the board's decision to deny the applicant's registration. After reviewing the denial, the advisory council shall make a recommendation to the board as to whether the denial shall be affirmed. Each applicant is allowed only one request for review per yearly registration period.

4760.0070 REGISTRATION RENEWAL.

Subpart 1. **Renewal requirements.** To be eligible for registration renewal, a registrant must:

A. Submit a completed application for registration renewal on forms provided by the board along with the fees required under part 4760.0300. The application must include the registrant's name, Minnesota registration number, home address and telephone number, business address and telephone number, business setting, work history for the past year including the average number of hours worked per week, and a report of any change in status since registration or previous registration renewal.

B. Submit proof of having met the continuing education requirements of part 4760.0090 every two years.

C. Submit additional information as requested by the board.

Subp. 2. **Renewal deadline.** Registration must be renewed annually.

A. An application for registration renewal must be received in the board office or postmarked on or before July 1 each year. If the postmark is illegible, the application will be considered timely if received by the third working day after July 1.

B. An application for registration renewal submitted after the deadline date must be accompanied by a late fee in addition to the fees required under part 4760.0300.

Subp. 3. **Registration renewal notice.** No later than June 1 of each year, the board shall send out a renewal notice to the registrant's last known address on file with the board. The notice shall include an application for registration renewal and notice of fees required for renewal. The registrant's failure to receive notice shall not relieve the registrant of the obligation to meet the deadline and other requirements for registration renewal.

Subp. 4. **Registration following lapse of registered status for two years or less.** For any registrant whose registered status has lapsed for two years or less, the registrant must:

A. apply for registration renewal according to subpart 1;

B. document compliance with the continuing education requirements of part 4760.0090 since the registrant's initial registration or last renewal; and

C. submit the fees required under part 4760.0300 and the fee for late renewal along with the application for registration renewal.

Subp. 5. **Registration following lapse of registered status of more than two years.** Registered status expires for any individual who has failed to renew registration for more than two years. To regain registered status, the individual must meet the requirements of items A and B.

A. The individual must submit the completed application required for initial registration along with the required fees.

B. The individual must:

(1) submit verified documentation of having achieved a qualifying score on a credentialing examination administered within the past year by the National Board for Respiratory Care or other national testing service approved by the board or sign a release to have the credentialing examination results sent directly to the board; or

(2) attend continuing education hours equivalent to 12 hours for each year of lapsed registration before submitting an application to regain registered status.

Subp. 6. **Notice of expiration of registered status.** At least 30 days before the expiration of registered status, the board shall send out a notice to the registrant's last known address on file with the board informing the registrant that registration will expire without further action by the board if an application for registration renewal is not received before the deadline for renewal. The registrant's failure to receive this notice shall not relieve the registrant of the obligation to meet the deadline and other requirements for registration renewal. Failure to receive this notice is not grounds for challenging expiration of registered status.

4760.0080 CHANGE OF ADDRESS.

A registrant who changes addresses must immediately inform the board, in writing, of the change of address. All notices or other correspondence mailed to or served on a registrant by the board at the registrant's address on file with the board shall be considered as having been received by the registrant.

4760.0090 CONTINUING EDUCATION REQUIREMENTS.

Subpart 1. **Number of contact hours required.** Two years after the date of initial registration, and every two years thereafter, a registrant applying for registration renewal must complete a minimum of 24 contact hours of board approved continuing education in the two years preceding registration renewal and attest to completion of continuing education requirements by reporting to the board.

Subp. 2. **Approved programs.** The board shall approve continuing education programs that have been approved for continuing education credit by the American Association of Respiratory Care or the Minnesota Society for Respiratory Care. The board will also approve programs substantially related to respiratory care that are sponsored by an accredited university or college, medical school, state or national medical association, national medical specialty society, or that are approved for continuing education credit by the Minnesota Board of Nursing.

Subp. 3. **Approval of continuing education programs.** The board shall approve continuing education programs that do not meet the requirements of subpart 2 but that meet the criteria in items A to E.

A. The program content directly relates to the practice of respiratory care.

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Proposed Rules

B. Each member of the program faculty is knowledgeable in the subject matter as demonstrated by a degree from an accredited education program, verifiable experience in the field of respiratory care, special training in the subject matter, or experience teaching in the subject area.

C. The program lasts at least one contact hour.

D. There are specific, measurable, written objectives, consistent with the program, describing the expected outcomes for the participants.

E. The program sponsor has a mechanism to verify participation and maintains attendance records for three years.

Subp. 4. **Hospital inservices.** Hospital inservices may qualify for continuing education credits provided they meet the requirements of subpart 3.

Subp. 5. **Accumulation of contact hours.** A registrant cannot apply contact hours acquired in one two-year reporting period to a future continuing education reporting period.

Subp. 6. **Verification of continuing education credits.** The board shall periodically select a random sample of registrants and require those registrants to supply the board with evidence of having completed the continuing education to which they attested. Documentation may come directly from the registrant or from state or national organizations that maintain continuing education records.

Subp. 7. **Restriction on continuing education topics.** A registrant may apply no more than a combined total of eight hours of continuing education in the areas of management, risk management, personal growth, and educational techniques to a two-year reporting period.

Subp. 8. **Credit for credentialing examination.** A registrant may fulfill the continuing education requirements for a two-year reporting period by completing one of the credentialing examinations of the National Board for Respiratory Care. A registrant may achieve 12 hours continuing education credit by completing a National Board for Respiratory Care specialty examination.

4760.0100 DISCIPLINARY PROCESS.

Subpart 1. **Investigation of complaints.** According to *Minnesota Statutes*, section 214.13, subdivision 6, upon receipt of a complaint or other communication that alleges or implies a violation of parts 4760.0010 to 4760.0300 by an applicant or registrant, the board shall follow the procedures in *Minnesota Statutes*, section 214.10.

Subp. 2. **Grounds for disciplinary action.** The board may refuse to register an applicant or may take against a registrant any of the disciplinary actions listed in subpart 3 upon any of the following grounds:

A. submission of false or misleading information or credentials in order to obtain or renew registration;

B. failure to meet the requirements for registration or renewal of registration;

C. provision of respiratory care services in a manner that falls below the community standard of care;

D. violation of parts 4760.0010 to 4760.0300;

E. demonstration of an inability to practice respiratory care with reasonable skill and safety to patients by reason of illness, or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills;

F. failure to cooperate with an investigation by the board;

G. conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea of any offense that is reasonably related to the practice of respiratory care or that bears upon the individual's ability to perform as a respiratory care practitioner as evidenced by a certified copy of conviction;

H. aiding or abetting another person in violating any provisions of parts 4760.0010 to 4760.0300;

I. subjection to disciplinary action by an agency or board of another state for respiratory care activities;

J. engagement in dishonest, unethical, or unprofessional conduct while in the practice of respiratory care that is likely to deceive, defraud, or harm the public;

K. violation of any state or federal law, rule, or regulation that reasonably relates to the practice of respiratory care;

L. engagement in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient;

M. misuse of alcohol, drugs, narcotics, chemicals, or any other substance;

N. violation of any disciplinary order issued by the board; or

O. any other just cause related to the practice of respiratory care.

Subp. 3. **Disciplinary actions.** Upon finding that grounds for disciplinary action exist under subpart 2, the board may take any one or more of the following actions or any lesser action:

- A. refuse to grant or renew registration;
- B. revoke registration;
- C. suspend registration;
- D. administer a reprimand;
- E. condition, limit, or restrict registration; or
- F. any other action justified by the facts of the case.

4760.0200 RESPIRATORY CARE PRACTITIONER ADVISORY COUNCIL.

Subpart 1. **Membership.** Subject to approval by the board, the commissioner shall appoint a seven-member Respiratory Care Practitioner Advisory Council consisting of the following:

- A. two public members as defined in *Minnesota Statutes*, section 214.02;
 - B. three members who meet the requirements of parts 4760.0010 to 4760.0300 for registration as respiratory care practitioners;
- and
- C. two members who are licensed physicians with expertise in the area of respiratory care.

Subp. 2. **Organization.** The advisory council shall be organized and administered under *Minnesota Statutes*, section 15.059.

Subp. 3. **Duties.** The advisory council shall:

- A. advise the board regarding standards for respiratory care practitioners;
- B. provide for distribution of information regarding respiratory care practitioner standards;
- C. advise the board on enforcement of parts 4760.0010 to 4760.0300;
- D. review applications and recommend granting or denying registration or registration renewal;
- E. receive and process complaints according to *Minnesota Statutes*, sections 214.10 and 214.13, subdivisions 6 and 7;
- F. review reports of investigations of complaints and recommend to the board whether disciplinary action should be taken;
- G. advise the board regarding approval of continuing education programs using the criteria in part 4760.0090, subpart 3; and
- H. perform other duties authorized for advisory councils by *Minnesota Statutes*, chapter 214, as directed by the board.

4760.0300 FEES.

Subpart 1. **Registration fee.** The fee for initial registration and annual registration renewal shall be \$59.

Subp. 2. **Proration of fees.** The board shall prorate registration fees for first time registrants as follows:

- A. first time registrants applying between July 1 and December 31 shall pay the full registration fee;
- B. first time registrants applying between January 1 and June 30 shall pay one-half the registration fee.

All registrants are required to pay the full fee upon registration renewal.

Subp. 3. **Penalty fee for late renewals.** The penalty fee for late submission of a renewal application shall be \$15.

Subp. 4. **Surcharge.** For a period of five years following the effective date of parts 4760.0010 to 4760.0300, each applicant for initial registration and each registrant applying for registration renewal must pay a surcharge fee of \$19.

Subp. 5. **Nonrefundable fees.** All of the above fees are nonrefundable.

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Proposed Rules

Higher Education Coordinating Board

Proposed Permanent Rules Relating to Public Safety Officer's Survivor Grant Program; Prenursing Grant Program

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Higher Education Coordinating Board intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is in *Minnesota Statutes* 136A.04, Subd. 1(9), 136A.16, and 136A.234.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Mary Lou Dresbach
Minnesota Higher Education Coordinating Board
Capitol Square Building, Suite 400
550 Cedar Street
St. Paul, MN 55101
(612) 296-9656

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for the reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mary Lou Dresbach upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Mary Lou Dresbach.

Dated: 18 December 1990

David R. Powers
Executive Director
Minnesota Higher Education
Coordinating Board

Rules as Proposed (all new material)

PUBLIC SAFETY OFFICER'S SURVIVOR GRANT PROGRAM

4830.8000 SCOPE.

Parts 4830.8000 to 4830.8040 govern state postsecondary education grants to spouses and dependent children of public safety officers killed in the line of duty.

4830.8010 ELIGIBLE INSTITUTIONS.

A student receiving a grant from the Public Safety Officer's Survivor Grant Program must attend a postsecondary institution that is an eligible institution as defined in *Minnesota Statutes*, section 136A.101, subdivision 4, and part 4830.0300, subparts 1 and 2, as limited by *Minnesota Statutes*, section 299A.45, subdivision 1.

4830.8020 ELIGIBLE RECIPIENT.

To be eligible for a grant, the person must:

- A. be enrolled in an eligible institution as specified in part 4830.8010;
- B. not have received a baccalaureate degree, nor have been enrolled full time or the equivalent for eight semesters or 12 quarters, whichever occurs first; and
- C. provide a copy of the certification of eligibility received from the commissioner of public safety to the eligible institution.

4830.8030 INSTITUTIONAL REQUEST AND DISBURSEMENT OF FUNDS FOR GRANTS.

Subpart 1. **Institutional request.** After verifying a student's eligibility, the institution must submit a written request to the executive director for payment of grant money for the student. A separate request must be submitted for each academic term the student is enrolled. A copy of the student's certificate of eligibility from the commissioner of public safety must accompany the institution's first request for payment.

Subp. 2. **Deadline.** The request for grant money for a student must be received by the executive director no later than the last day of classes for the academic year for which grant money is requested.

Subp. 3. **Disbursement of funds.** An institution must not disburse grant money for a student unless the student is enrolled in or has completed the academic term for which payment is intended.

Subp. 4. **Refunds.** A grant award is made for a student's attendance at a specific institution for the nine-month academic year within the state fiscal year. If a recipient fails to enroll or reduces enrollment, the institution must refund the unused portion of the award to the executive director. Refunded money is available for awards to other eligible students.

4830.8040 PAYMENTS TO INSTITUTIONS.

Subpart 1. **Time of payment.** The executive director shall send grant money for an eligible student to the institution within 30 days of receipt of a request for payment, but not before July 1 of the academic year for which payment is intended.

Subp. 2. **Withholding payment.** The executive director shall withhold payment for a student until the institution's request for payment is complete and the student's eligibility is verified.

PRENURSING GRANT PROGRAM**4830.8510 SCOPE.**

Parts 4830.8510 to 4830.8580 apply to the program of state grants for prenursing students.

4830.8520 STUDENT MUST AGREE TO SERVE IN RURAL AREA.

Before a student receives a grant under the program, the student must agree to serve in a designated rural area in Minnesota. The agreement must be to serve there at least three of the first five years after receiving the license that the grant is used to get.

4830.8530 SERVICE CREDIT AFTER DESIGNATION REMOVED.

In satisfying the service requirements under the program, a grant recipient shall continue to receive credit for serving in a designated rural area even if the designation is removed after the recipient begins serving there.

4830.8540 RANKING APPLICANTS.

Subpart 1. **Classification of applicants.** Each applicant must be placed in one of the following classifications:

- A. renewal applicant residing in a designated rural area attending an eligible postsecondary institution outside the seven-county metropolitan area;
- B. renewal applicant residing in a designated rural area attending an eligible postsecondary institution within the seven-county metropolitan area;
- C. renewal applicant not residing in a designated rural area attending an eligible postsecondary institution outside the seven-county metropolitan area;
- D. renewal applicant not residing in a designated rural area attending an eligible postsecondary institution within the seven-county metropolitan area;

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E. initial applicant residing in a designated rural area attending an eligible postsecondary institution outside the seven-county metropolitan area, and has not previously been enrolled in any nursing program or coursework;

F. initial applicant residing in a designated rural area attending an eligible postsecondary institution within the seven-county metropolitan area, and has not previously been enrolled in any nursing program or coursework;

G. initial applicant not residing in a designated rural area attending an eligible postsecondary institution outside the seven-county metropolitan area, and has not previously been enrolled in any nursing program or coursework;

H. initial applicant not residing in a designated rural area attending an eligible postsecondary institution within the seven-county metropolitan area, and has not previously been enrolled in any nursing program or coursework;

I. initial applicant residing in a designated rural area attending an eligible postsecondary institution outside the seven-county metropolitan area, and has been previously enrolled in a nursing program or completed some nursing coursework;

J. initial applicant residing in a designated rural area attending an eligible postsecondary institution within the seven-county metropolitan area, and has been previously enrolled in a nursing program or completed some nursing coursework;

K. initial applicant not residing in a designated rural area attending an eligible postsecondary institution outside the seven-county metropolitan area, and has been previously enrolled in a nursing program or completed some nursing coursework; and

L. initial applicant not residing in a designated rural area attending an eligible postsecondary institution within the seven-county metropolitan area, and has been previously enrolled in a nursing program or completed some nursing coursework.

Applicants will be awarded in the order of the classifications listed above.

Subp. 2. **Ranking of applicants.** Within each of the classifications specified in subpart 1, grant applicants are ranked according to parental contribution. Applicants with the least parental contribution are awarded first.

Subp. 3. **Insufficient funds.** If insufficient funds are available to meet the needs of all eligible applicants, the executive director shall make award to applicants in the order specified in subparts 1 and 2.

4830.8550 AWARDS.

The amount of the grant award is a percentage of the sum of the student's Pell grant and state grant for which the student is currently eligible. The percentage must be determined annually by the executive director based upon the money available to the program from state appropriations and the estimated financial need of the student.

4830.8560 METHOD OF PAYMENT.

Subpart 1. **Payments to schools.** After a grant award is determined, the award must be sent to the eligible school chosen by the recipient. A recipient's total prenursing grant award must be divided by the number of terms in the academic year and disbursed accordingly. The school shall apply each disbursement to the recipient's educational costs in the following order: tuition, fees, books, supplies, and other expenses. The costs must be prorated for each term of the academic year. The school shall notify the recipient when each term payment arrives at the school.

Subp. 2. **Refunds.** A grant is awarded for full-time attendance at a specified school for the academic year of nine months within a state fiscal year. If a recipient fails to enroll or reduces enrollment, the school must refund the unused portion of the award. Refunds to the prenursing grant program are determined as provided in items A and B:

A. calculate the percentage that the prenursing grant award represents of the student's total financial aid package for the applicable term; and

B. multiply that percentage by the amount determined to be refunded to the student under the school's refund policy.

The result yields the amount to be refunded to the executive director. Refunded money is available for reassignment to other qualified applicants.

Subp. 3. **School accounting requirements.** Schools shall maintain separate accounts for prenursing grant funds. Refunds to the prenursing grant program must be sent to the executive director with a list stating the social security number, name, award type, amount of refund, term, and refund code for each student included in the refund. The refund must be made within 30 days from the end of the academic term, or 30 days from the date the school is notified of a student's withdrawal, whichever is less. Schools must provide evidence, prepared according to generally accepted accounting principles, that all grant payments have either been disbursed or refunded to the prenursing grant program.

4830.8570 RECIPIENT RESPONSIBILITIES.

Subpart 1. **Change of address.** From the time a grant recipient first receives a grant until five years after the nursing license is received, the recipient must notify the executive director in writing of a change of address within 30 days of the change.

Subp. 2. **Service status verification.** Each year for up to five years after the nursing license is received, on request of the executive director, a grant recipient must complete and return to the executive director a service status verification form provided by the executive director.

4830.8580 INFORMATION; FORMS; TERMS.

Subpart 1. **Additional information.** The executive director or an agent may require additional information not inconsistent with parts 4830.8510 to 4830.8570 to administer the program. The additional information may be required from grant applicants or recipients or eligible institutions.

Subp. 2. **Additional requirements.** The executive director may impose on a grant recipient under the program terms in an agreement required to be signed by the grant recipient in addition to those set out in parts 4830.8510 to 4830.8570 as a condition of receiving the grant.

An additional term must not be inconsistent with the terms required by parts 4830.8510 to 4830.8570. An additional term must be helpful, in the judgment of the director, to administer or enforce the program.

Subp. 3. **Forms.** The executive director may provide to grant applicants and recipients and eligible institutions and require the use of uniform forms in the administration of the program.

Department of Human Services

Proposed Permanent Rules Relating to Surveillance and Utilization Review of Medical Assistance Services

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Department of Human Services, Rooms 5A and 5B, 444 Lafayette Road, St. Paul, MN 55155 on February 13, 1991 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Peter C. Erickson, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7606 either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge, may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, section 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.01 to 14.56 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Minnesota Rules, parts 9505.2160 to 9505.2245 govern the procedures used by the department in identifying and investigating fraud, theft, or abuse by providers or recipients of health services through the medical assistance, general assistance medical care, consolidated chemical dependency treatment, children's health plan, and catastrophic health expense protection programs, home and community-based services, or any other health service program administered by the department. Additionally, parts 9505.2160 to 9505.2245 establish standards applicable to the imposition of sanctions against providers and recipients. The proposed parts will: define abuse, fraud, primary care case manager, restriction of a provider, restriction of a recipient, suspension, terminating participation, and theft; set standards for health service records kept by providers; set standards for financial records required of providers including long-term care facilities; require recipients and providers to grant the department access to health service and financial records; set standards for retention and copying of records; authorize activities related to the department's monitoring and investigative functions; authorize the department to take certain postinvestigative actions; specify the administrative sanctions the commissioner may impose and the factors to be considered in imposing the administrative sanctions; authorize monetary recovery from providers;

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Proposed Rules

specify how to calculate the amount of the monetary recovery; require the department to notify providers and recipients of monetary recoveries and administrative sanctions; state the grounds for suspending or withholding payment to providers; state the effect of suspension or termination as a provider; allow application for reinstatement as a provider; permit restriction of a provider and of a recipient to certain services; require the department to notify the general public and professional societies and boards about administrative sanctions of a provider; and specify the right of a provider and a recipient to appeal any sanction imposed by the department.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 256B.04, subdivisions 2, 4, and 10.

In preparing these rules, the agency has considered the requirements of *Minnesota Statutes*, section 14.115 in regard to the impact of the proposed rules on small businesses. The agency believes that *Minnesota Statutes*, section 14.115 does not apply to these rules but in the event that section 14.115 does apply, the agency invites the public to comment at the public hearing. Furthermore, if any person knows of anyone who may be affected as a small business, the person may address this concern at the public hearing.

Adoption of these rules will not result in additional spending by local public bodies for the first two years following adoption under *Minnesota Statutes*, section 14.11.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to:

Nancy Bishop
Rules and Bulletins Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816
(612) 296-7454

A copy of the rule may also be viewed at any of the 87 county welfare agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact:

Eleanor Weber
Rules and Bulletins Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816
(612) 297-4301

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so request at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state.

NOTICE IS HEREBY GIVEN that a statement of need and reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials; or

(b) who spends more than \$250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Ann Wynia
Commissioner

Rules as Proposed (all new material)**SURVEILLANCE AND UTILIZATION REVIEW OF MEDICAL ASSISTANCE SERVICES****9505.2160 SCOPE AND APPLICABILITY.**

Subpart 1. **Scope.** Parts 9505.2160 to 9505.2245 govern procedures to be used by the department in identifying and investigating fraud, theft, or abuse by providers or recipients of health services through the medical assistance, general assistance medical care, consolidated chemical dependency treatment, children's health plan, catastrophic health expense protection programs, home and community-based services under a waiver from the Health Care Financing Administration of the United States Department of Health and Human Services, or any other health service program administered by the department, and for the imposition of sanctions against providers and recipients of health services. Additionally, parts 9505.2160 to 9505.2245 establish standards applicable to the health service and financial records of providers of health services through medical assistance, general assistance medical care, consolidated chemical dependency treatment, children's health plan, or catastrophic health expense protection programs.

Parts 9505.2160 to 9505.2245 must be read in conjunction with titles XVIII and XIX of the Social Security Act; Code of Federal Regulations, title 42; *Minnesota Statutes*, chapters 62E, 145, 256, 256B, 256D, and 609; parts 9500.1070, 9505.0010 to 9505.0491, 9505.0500 to 9505.0540, 9505.1000 to 9505.1040, 9505.1100 to 9505.1380, 9505.2390 to 9505.2500, 9505.3010 to 9505.3230, 9505.5000 to 9505.5105, 9530.6800 to 9530.7030; and other rules of the department establishing health service standards for a program.

Subp. 2. **Applicability.** Parts 9505.2160 to 9505.2245 apply to local agencies, providers participating in a program, and recipients of health services through a program.

9505.2165 DEFINITIONS.

Subpart 1. **Scope.** The terms in parts 9505.2160 to 9505.2245 shall have the meanings given them in this part and in part 9505.0175, the medical assistance definitions.

Subp. 2. **Abuse.** "Abuse" means:

A. in the case of a provider, practices that are inconsistent with sound fiscal, business, or health service practices, and that result in unnecessary costs to the programs, or in reimbursements for services that are not medically necessary or that fail to meet professionally recognized standards for health service. Abuse by a provider is characterized by, but not limited to:

- (1) submitting claims from which required information is missing or incorrect;
- (2) submitting claims using procedure codes which overstate the level or amount of health service provided;
- (3) submitting claims for health services which are not reimbursable under the programs;
- (4) submitting duplicate claims for the same health service provided to the same recipient;
- (5) submitting claims for health services that do not comply with part 9505.0210 and, if applicable, part 9505.0215;
- (6) submitting claims for health services which exceed those requested or agreed to by the recipient or the recipient's responsible relative or guardian or the standard required by federal or state law or rule for a program;
- (7) failing to develop and maintain health service records as required under part 9505.2175;
- (8) failing to use generally accepted accounting principles or other accounting methods which relate entries on the recipient's health service record to corresponding entries on the billing invoice, unless another accounting method or principle is required by federal or state law or rule;
- (9) failing to disclose or make available to the department the recipient's health service records or the provider's financial records as required by part 9505.2180;
- (10) failing to properly report duplicate payments from third party payers for covered services provided to a recipient under a program and billed to the department;
- (11) failing to obtain information and assignment of benefits as specified in part 9505.0070, subpart 3, or to bill Medicare as required by part 9505.0440;
- (12) failing to keep financial records as required under part 9505.2180;

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(13) submitting or causing submission of false information for the purpose of obtaining prior authorization, inpatient hospital admission certification under parts 9505.0500 to 9505.0540, or a second surgical opinion as required under part 9505.5035;

(14) submitting a false or fraudulent application for provider status;

(15) continuing to engage in a practice that is abusive of a program after receiving the department's written warning that the conduct must cease;

(16) soliciting, charging, or receiving payments from recipients or nonmedical assistance sources, in violation of Code of Federal Regulations; title 42, section 447.15, or part 9505.0225, for services for which the provider has received reimbursement from or should have billed to the program;

(17) payment by a provider of program funds to a vendor suspended or terminated from program participation;

(18) billing a program for services after entering into an agreement with a third party payer to accept an amount in full satisfaction of the payer's liability; or

B. in the case of a recipient, the use of health services that results in unnecessary costs to the programs, or in reimbursements for services that are not medically necessary. Abuse by a recipient is characterized by, but not limited to, the presence of one of the following conditions:

(1) obtaining equipment, supplies, drugs, or health services that are in excess of program limitations or that are not medically necessary and that are paid for through a program;

(2) obtaining duplicate services for the same health condition from a multiple number of providers. Duplicate service does not include an additional opinion that is medically necessary for the diagnosis, evaluation, or assessment of the recipient's condition or required under program rules, or a service provided by a school district as specified in the recipient's individualized education plan under *Minnesota Statutes*, section 256B.0625, subdivision 26;

(3) continuing to engage in practices that are abusive of the program after receiving the department's written warning that the conduct must cease;

(4) altering or duplicating the medical identification card in any manner;

(5) using a medical identification card that belongs to another person;

(6) using the medical identification card to assist an unauthorized individual in obtaining a health service for which a program is billed;

(7) duplicating or altering prescriptions;

(8) misrepresenting material facts as to physical symptoms for the purpose of obtaining equipment, supplies, health services, or drugs;

(9) furnishing incorrect eligibility status or information to a provider;

(10) furnishing false information to a provider in connection with health services previously rendered to the recipient which were billed to a program; or

(11) otherwise obtaining health service by false pretenses.

Subp. 3. **Federal share.** "Federal share" means the percent of federal financial participation in the cost of the state's medical assistance program.

Subp. 4. **Fraud.** "Fraud" means medical assistance fraud as defined in *Minnesota Statutes*, section 609.466.

Subp. 5. **Health services.** "Health services" has the meaning given in part 9505.0175, subpart 14.

Subp. 6. **Health service record.** "Health service record" means written or diagrammed documentation of the nature, extent, and evidence of the medical necessity of a health service provided to a recipient by a provider and billed to a program.

Subp. 7. **Primary care case manager.** "Primary care case manager" means a provider designated by the department who is a physician or a group of physicians, who is employed by or under contract with the Department of Human Services, and who is responsible for the direct care of a recipient, and for coordinating and controlling access to or initiating or supervising other health care services needed by the recipient.

Subp. 8. **Program.** "Program" means the Minnesota medical assistance program, the general assistance medical care program, catastrophic health expense protection program, children's health plan, consolidated chemical dependency program, home and community-based services under a waiver from the Health Care Financing Administration of the United States Department of Health and Human Services, or any other health service program administered by the department.

Subp. 9. **Provider.** "Provider" means a vendor of health services as defined in part 9505.0175, subpart 38.

Subp. 10. **Recipient.** "Recipient" means an individual who has been determined eligible to receive health services under a program.

Subp. 11. **Restriction.** "Restriction" means:

A. in the case of a provider, excluding or limiting the scope of the health services for which a provider may receive a payment through a program for a reasonable time; or

B. in the case of a recipient, limiting the recipient's participation in a program for a period of 24 months, to only health services which have been prior authorized, or to health services from a designated primary care case manager or other designated health service providers. The restriction of a recipient must be indicated on the recipient's medical identification card or other form of program identification, under part 9505.0145, subpart 4. For purposes of restriction, designated health service providers do not include skilled or intermediate care nursing services.

Subp. 12. **Suspending participation or suspension.** "Suspending participation" or "suspension" means making a provider ineligible for reimbursement by a program for a stated period of time.

Subp. 13. **Suspending payments.** "Suspending payments" means stopping any or all program payments for health services billed by a provider pending resolution of the matter in dispute between the provider and the department.

Subp. 14. **Terminating participation.** "Terminating participation" means making a provider ineligible for reimbursement by a program.

Subp. 15. **Theft.** "Theft" means the act defined in *Minnesota Statutes*, section 609.52, subdivision 2, clause (3)(c).

Subp. 16. **Third party payer.** "Third party payer" means the term defined in part 9505.0015, subpart 46, and, additionally, Medicare.

Subp. 17. **Withholding payments.** "Withholding payments" means reducing or adjusting the amounts paid to a provider to offset overpayments previously made to the provider.

9505.2170 BULLETINS, MANUALS, AND FORMS RELATED TO PROGRAM.

Subpart 1. **Department issuance.** The department may issue bulletins, manuals, and forms prescribed by the commissioner that are consistent with parts 9505.2160 to 9505.2245 and are needed to assist providers, local agencies, and recipients in complying with parts 9505.2160 to 9505.2245 and other rules of the programs.

Subp. 2. **Provider compliance.** A provider shall comply with the requirements of procedures and forms prescribed by the commissioner under subdivision 1.

9505.2175 HEALTH SERVICE RECORDS.

Subpart 1. **Documentation requirement.** As a condition for payment by a program, a provider must document each occurrence of a health service provided to a recipient. The health service must be documented in the recipient's health service record as specified in subpart 2. Program funds paid for a health service not documented in a recipient's health service record shall be recovered.

Subp. 2. **Required standards for health service records.** A provider must keep a health service record as specified in items A to I.

A. The record must be legible to the individual providing care.

B. The recipient's name must be on each page of the recipient's record.

C. Each entry in the health service record must contain:

(1) the date on which the entry is made;

(2) the date or dates on which the health service is provided;

(3) the length of time spent with the recipient if the amount paid for the service depends on time spent;

(4) the signature and title of the person from whom the recipient received the service; and

(5) when applicable, the countersignature of the provider or the supervisor as required under parts 9505.0170 to 9505.0475.

D. The record must state:

(1) the recipient's case history and health condition as determined by the provider's examination or assessment;

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(2) the results of all diagnostic tests and examinations; and

(3) the diagnosis resulting from the examination.

E. The record must show the quantity, dosage, and name of prescribed drugs ordered for or administered to the recipient.

F. The record must contain reports of consultations that are ordered for the recipient.

G. The record must contain the recipient's plan of care, individual treatment plan, or individual program plan. For purposes of this item, "plan of care" has the meaning given in part 9505.0175, subpart 35; "individual treatment plan" has the meaning given in part 9505.0477, subpart 14; and "individual program plan" has the meaning given in part 9535.0100, subpart 15.

H. The record must report the recipient's progress or response to treatment, and changes in the treatment or diagnosis.

I. The record of a laboratory or X-ray service must document the provider's order for service.

Subp. 3. **Requirements for pharmacy service records.** A pharmacy service record must comply with the requirements of subparts 1 and 2 and *Minnesota Rules*, part 6800.3110, relating to pharmacy licensing and operations, and *Minnesota Rules*, part 6800.3950, relating to electronic data processing of pharmacy records. However, the pharmacy service record must be a hard copy made at the time of the request for service and must be kept for five years as required under part 9505.2190, subpart 1.

Subp. 4. **Requirements for medical transportation service records.** A medical transportation record must meet the requirements of subparts 1 and 2 and must document:

A. the origin, destination, and distance traveled in providing the service to the recipient;

B. the type of transportation; and

C. if applicable, a physician's certification for nonemergency, ancillary, or special transportation services as defined in part 9505.0315, subpart 1, items A and F.

Subp. 5. **Requirements for medical supplies and equipment records.** A medical supplies and equipment record must meet the requirements of subparts 1 and 2 and:

A. must document that the medical supply or equipment meets the criteria in parts 9505.0210 and 9505.0310; and

B. except as provided in part 9505.2190, subpart 1, must contain a hard copy of the provider's order or prescription for the medical supply or equipment and the name and amount of the medical supply or equipment provided for the recipient.

9505.2180 FINANCIAL RECORDS.

Subpart 1. **Financial records required of providers.** The financial records of a provider who receives payment for a recipient's services under a program must contain the material specified in items A to H:

A. accounting records, such as payroll ledgers, canceled checks, and bank deposit slips;

B. contracts for services or supplies that relate to the provider's costs and billings to a program for the recipient's health services;

C. evidence of the provider's charges to recipients and to persons who are not recipients, consistent with the requirements of *Minnesota Statutes*, chapter 13;

D. evidence of claims for reimbursement, payments, settlements, or denials resulting from claims submitted to third party payers or programs;

E. patient appointment books and supervision schedules, if applicable;

F. billing transmittal forms;

G. records showing all persons, corporations, partnerships, and entities with an ownership or control interest in the provider as defined in Code of Federal Regulations, title 42, section 455.101; and

H. employee records for those persons currently employed by the provider or who have been employed by the provider at any time within the previous five years.

Subp. 2. **Additional financial records required for long-term care facilities.** A long-term care facility must maintain:

A. the records required under subpart 1;

B. purchase invoices; and

C. records of the deposits and expenditure of funds in the recipients' resident fund accounts as required under part 9505.0425.

9505.2185 ACCESS TO RECORDS.

Subpart 1. **Recipient's consent to access.** A recipient is deemed to have authorized in writing a provider or others to release to the department for examination, upon the department's request, the recipient's health service and financial records related to services

under a program. The recipient's authorization of the release and review of health service and financial records shall be presumed competent if given in conjunction with the person's application for a program. This presumption shall exist regardless of whether the application was signed by the person or the person's guardian or authorized representative as defined in part 9505.0015, subpart 8.

Subp. 2. **Department access to provider records.** A provider shall grant the department access during the provider's regular business hours to examine health service and financial records related to a health service billed to a program. Access to a recipient's health service record shall be for the purposes in part 9505.2200, subpart 1. The department shall notify the provider no less than 24 hours before obtaining access to a health service or financial record, unless the provider waives notice.

9505.2190 RETENTION OF RECORDS.

Subpart 1. **Retention required; general.** A provider shall retain a health service and financial record related to a health service for which payment under a program was received or billed for at least five years after the date of billing. Microfilm records satisfy the record keeping requirements of this subpart and part 9505.2175, subpart 3, in the fourth and fifth years after the date of billing.

Subp. 2. **Record retention after provider withdrawal or termination.** A provider who withdraws or is terminated from a program must retain or make available to the department on demand the health service and financial records required under subpart 1.

Subp. 3. **Record retention under change of ownership.** If the ownership of a long-term care facility or provider service changes, the transferor, unless otherwise provided by law or written agreement with the transferee, is responsible for maintaining, preserving, and making available to the department on demand the health service and financial records related to services generated before the date of the transfer as required under subpart 1 and part 9505.2185, subpart 2.

Subp. 4. **Record retention in contested cases.** In the event of a contested case, the provider must retain health service and financial records as required by subpart 1 or for the duration of the contested case proceedings, whichever period is longer.

9505.2195 COPYING RECORDS.

The department may photocopy or otherwise duplicate any health service or financial record related to a health service for which a provider makes a claim or receives payment under a program. Photocopying shall be done on the provider's premises unless removal is specifically permitted by the provider. If a provider fails to allow the department to use the department's equipment to photocopy or duplicate any health service or financial record on the premises, the provider must furnish copies at the provider's expense within two weeks of a request for copies by the department.

9505.2200 IDENTIFICATION AND INVESTIGATION OF SUSPECTED FRAUD AND ABUSE.

Subpart 1. **Department investigation.** The department may investigate providers or recipients to monitor compliance with program requirements or to identify fraud, theft, or abuse in the administration of the programs.

Subp. 2. **Contacts to obtain information.** The department may contact persons, agencies, organizations, and others that may be necessary to an investigation under subpart 1. Examples are:

- A. government agencies;
- B. third party payers, including Medicare;
- C. professional review organizations as defined in *Minnesota Statutes*, section 145.61, subdivision 5, or their representatives;
- D. a professional services advisory committee established under part 9505.0185 or its representative;
- E. recipients and their responsible relatives;
- F. providers and persons employed by or under contract to providers;
- G. professional associations of providers and their peers;
- H. recipients and recipient advocacy organizations; and
- I. members of the public.

Subp. 3. **Activities included in department's investigation.** The department's investigation may include, but is not limited to, the activities specified in items A to G:

- A. examination of health service and financial records;
- B. examination of equipment, materials, prescribed drugs, or other items used in or for a recipient's health service under a program;

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- C. examination of prescriptions for recipients;
- D. interviews of contacts specified in subpart 2;
- E. verification of the professional credentials of a provider, the provider's employees, and entities under contract with the provider to provide health services or maintain health service and financial records related to a program;
- F. consultation with the department's peer review mechanisms; and
- G. determination of whether a health service provided to a recipient meets the criteria of parts 9505.0210 and 9505.0215.

Subp. 4. **Determination of investigation.** After completing its investigation under subparts 1 to 3, the department shall determine whether:

- A. the provider or the recipient is in compliance with the requirements of a program;
- B. evidence exists that fraud, theft, or abuse has occurred; or
- C. the evidence of fraud, theft, or abuse supports administrative, civil, or criminal action.

Subp. 5. **Postinvestigation action.** After completing the determination required under subpart 4, the department shall take one or more of the actions specified in items A to F:

- A. close the investigation when no further action is warranted;
- B. impose administrative sanctions according to part 9505.2210;
- C. seek monetary recovery according to part 9505.2215;
- D. refer the investigation to the appropriate state regulatory agency;
- E. refer the investigation to the attorney general or, if appropriate, to a county attorney for possible administrative, civil, or criminal legal action; or
- F. issue a warning that states the practices are potentially in violation of program laws or regulations.

9505.2205 COMMISSIONER TO DECIDE IMPOSITION OF SANCTION.

The commissioner shall decide what sanction shall be imposed against a provider or recipient under part 9505.2210. The commissioner may consider the recipient's personal preferences in the designation of a primary care case manager. In addition, the commissioner shall consider the following factors in determining the sanctions to be imposed:

- A. nature and extent of fraud, theft, or abuse;
- B. history of fraud, theft, or abuse;
- C. willingness of provider or recipient to obey program rules;
- D. actions taken or recommended by other state regulatory agencies; and
- E. in the case of a recipient, the local trade area and access to medically necessary services in the designation of a primary care case manager or other restrictions.

9505.2210 IMPOSITION OF ADMINISTRATIVE SANCTIONS.

Subpart 1. **Authority to impose administrative sanction.** The commissioner may impose administrative sanctions if the department's investigation under part 9505.2200 determines the presence of fraud, theft, or abuse in connection with a program or if the provider or recipient refuses to grant the department access to records as required under part 9505.2185.

Subp. 2. **Nature of administrative sanction.** The actions specified in items A and B are administrative sanctions that the commissioner may impose for the conduct specified in subpart 1.

- A. For a provider, the actions are:
 - (1) referral to the appropriate peer review mechanism;
 - (2) transfer to a provider agreement of limited duration;
 - (3) transfer to a provider agreement which stipulates specific conditions of participation;
 - (4) suspending or terminating the provider's participation;
 - (5) requiring attendance at provider education sessions provided by the department;
 - (6) requiring prior authorization of the provider's services;
 - (7) review of the provider's claims before payment; and
 - (8) restricting the provider's participation in a program.

B. For a recipient, except as provided in subpart 3, the actions are:

- (1) referral for appropriate health counseling to correct inappropriate or dangerous use of health care services;
- (2) restriction of the recipient; and
- (3) referral to the appropriate adult or child protection agency.

Subp. 3. **Emergency health services excepted from restrictions.** Emergency health services provided to a restricted recipient by a provider shall be eligible for payment by a program if the service provided is otherwise eligible for payment by a program. The department may require the provider to provide documentation of the emergency circumstance with the emergency service payment claim.

9505.2215 MONETARY RECOVERY.

Subpart 1. **Authority to seek monetary recovery.** The commissioner may seek monetary recovery:

A. from a provider, if payment for a recipient's health service under a program was the result of fraud, theft, or abuse, or error on the part of the provider, department, or local agency; or

B. from a recipient, if a health service provided under a program was the result of fraud, theft, or abuse, or error on the part of the recipient.

Subp. 2. **Methods of monetary recovery.** The commissioner shall recover money described in subpart 1 by the following means:

- A. permitting voluntary repayment of money, either in lump sum payment or installment payments;
- B. using any legal collection process;
- C. deducting or withholding from program payments money described in subpart 1;
- D. withholding payments to a provider under Code of Federal Regulations, title 42, section 447.21; or
- E. requesting Medicare to withhold payments pending recovery of money described in subpart 1.

Subp. 3. **Interest charges on monetary recovery.** If the department permits the use of installment payments to repay money described in subpart 1, the department may assess interest on the funds to be received at the rate established by the Department of Revenue under *Minnesota Statutes*, section 270.75. Interest may accrue from the effective date of recovery, as specified in part 9505.2230, subpart 2.

9505.2220 USE OF RANDOM SAMPLE EXTRAPOLATION IN MONETARY RECOVERY.

Subpart 1. **Authorization.** For the purpose of part 9505.2215, the commissioner shall be authorized to calculate the amount of monetary recovery from a provider of money erroneously paid based upon extrapolation from systematic random samples of claims submitted by the provider and paid by the program or programs.

Subp. 2. **Decision to use samples.** The department shall decide whether sampling and extrapolation are to be used in calculating a monetary recovery according to the following criteria:

- A. the claims to be sampled represent services to 50 or more recipients; or
- B. there are more than 1,000 claims to be sampled.

Subp. 3. **Sampling method.** The department shall use the methods in items A to D in calculating the amount of monetary recovery by random sample extrapolation.

A. Samples of a given size shall be selected in such a way that every sample of that size shall be equally likely to be selected.

B. Samples shall only be selected from claims for health services provided within the interval that coincides with the interval during which money allegedly was erroneously provided and for which recovery will be made.

C. The sampling method, including sample size, sample selections, and extrapolation from the results of the sample, shall be according to statistical procedures published in the following text: W. Cochran, *Sampling Techniques*, John Wiley and Sons, New York 3rd Ed. (1977). *Sampling Techniques* is incorporated by reference and is available through the Minitex interlibrary loan system.

D. The sample size will be sufficiently large so that the estimate of the amount which would be recovered by a full audit will be within five percent of that amount with 95 percent confidence. The department will recover the amount which would be recovered by a full audit, less the five percent factor lower end point of a (two-sided) 95 percent confidence interval for that amount.

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9505.2225 SUSPENSION OF PROVIDER CONVICTED OF CRIME RELATED TO MEDICARE OR MEDICAL ASSISTANCE.

The commissioner shall suspend a provider who has been convicted of a crime related to Medicare or medical assistance as provided in part 9505.0475. The provider shall be notified as specified in part 9505.0475, subpart 5, and shall have the right to appeal as specified in part 9505.0475, subpart 6.

9505.2230 NOTICE OF AGENCY ACTION.

Subpart 1. **Required written notice.** The department shall give notice in writing to a provider or recipient of a monetary recovery or administrative sanction that is to be imposed by the department. The notice shall be sent by first class mail. The department shall place an affidavit of the mailing in the provider's or recipient's file as an indication of the date of mailing and the address. The notice shall state:

- A. the factual basis for the department's determination according to part 9505.2200, subpart 4;
- B. the actions the department plans to take;
- C. the dollar amount of the monetary recovery, if any;
- D. how the dollar amount was computed;
- E. the right to dispute the department's determinations and to provide evidence; and
- F. the right to appeal the department's proposed action under part 9505.2245.

Subp. 2. **Effective date of recovery or sanction.** For providers, the effective date of the proposed monetary recovery or sanction shall be the first day after the last day for requesting an appeal as provided in part 9505.2245, subpart 1, item B. For recipients, the effective date of the proposed action shall be 30 days after the recipient's receipt of the notice required under subpart 1. If an appeal is made under part 9505.2245, the proposed action shall be delayed pending the final outcome of the appeal, except as provided by part 9505.2231. Implementation of a proposed action following the resolution of an appeal may be postponed if in the opinion of the commissioner the delay of action is necessary to protect the health or safety of the recipient or recipients.

Subp. 3. **Effect of department's administrative determination.** Unless a timely and proper appeal made under part 9505.2245 is received by the department, the administrative determination of the department shall be considered final and binding.

9505.2231 SUSPENSION OR WITHHOLDING OF PAYMENTS TO PROVIDERS BEFORE APPEAL.

Subpart 1. **Grounds for suspension or withholding.** The commissioner is authorized to suspend a provider from program participation or withhold payments to a provider before an appeal provided in part 9505.2245, if:

- A. there is substantial likelihood that the department will prevail in an action under parts 9505.2160 to 9505.2245;
- B. there is a substantial likelihood that the provider's practice, which is the basis for the department's determination made under part 9505.2200, subpart 4, will continue in the future;
- C. there is reasonable cause to doubt the provider's financial ability to repay the amount determined to be due; or
- D. suspending participation or withholding payment is necessary to comply with *Minnesota Statutes*, section 256B.064, subdivision 2.

Subp. 2. **Exception to prehearing suspension or withholding.** The commissioner shall not order a prehearing suspension or withholding of payments to a nursing home or board and care home.

Subp. 3. **Federal share.** When an overpayment has been made by the department, the commissioner is authorized to recover from a provider the federal share when it is due to the federal government under federal law and regulations.

9505.2235 SUSPENSION OR TERMINATION OF PROVIDER PARTICIPATION.

Subpart 1. **Effect of suspension or termination as provider.** The provider agreement of a vendor who is under suspension or terminated from participation shall be void. The vendor who is under suspension or terminated from participation shall not submit a claim for payment under a program, either through a claim as an individual or through a claim submitted by a clinic, group, corporation, or professional association except in the case of claims for payment for health services provided before the vendor's suspension or termination from participation. No payments shall be made to a vendor, either directly or indirectly, for services provided under a program from which the vendor had been suspended or terminated.

Subp. 2. **Reinstatement of vendor as provider.** A vendor who is under suspension or terminated from participation is eligible to apply for reinstatement as a provider at the end of the period of suspension or when the basis for termination no longer exists. The department shall review a vendor's application to determine whether the vendor is qualified to participate as specified by the provider participation requirements of part 9505.0195 and Code of Federal Regulations, title 42, sections 1002.230 to 1002.234.

Subp. 3. **Prohibited submission of vendor's claims.** A clinic, group, corporation, or other professional association shall not submit

a claim for a health service under a program provided by a vendor who is under suspension or terminated from participation unless the health service was provided before the vendor's suspension or termination. If a clinic, group, corporation, or other professional association receives payment under a program for a health service provided by a vendor after the vendor's suspension or termination from participation, the department shall recover the amount of the payment and may impose administrative sanctions against the clinic, group, corporation, or other professional association if the commissioner determines that the provider knew or had reason to know of the suspension or termination.

9505.2236 RESTRICTION OF PROVIDER PARTICIPATION.

Subpart 1. **Effect of restriction on a provider.** The provider agreement of a provider who is restricted from participation shall be amended by the restriction specified in the notice of action to the vendor provided under part 9505.2230. The provider who is restricted from participation shall not submit a claim for payment under a program for services or charges specified in the notice of action, either through a claim as an individual or through a claim submitted by a clinic, group, corporation, or professional association, except in the case of claims for payment for health services otherwise eligible for payment and provided before the restriction. No payments shall be made to a provider, either directly or indirectly, for restricted services or charges specified in the notice of action.

Subp. 2. **Reinstatement of restricted provider.** A provider who is restricted from participation is eligible to apply for reinstatement as an unrestricted provider at the end of the period of restriction. The department shall review a provider's application to determine whether the provider is qualified to participate without restrictions as specified by the provider participation requirements of part 9505.0195 and Code of Federal Regulations, title 42, sections 1002.230 to 1002.234.

Subp. 3. **Prohibited submission of restricted provider's claims.** A clinic, group, corporation, or other professional association shall not submit a claim for a health service furnished under a program by a provider who is restricted from furnishing the health service or submitting a charge or claim, unless the health service was provided before the provider's restriction. If a clinic, group, corporation, or other professional association receives payment for a health service furnished under a program by a provider restricted from participation, the department shall recover the amount of the payment and may impose administrative sanctions against the clinic, group, corporation, or other professional association if the commissioner determines that the clinic, group, corporation, or other professional association knew or had reason to know of the restriction.

9505.2240 NOTICE TO THIRD PARTIES ABOUT DEPARTMENT ACTIONS FOLLOWING INVESTIGATION.

Subpart 1. **Notice about providers.** After the department has taken an action against a provider as specified in part 9505.2210, subpart 2, item A, and the right to appeal has been exhausted or the time to appeal has expired, the department shall issue the notices required in items A and B.

A. The department shall notify the appropriate professional society, board of registration or licensure, and federal or state agencies of the findings made, sanctions imposed, appeals made, and the results of any appeal.

B. The department shall notify the general public about action taken under part 9505.2210, subpart 2, item A, subitem (4) or (8), by publishing the notice in a general circulation newspaper in the provider's local trade area. The notice shall include the provider's name and service type, the action taken by the department, and the effective date or dates of the action.

Subp. 2. **Information and notice about recipients.** After the department has taken an action against a recipient as specified in part 9505.2210, subpart 2, item B, subitem (2), and the recipient's right to appeal has been exhausted or the time to appeal has expired, the department must notify the recipient's primary care case manager and other health care providers about the restriction imposed on the recipient and the circumstances leading to the restriction. Notice shall include the recipient's name and program, the nature of the restriction imposed on the recipient, a list of providers to whom the recipient is restricted, and the beginning and ending dates of the restriction.

9505.2245 APPEAL OF DEPARTMENT ACTION.

Subpart 1. **Provider's right to appeal.** A provider may appeal the department's proposed actions under part 9505.2210, under the provisions of *Minnesota Statutes*, section 14.57 to 14.62.

A. The appeal request shall specify:

- (1) each disputed item, the reason for the dispute, and estimate of the dollar amount involved for each disputed item;
- (2) the computation that the provider believes is correct;
- (3) the authority in the statute or rule upon which the provider relies for each disputed item;

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Proposed Rules

- (4) the name and address of the person or entity with whom contacts may be made regarding the appeal; and
- (5) other information required by the commissioner.

B. An appeal shall be considered timely if written notice of appeal is received by the commissioner as provided by statute.

Subp. 2. **Recipient's right to appeal.** A recipient may appeal any sanction proposed by the department under *Minnesota Statutes*, section 256.045, and part 9505.0130.

REPEALER. *Minnesota Rules*, parts 9505.1750, 9505.1760, 9505.1770, 9505.1780, 9505.1790, 9505.1800, 9505.1810, 9505.1820, 9505.1830, 9505.1840, 9505.1850, 9505.1860, 9505.1870, 9505.1880, 9505.1890, 9505.1900, 9505.1910, 9505.1920, 9505.1930, 9505.1940, 9505.1950, 9505.1960, 9505.1970, 9505.1980, 9505.1990, 9505.2000, 9505.2010, 9505.2020, 9505.2030, 9505.2040, 9505.2050, 9505.2060, 9505.2070, 9505.2080, 9505.2090, 9505.2100, 9505.2110, 9505.2120, 9505.2130, 9505.2140, and 9505.2150, are repealed on the effective date of these rules.

Department of Labor and Industry

Occupational Safety and Health Division

Proposed Revisions to the Occupational Safety and Health Standards and Request for Comments

NOTICE IS HEREBY GIVEN that the Department of Labor and Industry, Occupational Safety and Health Division (Minnesota OSHA) proposes to adopt the following revisions to the Department of Labor and Industry, Occupational Safety and Health Rules, as authorized under *Minnesota Statutes* 182.655 (1990). This revision proposes the adoption by reference of Occupational Safety and Health Standards that have already been proposed and adopted by the Federal Occupational Safety and Health Administration (Federal OSHA).

A complete copy of the federal standards proposed for adoption is available by writing: Occupational Safety and Health Division, Department of Labor and Industry, 443 Lafayette Road, St. Paul, Minnesota 55155-4307; or by calling: (612) 297-3254.

Interested persons are hereby afforded a period of 30 days to submit written data or comments on the described standards. Any interested person may file with the Commissioner written objections to the proposed standard stating the grounds for those objections. Such person may request a public hearing on those objections. Written comments or requests for hearing should be sent to the above address and must include the name and address of the person submitting the comment or request, define the reason for the comment or request, and discuss any proposed changes.

David F. Abrams, Commissioner
Department of Labor and Industry

Standards as Proposed

5205.0010 ADOPTION OF FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS BY REFERENCE.

[For text of subpart 1, see M.R.]

Subp. 2. **Part 1910.** Part 1910: Occupational Safety and Health Standards as published in Volume 43, No. 206 of the *Federal Register* on October 24, 1978 and corrected in Volume 43, No. 216, November 7, 1979 which incorporates changes, additions, deletions, and corrections made up to November 7, 1978; and subsequent changes prior to ~~September 4, 1990~~ January 1, 1991:

[For text of A. to L., see M.R.]

M. *Federal Register*, Vol. 55:

[For text of subitems (1) to (16), see M.R.]

(17) *Federal Register*, Vol. 55, No. 183, dated September 20, 1990: "Control of Hazardous Energy Sources (Lockout/Tagout)—(1910.147); Corrections and Technical Amendments to Final Rule."

(18) *Federal Register*, Vol. 55, No. 212, dated November 1, 1990: "Electrical Safety-Related Work Practices (Subpart S, 1910.331 to 1910.335); Corrections to Final Rule."

(19) *Federal Register*, Vol. 55, No. 237, dated December 10, 1990: "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite (1910.1001); Extension of Partial Stay and Amendment of Final Rule."

(20) *Federal Register*, Vol. 55, No. 242, dated December 17, 1990: "Occupational Exposure to Formaldehyde (1910.1048); Extension of Administrative Stay."

[For text of subs. 3 to 5, see M.R.]

Subp. 6. **Part 1926.** Part 1926: Construction Safety and Health Regulations as published in Part VII Volume 44, No. 29 of the *Federal Register* on February 9, 1979, which incorporates changes, additions, deletions, and corrections made up to October 17, 1978, and includes General Industry Occupational Safety and Health Standards (29 CFR Part 1910) which have been identified as applicable to construction work; and subsequent changes made prior to ~~September 1, 1990~~ January 1, 1991:

[For text of items A. to E., see M.R.]

F. *Federal Register*, Volume 55:

[For text of subitems (1) and (2), see M.R.]

(3) *Federal Register*, Vol. 55, No. 202, dated October 18, 1990: "Concrete and Masonry Construction Safety Standards; Lift Slab Construction Operations (Subpart Q) Final Rule."

(4) *Federal Register*, Vol. 55, No. 220, dated November 14, 1990: "Safety Standards for Stairways and Ladders Used in the Construction Industry; Final Rule."

(5) *Federal Register*, Vol. 55, No. 237, dated December 10, 1990: "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite (1926.58); Extension of Partial Stay and Amendment of Final Rule."

Summary of Standards: The following summary of each standard proposed for adoption is very brief. Persons interested in reviewing any of these standards in their entirety, along with the preamble discussion published by Federal OSHA, may obtain a copy at the above address.

A) "Control of Hazardous Energy Sources (Lockout/Tagout); Corrections and Technical Amendments to Final Rule." Federal OSHA published the final rule governing control of hazardous energy (lockout/tagout) on September 1, 1989; Minnesota OSHA adopted the final rule on July 16, 1990. On September 20, 1990, Federal OSHA published a notice correcting typographical errors, including some information inadvertently omitted in the original publication, and correcting some inconsistencies in the preamble and regulatory text.

By this notice, Minnesota OSHA proposes to adopt the corrections as published in the *Federal Register* on September 20, 1990.

B) "Electrical Safety-Related Work Practices: Correction to Final Rule." Federal OSHA published the final rule governing electrical safety-related work practices on August 6, 1990; Minnesota OSHA adopted the final rule on November 13, 1990. On November 1, 1990, Federal OSHA published a table correcting errors and inaccuracies in the August 6, 1990 publication.

By this notice, Minnesota OSHA proposes to adopt the corrections as published in the *Federal Register* on November 1, 1990.

C) "Occupational Exposure to Formaldehyde; Extension of Administrative Stay." In response to numerous comments indicating confusion about the hazard warning provisions of the newly revised formaldehyde standard (adopted by Federal OSHA on December 4, 1987), Federal OSHA announced an administrative stay of paragraphs (m)(1)(i) through (m)(4)(ii) on December 13, 1988. The purpose of the stay was to allow OSHA time to evaluate comments concerning whether these provisions should be replaced with the Hazard Communication Standard requirements or another equally protective alternative which would be less confusing. That stay was subsequently extended several times. Because Federal OSHA needs more time to complete its re-evaluation of the need to stay these paragraphs, the administrative stay has been extended to March 11, 1991.

Minnesota OSHA adopted the final Occupational Exposure to Formaldehyde Standard on May 30, 1988 and the original administrative stay on February 6, 1989. By this notice, Minnesota OSHA proposes to extend the administrative stay to March 11, 1991.

D) "Concrete and Masonry Construction Safety Standards; Lift-Slab Construction Operations—Final Rule." On October 18, 1990, Federal OSHA published a revised rule governing lift-slab construction operations. This revised rule updates specific requirements for lift-slab construction operations that were incorporated by reference in the existing standard from the American National Standard Institute's (ANSI) Safety Requirements for Concrete Construction and Masonry Work (ANSI A10.9-1970) and adds new requirements to provide additional protection for workers engaged in lift-slab construction operations.

Under the revised rule, only "essential" construction workers (those employees who are lifting or securing the slabs) will be permitted in a structure while concrete slabs are being lifted; other workers will not be allowed in the structure during lifting operations unless an independent, registered professional engineer has determined the building's structural integrity. The standard also requires that a registered professional engineer design and plan lift-slab operations. Other provisions of the rule require that jacks used in lift-slab construction be equipped with a safety device enabling the units to support the slab load in any position in case any lifting unit malfunctions and loses its lifting ability. Such units also must be secured to building columns so that the units will not become dislodged. The revised standard becomes effective December 17, 1990.

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Proposed Rules

By this notice, Minnesota OSHA proposes to adopt the final rule for lift-slab construction operations as published in the *Federal Register* on October 18, 1990; it will become effective in Minnesota five days after publication of the adoption notice in the *State Register*.

E) "Safety Standards for Stairways and Ladders Used in the Construction Industry; Final Rule." On November 14, 1990, Federal OSHA published the final rule revising and relocating the existing provisions for stairways and ladders from existing Subpart L, "Ladders and Scaffolds" and Subpart M, "Floors and Wall Openings" into Subpart X. The final rule reformats the standards into a more logical grouping of topics, focusing on the principal hazards involved when working on stairways and ladders and eliminating what OSHA believes to be unnecessary and redundant provisions in the existing standards. The revised Subpart X becomes effective January 14, 1991.

The ladder revisions cover installation; minimum weight capacity; cages for fixed ladders; spacing of rungs, cleats, and steps; and ladder safety devices. Revised stairway provisions cover landings, surface conditions, stair rails, risers, and handrails. Among the new provisions, the standards require all stairway and ladder fall protection systems to be installed before employees begin work. A stairway or ladder must be provided at all points of worker access where there is a break in elevation of 19 inches or more and no ramp, runway, sloped embankment, or personnel hoist is provided. At least one point of access must be kept clear of obstructions at all times to permit free passage of workers. Light duty ladders must be capable of supporting at least four times their maximum intended load, and certain specified heavy duty ladders not less than 3.3 times their maximum intended load. Portable ladders must be at least 11½ inches wide with rungs uniformly spaced 10 to 14 inches apart. The rungs and steps of fixed metal ladders manufactured 60 days after publication of this standard must be corrugated, knurled, dimpled, coated with skid-resistant material, or otherwise treated to minimize slipping.

Foot traffic is prohibited on skeleton metal stairs where permanent treads and/or landings are to be installed unless the stairs are fitted with secured temporary treads and landings that cover the entire tread or landing area. Within specified limits, stair rails may also be used as handrails.

By this notice, Minnesota OSHA proposes to adopt the revised final safety standards for stairways and ladders used in the construction industry as published in the *Federal Register* on November 14, 1990. The effective date for this standard will be five days after publication of the adoption notice in the *State Register*.

F) "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite; Extension of Partial Stay and Amendment of Final Rule." On December 10, 1990, Federal OSHA extended the partial administrative stay of the revised final standards for occupational exposure to asbestos, tremolite, anthophyllite, and actinolite for general industry (1910.1001) and for construction (1926.58) insofar as they apply to non-asbestiform tremolite, anthophyllite, and actinolite. The current stay expired on November 30, 1990; this notice extends that partial stay until August 31, 1991 to allow OSHA to complete supplemental rulemaking limited to the issue of whether non-asbestiform tremolite, anthophyllite, and actinolite should continue to be regulated in the same standard as asbestos or should be treated in some other way. Minor conforming amendments to notes in the affected standard are also made in this notice.

Minnesota OSHA adopted the Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite standards (1910.1001 and 1926.58) on November 10, 1986. The partial administrative stay was adopted on March 30, 1987; subsequent extensions were also adopted.

By this notice, Minnesota OSHA proposes to extend the administrative stay to August 31, 1991, as published in the *Federal Register* on December 10, 1990.

Board of Psychology

Proposed Permanent Rules Relating to Special Fee for Legal Expenses

Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing If Fewer than 25 Persons Request a Hearing

I. Explanation of Alternative Notices

The Minnesota Board of Psychology (hereinafter "Board") is hereby giving notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes* §§ 14.22 to 14.28 (1990). However, in case 25 or more persons request a hearing, thus necessitating that one be held pursuant to *Minnesota Statutes* § 14.25 (1990), and in order to expedite the rulemaking process should that occur, the Board is at the same time hereby giving notice of the hearing on the proposed rules pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1990). The hearing will, of course, be cancelled if 25 or more people do not request that one be held. Also, the hearing will be cancelled if a sufficient number of people withdraw their requests for a hearing in response to proposed revisions of the proposed rules by the Board. With the comment period closing on February 13, 1991,

interested persons may call the Board on February 14, 1991 to ask whether the hearing which is scheduled for February 15, 1991 will be held.

II. Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Psychology (hereinafter "Board") proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing. The Board has determined that the proposed changes will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* §§ 14.22 to 14.28 (1990).

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on February 13, 1991. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed to the rules by the comment. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Board and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the Board be informed of the specific amendments on which a hearing is being requested at the time that the hearing request is made. This will enable the Board to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rules or a portion thereof by February 13, 1991. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes* §§ 14.131 to 14.20 (1990) and the hearing notice provided below.

Comments or written requests for a public hearing should be submitted to:

Lois E. Mizuno, Executive Director
Minnesota Board of Psychology
Room 101
2700 University Avenue West
St. Paul, Minnesota 55114-1095
Telephone: (612) 642-0587

The statutory authority of the Board to adopt the proposed rules is contained in *Minnesota Statutes* §§ 148.90, subd. 2(4) and subd. 3; 148.91, subd. 3; and 214.06 (1990).

If adopted, the proposed rules would (1) assess licensees of the Board a one-time fee of \$40, to be remitted to the Board on or before June 25, 1991; (2) impose a \$10 late fee for licensees who fail to remit payment on or before June 25, 1991; and (3) notify licensees that failure to pay the fee will result in the Board withholding the licensee's renewal certificate. The proposed rules will be published in the *State Register* issue of January 14, 1991, and a free copy of the rules may be obtained from the Board by writing or telephoning Lois E. Mizuno at the address or telephone number listed above.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed changes has been prepared and may be obtained from the Board by writing or telephoning Lois E. Mizuno at the address or telephone number listed above.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* § 14.11 (1990).

It is the position of the Board that it is not subject to *Minnesota Statutes* § 14.115 (1990) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in *Minnesota Statutes* § 14.115, subd. 2 (1990) for reducing the impact of the proposed rules should it be determined that the Board is governed by section 14.115, are addressed in the statement of need and reasonableness.

Upon completion of the proposed rules without a public hearing, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial

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Proposed Rules

change. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the amendments as adopted should submit a written request to Lois E. Mizuno at the address listed above.

III. Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing

PLEASE NOTE that If 25 or More Persons Submit Written Requests for a Public Hearing With Respect to the Above-Captioned Rules Within the 30-Day Comment Period Pursuant to the Notice Given in Part II Above, a Hearing Will Be Held on February 15, 1991, in Accordance With the Following Notice of Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes* § 14.131 to 14.20 (1990), in the lower level joint board conference room located at 2700 University Avenue West, St. Paul, Minnesota, on February 15, 1991, commencing at 9:00 a.m.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Barbara Neilson, Administrative Law Judge, Office of Administrative Hearings, Fifth Floor, Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7604. Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Board and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by *Minnesota Statutes* §§ 14.131 to 14.20 (1990) and by *Minnesota Rules* pts. 1400.0200 to 1400.1200 (1989). Questions about procedure may be directed to the administrative law judge.

If adopted, the rules would (1) assess licensees of the Board a one-time fee of \$40, to be remitted to the Board on or before June 25, 1991; (2) impose a \$10 late fee for licensees who fail to remit payment on or before June 25, 1991; and (3) notify licensees that failure to pay the fee will result in the Board withholding the licensee's renewal certificate. The proposed rules will be published in the *State Register* issue of January 14, 1991, and a free copy of the rules may be obtained from the Board by writing or telephoning Lois E. Mizuno at the address and telephone number listed above in Part II of this notice.

The statutory authority of the Board to adopt the proposed rules is contained in *Minnesota Statutes* §§ 148.90, subd. 2(4) and subd. 3; 148.91; subd. 3; and 214.06 (1990).

The proposed rules may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rules are therefore advised to participate in the process.

Minnesota Statutes ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* § 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone: (612) 296-5418.

NOTICE IS HEREBY GIVEN THAT A STATEMENT OF NEED AND REASONABLENESS is now available for review at the Board and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Board anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be reviewed at the Board or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

PLEASE NOTE that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Board may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Board at any time prior to the filing of the rules with the Secretary of State.

Promulgation of these proposed rules will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* § 14.11 (1990).

It is the position of the Board that it is not subject to *Minnesota Statutes* § 14.115 (1990) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in *Minnesota Statutes* § 14.115, subd. 2 (1990) for reducing the impact of the proposed rules should it be determined that the Board is governed by section 14.115, are addressed in the statement of need and reasonableness.

IV. Notice of Intent to Cancel Hearing If Fewer than 25 Persons Request a Hearing in Response to the Notice Given in Part II Above. Also, the Hearing Will Be Cancelled If a Sufficient Number of People Withdraw Their Request for a Hearing in Response to Proposed Revisions of the Proposed Rules by the Board

To be informed whether the hearing noticed in Part III above will be held, please call the Board before February 8, 1991, and leave your name, address, and telephone number. You will be notified on February 14, 1991, if the hearing has been cancelled. You may also call the Board on February 14, 1991 to find out whether the hearing scheduled for February 15, 1991 will be held.

Lois E. Mizuno
Executive Director

Rules as Proposed (all new material)

7200.6150 SPECIAL FEE.

Each licensee licensed before the effective date of this rule shall be assessed a one-time fee in the amount of \$40 to be remitted to the board on or before June 25, 1991, for the purpose of covering the board's legal expenses. The board shall withhold the new license or renewal certificate of any licensee who fails to remit the fee by June 25, 1991, until the fee and a late fee of \$10 is paid.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

Office of Administrative Hearings

Adopted Permanent Rules Relating to Rulemaking, Contested Case, and Revenue Recapture Act Hearings

The rules proposed and published at *State Register*, Volume 15, Number 7, pages 362-370, August 13, 1990 (15 SR 362) are adopted with the following modifications:

Rules as Adopted

1400.0250 FILING OF MATERIALS.

Subp. 2. **Facsimile transmission.** Any paper relating to hearings conducted by an administrative law judge under *Minnesota Statutes*, chapter 14, may be filed with or served on the office by facsimile transmission. The person filing the document must forward the original signed document within five days. Filings or service shall be effective at the time that the facsimile transmission is received by the office. A transmission which is commenced prior to 4:30 p.m. shall be deemed to have been timely filed. The filing or service of a facsimile shall have the same force and effect as the filing or service of the original document.

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Adopted Rules

1400.5100 DEFINITIONS.

Subp. 9. **Service; serve.** "Service" or "serve" means personal service or, unless otherwise provided by law, service by first class United States mail or a licensed overnight express mail service, postage prepaid and addressed to the party at his or her last known address. An affidavit of service shall be made by the person making the service. Service by mail or licensed overnight express mail service is complete upon placing the item to be served in the mail or delivering it to the authorized agent of the express mail service. Personal service may be accomplished by either delivering a document to the person or by leaving a document at the person's home or place of business with someone of suitable age and discretion who resides in the same house or who is located at the same business address of the person to be served.

If a person is confined to a federal or state institution, a copy of the document must also be served upon the chief executive officer of the institution.

Postage shall be prepaid. Mail to a person other than a state agency shall be addressed to the last known address of the person. Agencies of the state of Minnesota may also deposit the document with the Central Mailing Section, Publications Division, Department of Administration, addressed as above.

Any paper relating to hearings conducted by an administrative law judge under *Minnesota Statutes*, chapter 14, may be filed with or served on the office by facsimile transmission. The person filing the document shall forward the original signed document within five days. Filings or service shall be effective at the time that the facsimile transmission is received by the office. A transmission which is commenced prior to 4:30 p.m. shall be deemed to have been timely filed. The filing or service of a facsimile shall have the same force and effect as the filing or service of the original document.

1400.5950 MEDIATION.

Subp. 3. **Initiating mediation.** Mediation may be initiated in the following ways:

C. Upon receipt of a request for mediation, the chief judge or designee shall contact, either orally or in writing, the agency and all parties to determine whether they are willing to participate in mediation. No matter shall be ordered for mediation if the agency or any party is opposed.

D. If the chief judge determines that ~~at least two parties, including no party or~~ the agency, ~~have agreed~~ is opposed to mediation, the chief judge shall appoint a mediator and issue an order for mediation, which shall set forth:

1400.8300 RECONSIDERATION OR REHEARING.

Once a judge has issued a report, unless that report is binding on the agency, the judge loses jurisdiction to amend the report except for clerical or mathematical errors. Unless the report is a final order, binding on the agency, petitions for reconsideration or rehearing must be filed with the agency.

Where the judge's decision is binding on the agency, a petition for reconsideration or rehearing shall be filed with the judge. The petition ~~may~~ must be filed ~~at any time until the within a reasonable time for appeal has elapsed or until~~ but not after an appeal is taken ~~nor more than one year after the decision was issued. Pursuant to Minnesota Statutes, section 14.64, a petition for reconsideration must be filed within ten days after the decision in order to toll the time for appeal to the court of appeals.~~ A notice of and order for rehearing shall be served on all parties in the same manner prescribed for the notice of and order for hearing provided that the judge may permit service of the notice and order for rehearing less than 30 days prior to rehearing. The rehearing shall be conducted in the same manner prescribed for a hearing.

In ruling on a motion for reconsideration or rehearing in cases where the judge's decision is binding on the agency, the judge shall grant reconsideration or rehearing if it appears that to deny it would be inconsistent with substantial justice and any one of the following has occurred:

C. material evidence newly discovered that with reasonable diligence could not have been found and produced at hearing; ~~or~~

D. fraud upon the hearing process- ~~The rehearing shall be conducted in the same manner prescribed for a hearing;~~

E. mistake, inadvertence, or excusable neglect; or

F. the decision is not justified by the evidence, or is contrary to law; but unless it be so expressly stated in the order granting rehearing, it shall not be presumed, on appeal, to have been made on the ground that the decision was not justified by the evidence.

1400.8510 DEFINITIONS.

Subp. 4. **Service, serve.** "Service" or "serve" may be accomplished by either delivering a document to an individual in person, or by leaving a document at his/her home with some person of suitable age and discretion who resides in the same house, or by mailing the document to the person by first class United States mail.

If a person is confined to a federal or state institution, a copy of the document must also be served upon the chief executive officer of the institution.

Postage shall be prepaid. Mail to a person other than a state agency shall be addressed to the last known address of the person. Agencies of the state of Minnesota may also deposit the document with the Central Mailing Section, Publications Division, Department of Administration, addressed as above.

Any paper relating to hearings conducted by an administrative law judge under *Minnesota Statutes*, chapter 14, may be filed with or served on the office by facsimile transmission. A transmission which is commenced prior to 4:30 p.m. shall be deemed to have been timely filed. The person filing the document shall forward the original signed document within five days. Filings or service shall be effective at the time that the facsimile transmission is received by the office. The filing or service of a facsimile shall have the same force and effect as the filing or service of the original document.

1405.0200 DEFINITIONS.

Subp. 6. **Service; serve.** Unless otherwise provided by law, "service" or "serve" means service by first class United States mail, postage prepaid, and addressed to the person to be served at his last known address. An affidavit of service shall be made by the person making such service. Service by mail is complete upon the placing of the item to be served in the mail. Service may also be made personally.

Any paper relating to hearings conducted by an administrative law judge under *Minnesota Statutes*, chapter 14, may be filed with or served on the office by facsimile transmission. A transmission which is commenced by 4:30 p.m. shall be deemed to have been timely filed. The person filing the document shall forward the original signed document within five days. Filings or service shall be effective at the time that the facsimile transmission is received by the office. The filing or service of a facsimile shall have the same force and effect as the filing or service of the original document.

Department of Health

Adopted Permanent Rules Governing Variances to Environmental Health Rules

The rules proposed and published at *State Register*, Volume 15, Number 18, pages 985-992, October 29, 1990 (15 SR 985) are adopted as proposed.

Pollution Control Agency

Adopted Permanent Rules Relating to Grants and Loans for Waste Tire Processing

The rules proposed and published at *State Register*, Volume 15, Number 13, pages 733-738, September 24, 1990 (15 SR 733) are adopted as proposed.

Environmental Quality Board

Adopted Permanent Rules Relating to Environmental Review of Certain Large Energy Facilities

The rules proposed and published at *State Register*, Volume 14, Number 51, pages 2930-2933, June 18, 1990 (14 SR 2930) are adopted with the following modifications:

Rules as Adopted

4410.7100 ENVIRONMENTAL REPORT AT CERTIFICATE OF NEED STAGE.

Subp. 4. **Level of detail.** The environmental report shall not be as exhaustive or detailed as an EIS and shall consider only those site-differentiating factors identifiable pursuant to the information requirements of part ~~4220.2500~~ 7849.0250, item A, subitem (5).

4410.7500 ENVIRONMENTAL REPORT AT CERTIFICATE OF NEED STAGE.

Subp. 3. **Contents.** The environmental report on the certificate of need application shall include:

D. a general analysis of the alternatives of no facility and delayed construction of the facility, which analysis shall include consideration of conservation and load management measures that could be used to reduce the need for the proposed facility.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Adopted Rules

The environmental report shall not be as exhaustive or detailed as an EIS and shall consider only those route differentiating factors identifiable pursuant to the information requirements of part ~~4220.2600~~ 7849.0260; and the report shall be reviewed in the manner provided in part 4410.7100, subparts 5 to 12.

Environmental Quality Board

Adopted Permanent Rules Relating to High Voltage Lines, Power Plants

The rules proposed and published at *State Register*, Volume 14, Number 51, pages 2914-2929, June 18, 1990 (14 SR 2914) are adopted with the following modifications:

Rules as Adopted

4400.0300 PURPOSE AND AUTHORITY.

Parts 4400.0200 to 4400.4900 are prescribed by the Minnesota Environmental Quality Board pursuant to the authority granted to the board in the Power Plant Siting Act, *Minnesota Statutes*, sections 116C.51 to 116C.69, to give effect to the purposes of the act.

It is the purpose of the act and the policy of the state to locate large electric power facilities in an orderly manner compatible with environmental preservation and the efficient use of resources. In accordance with this policy, the board shall choose locations that minimize adverse human and environmental impact while ensuring continuing electric power system reliability and integrity and ensuring that electric energy needs are met and fulfilled in an orderly and timely fashion. The board shall provide for broad spectrum citizen participation as a principle of operation. To ensure effective citizen participation, the board shall maintain a public education program on, but not limited to, the considerations identified in *Minnesota Statutes*, section 116C.57, subdivision 4.

4400.0600 APPLICATION FOR ROUTE DESIGNATION AND CONSTRUCTION PERMIT.

Subpart 1. Contents. An application shall be filed that includes any information necessary to make the evaluation of considerations required in part 4400.1310 and the following:

F a description of the construction, right-of-way ~~restoration~~ impact mitigation measures, and maintenance procedures anticipated for the proposed HVTL;

Subp. 2. Distribution. A copy of the application shall be provided by board staff to each member of the board.

4400.1210 ENVIRONMENTAL IMPACT ASSESSMENT FOR HVTL.

Subp. 4. **Distribution.** When notice of availability is provided under subpart 3, the EIA shall be distributed to each member of the board and by certified mail to the persons receiving notice. At least one copy must be available for public review at the last public information meeting held before the public hearing and during the public hearing conducted under *Minnesota Statutes*, section 116C.58.

Subp. 6. **Adequacy.** Prior to designating a route and issuing a construction permit for an HVTL, the board shall make a finding and conclusion that the EIA, comments on the EIA, and responses to comments:

A. have adequately addressed significant environmental issues identified by the route advisory task force and the public under parts 4400.0800 and 4400.1000; ~~and~~

B. have been prepared in compliance with the requirements of this part; and

C. have addressed the issues raised on the scope of the EIA so that all issues have been analyzed.

4400.1400 ROUTE DESIGNATION AND ISSUANCE OF CONSTRUCTION PERMIT.

Within one year after the board's acceptance of an application for route designation and a construction permit, the board shall act on that application. When the board designates a route, it shall issue a permit for the construction of an HVTL specifying the design ~~and~~ route, and right-of-way width. The permit may specify conditions for construction, right-of-way restoration, abandonment, maintenance, and any other conditions relevant to minimizing human and environmental impact the board considers necessary. The board's decision shall be based on the record, part 4400.1310, and the act. The board shall give the reasons for its decision in written findings of fact.

4400.2600 APPLICATIONS FOR SITE DESIGNATION AND CERTIFICATE OF SITE COMPATIBILITY.

Subp. 1a. Distribution. A copy of the application shall be provided by board staff to each member of the board.

4400.3210 ENVIRONMENTAL IMPACT ASSESSMENT FOR LEPP.

Subp. 4. **Distribution.** When notice of availability is provided under subpart 3, the EIA must be distributed to each member of the board and by certified mail to the persons receiving notice. At least one copy must be available for public review at the last public information meeting held before the public hearing and during the public hearing conducted under *Minnesota Statutes*, section 116C.58.

Commissioners' Orders

Subp. 6. **Adequacy.** Prior to designating a site and issuing a certificate of site compatibility for an LEPGP, the board shall make a finding and conclusion that the EIA, comments on the EIA, and responses to comments:

A. have adequately addressed significant environmental issues identified by the site advisory task force and the public under parts 4400.2800 and 4400.3000; ~~and~~

B. have been prepared in compliance with the requirements of this part; and

C. have addressed the issues raised on the scope of the EIA so that all issues have been analyzed.

4400.3310 SITING CONSIDERATIONS.

Subp. 3. **Site exclusions when alternative sites exist.** Certain resources within the state shall not be designated for LEPGP sites ~~when~~ unless all feasible and prudent alternatives would have greater adverse human and environmental impact. Designation of a site in these areas shall be consistent with *Minnesota Statutes*, section 116C.53, subdivision 1, and shall include conditions to minimize impacts which adversely affect the unique character of these areas. Economic considerations alone shall not justify approval of these areas. These areas are:

4400.3900 EXEMPTION OF CERTAIN TRANSMISSION LINE ROUTES.

Subp. 1b. Distribution. A copy of the application shall be provided by board staff to each member of the board.

4400.3910 EXEMPTION OF CERTAIN LEPGP SITES.

Subp. 2b. Distribution. A copy of the application shall be provided by board staff to each member of the board.

Public Utilities Commission

Adopted Permanent Rules Relating to Intervenor Compensation

The rules proposed and published at *State Register*, Volume 15, Number 2, pages 63-69, July 9, 1990 (15 SR 63) are adopted as proposed.

State Board of Technical Colleges

Adopted Permanent Rules Relating to Extension Instructor Licenses

The rules proposed and published at *State Register*, Volume 15, Number 15, pages 883-885, October 8, 1990 (15 SR 883) are adopted as proposed.

Commissioners' Orders

Department of Natural Resources

Commissioner's Order No. 2401: Regulations Closing Certain Waters to the Taking of Certain Species of Fish; Superseding Commissioner's Order No. 2369

PURSUANT TO AUTHORITY vested in me by *Minnesota Statutes* §§ 97A.045, 97C.395, 97C.401 and other applicable law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations closing certain waters to the taking of certain species of fish.

Section 1. The letters "S", "T", and "R", as used in this order, mean the section, township, and range, respectively, in which the designated waters are generally located.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Commissioners' Orders

Sec. 2. The following waters or designated portions thereof are closed to the taking of all species of fish at all times:

Aitkin County:

Sandy Lake, within 300 feet below the Federal Dam, S.25, T.50, R.24.

Anoka and Ramsey Counties:

Wilkinson Lake, including inlet and outlet channels, S.4,5,9, T.30, R.22; S.34, T.31, R.22.

Cass County:

Thunder Creek at the outlet of Thunder Lake, within 500 feet below the dam, S.10, T.140, R.26.

Cass and Itasca Counties:

Winnibigoshish Lake, within 300 feet below the Federal Dam, S.25, T.146, R.27.

Dakota and Washington Counties:

Mississippi River, within 150 feet below the Federal Dam at Hastings, S.21, T.115, R.17.

Goodhue County:

Mississippi River, within 150 feet below U.S. Lock and Dam No. 3 near Red Wing, S.10, T.113, R.15; except that fishing from shore within 150 feet below the lock and dam and from boats that remain outside the 150 foot restricted zone is permitted.

Hennepin County:

Mississippi River, within 150 feet below the St. Anthony Falls dam at Minneapolis, S.23, T.29, R.24.

Hennepin and Ramsey Counties:

Mississippi River, within 150 feet below U.S. Lock and Dam No. 1 (Ford Dam), between Minneapolis and St. Paul, S.17, T.28, R.23.

Houston County:

Mississippi River, within 150 feet below U.S. Lock and Dam No. 8 near Reno, S.7, T.101, R.3; except that fishing from shore within 150 feet below the lock and dam and from boats that remain outside the 150 foot restricted zone is permitted.

Itasca County:

Mississippi River, within 300 feet below the Pokegama Reservoir Dam, S.13, T.55, R.26.

Mississippi River, from 500 feet upstream to 300 feet downstream of the Blandin Dam, S.21, T.55, R.25.

Itasca and Cass Counties:

Winnibigoshish Lake. See Cass and Itasca Counties for area closed.

Otter Tail County:

Stream between East and West Battle Lakes, S.33,34, T.133, R.39.

Area between West Battle and Clitherall Lakes, S.2,11, T.132, R.40.

Pelican River from bridge in Trunk Highway 59 to Lake Lizzie, S.20, T.137, R.42.

Pine County:

Kettle River, within 200 feet below the Sandstone Power Dam, both channels, S.22, T.42, R.20. Stream in S.26, T.42, R.16.

Ramsey County:

Charles Lake, including inlet and outlet channels, S.12, T.30, R.23.

Deep Lake, including inlet and outlet channels, S.5,6,7, T.30, R.22.

Pleasant Lake, including inlet and outlet channels, S.7,8,18,19, T.30, R.22; S.12,13, T.30, R.23.

Ramsey and Anoka Counties:

Wilkinson Lake, including inlet and outlet channels. See Anoka and Ramsey Counties.

Ramsey and Hennepin Counties:

Mississippi River. See Hennepin and Ramsey Counties for area closed.

St. Louis County:

French River, between Lake Superior and the new Highway 61, S.17, T.52, R.12.

St. Louis and Carlton Counties:

St. Louis River, from the Fond du Lac Dam downstream for one-half mile to the Minnesota-Wisconsin boundary cable, S.6, T.48, R.15.

Wabasha County:

Mississippi River, within 150 feet below U.S. Lock and Dam No. 4 near Kellogg, S.17, T.110, R.9; except that fishing from shore within 150 feet below the lock and dam and from boats that remain outside the 150 foot restricted zone is permitted.

Washington and Dakota Counties:

Mississippi River. See Dakota and Washington Counties for area closed.

Winona County:

Mississippi River, within 150 feet below the following U.S. Locks and Dams: No. 5, S.17, T.108, R.8; No. 5A, S.9, T.107, R.7; No. 6, S.8, T.106, R.5, near Winona; and No. 7, S.28, T.105, R.4, near Dresbach; except that fishing from shore within 150 feet below these locks and dams and from boats that remain outside the 150 foot restricted zone is permitted.

Sec. 3. The following waters in the portions designated are closed to the taking of all species of fish during the periods specified:

Cook County:

Sea Gull River, S.19,30,31, T.66, R.4, and S.25,36, T.66, R.5, from Sea Gull Lake including Gull Lake to Saganaga Lake approximately 1/3 mile north of the narrows. Date closed—from April 1 through the last Friday in May.

Sherburne County:

Elk River, S.33, T.33, R.26, for a distance of 1,000 feet below the power dam at the City of Elk River. Date closed—November 1 to February 15, inclusive.

St. Louis and Carlton Counties:

St. Louis River, S.6,7, T.48, R.15, from the State Highway 23 bridge upstream to the Minnesota-Wisconsin boundary cable crossing the river. Date closed—from the Saturday closest to May 1 through May 15.

Sec. 4. The following waters in the portions designated are closed to the taking of specific species of fish during the periods specified:

St. Louis and Koochiching Counties:

Black Bay of Rainy Lake, south of a line between Voyageur's National Park Visitor's Center on the west side of the bay and Perry Point on the east side, all of Rat Root Lake in Koochiching County, and that portion of the Rat Root River between Rat Root Lake and Black Bay. These areas are generally located in the following sections, townships, and ranges:

S.2-5,8-10, T.69, R.23.

S.7,18,19, T.70, R.21.

S.3-5,7-19,22-24, T.70, R.22.

S.12-14,23,24,26,27,33-35, T.70, R.23.

These areas are closed to the taking of walleye from April 1 through the last Friday in May.

Sec. 5. Commissioner's Order No. 2369 is hereby superseded.

Dated at St. Paul, Minnesota, this 19 day of December, 1990.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Executive Orders**Executive Order #91-1: Providing for Establishment of a Code of Ethics for Appointees of the Governor**

I, ARNE H. CARLSON, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, democratic government is founded on public confidence in the integrity of government officials; and

Executive Orders

WHEREAS, the people of Minnesota have entrusted me, Lieutenant Governor Joannell Dyrstad and our appointees with their welfare, property, security, and safety for the next four years; and

WHEREAS, in return for their trust, Minnesotans have the right to demand that their public officials adhere to the highest ethical standards; and

WHEREAS, there is a need to clearly establish the ethical principles and standards by which all executive branch officials will be held accountable during our administration;

NOW, THEREFORE, I HEREBY ORDER THAT:

1. All gubernatorial executive branch appointees shall strictly adhere to the provisions of the Code of Ethics for Employees in the Executive Branch (*Minnesota Statutes* 1990, Section 43A.38) and all related statutes including, but not limited to, *Minnesota Statutes* 1990, Chapter 10A and *Minnesota Statutes* 1990, Sections 10.32; 15.054; 15.06, subd. 9; 15.43; 16B.17, subd. 2; 16B.55, subd. 2; 43A.32; 43A.39; and 609.45.

2. All appointees shall take a pledge acknowledging their commitment to these statutory provisions and the provisions of this executive order. Any violation of these provisions shall warrant immediate disciplinary action. If specific provisions of this executive order conflict with statutory provisions, the strictest provisions take precedence.

3. All gubernatorial executive branch appointees in the course of or in relation to their official duties shall not, directly or indirectly, receive or agree to receive any payment of expense, compensation, gift, reward, gratuity, favor, service or promise of future employment or other future benefit from any source other than the state for any activity related to the duties of the official, with the exception of:

- (a) Gifts of nominal or symbolic value;
- (b) Plaques or similar mementos recognizing individual services;
- (c) Payment of reimbursement expenses for work-related travel or meals, not to exceed actual expenses incurred, which are not reimbursed by the state;
- (d) Expenses paid for papers, talks, demonstrations or appearances made by officials on their own time for which they are not compensated by the state.

4. No gubernatorial appointee shall use confidential information to further the official's private interest, and shall not accept outside employment or involvement in a business or activity that will require the official to disclose or use confidential information.

5. No gubernatorial appointee shall use or allow the use of state time, supplies, or state owned or leased property and equipment for the official's private interests or any other use not in the interest of the state.

6. No gubernatorial appointee shall use or attempt to use their official position to secure benefits, privileges, exemptions, or advantages for the official or the official's immediate family or an organization with which the official is associated which are different from those available to the general public.

7. No gubernatorial appointee shall accept other employment or contractual relationships that will affect the official's independence of judgment in the exercise of official duties.

8. No gubernatorial appointee shall award a state contract based on political considerations.

9. No gubernatorial appointee shall serve as an agent or attorney in any action or matter pending before any state agency except in the proper discharge of official duties or on the official's behalf.

10. No gubernatorial appointee shall solicit a financial agreement for him/herself or an entity other than the state when the state is currently engaged in the provision of the services which are the subject of the agreement or where the state has expressed an intention to engage in competition for the provision of the services, unless the affected state agency and the governor waives this provision.

11. No commissioner shall engage in political fund-raising. The Commissioner of Human Rights, in recognition that human rights are a basic tenet of citizenship in the State of Minnesota, shall not be involved in any state political activity.

12. No gubernatorial appointee shall, directly or indirectly, use official authority or influence to compel any state employee to apply for membership in or become a member of any political organization, to pay or promise to pay any assessment, subscription, or contribution, or during hours of employment, to solicit or receive funds for political purposes or take part in any political activity.

13. Any gubernatorial appointee falsifying his or her expense report shall be immediately disciplined.

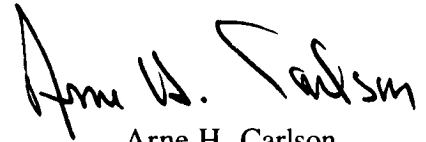
14. Any gubernatorial appointee guilty of discrimination, or sexual or other harassment shall be immediately disciplined.

I shall designate a person in the Governor's Office to respond to ethical concerns in the administration. That person shall ensure that immediate action is taken to resolve potential conflicts of interest and questions of misconduct. That person, with the assistance of the commissioner of employee relations, shall advise gubernatorial appointees on ethical matters.

Executive Order 87-4 is rescinded.

Pursuant to *Minnesota Statutes*, Section 4.035, this Executive Order shall be effective fifteen (15) days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by the proper authority or it expires in accordance with *Minnesota Statutes* 1990, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF, I have set my hand this 7th day of January, 1991.



Arne H. Carlson
Governor

Emergency Executive Order #91-2: Providing for Restricting State Hiring, Procurement, and Expenditures

I, ARNE H. CARLSON, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, the most recent fiscal forecast indicates that the state has a budget problem of significant proportions; and

WHEREAS, it is the policy of this administration to manage the immediate and long-term budget crisis; and

WHEREAS, the Constitution requires that the State of Minnesota conclude the current biennium with a balanced budget; and

WHEREAS, it is necessary to immediately reduce current expenditures in order to meet these policy and legal requirements;

NOW, THEREFORE, I hereby order that all executive branch agencies immediately reduce their general fund expenditures:

1. Agency heads shall take all necessary measures to restrict general fund expenditures to those vital to the operation of state government.

Executive Orders

2. No general fund position (classified or unclassified) shall be filled except:

- a. Positions which provide direct care to residents and patients at state institutions and direct supervision of inmates at correctional facilities.
- b. Positions which provide direct instructional services to students in state-operated educational facilities for courses scheduled prior to the date of this order.
- c. Inmate, resident and student employees of state institutions.
- d. Positions which perform services necessary to the maintenance of public safety or otherwise vital to the operation of state government, as determined by the agency head.
- e. Agency heads and their immediate staff in order to complete the gubernatorial transition.

3. No new consultant, professional and technical services contracts, as defined by *Minnesota Statutes* 1990, Section 16B.17 and to be paid for by the general fund, shall be executed unless the agency head determines that the services are vital to the operation of state government and will result in improved efficiency.

4. All current consultant, professional, and technical services contracts paid for by the general fund shall be reviewed. Agency heads shall cancel those that they determine are not vital to the operation of state government and will not result in improved efficiency.

5. No supplies, materials, and equipment, as defined in *Minnesota Statutes*, Chapter 16B and to be paid for by the general fund, shall be purchased unless the agency head determines that they are vital to the operation of state government.

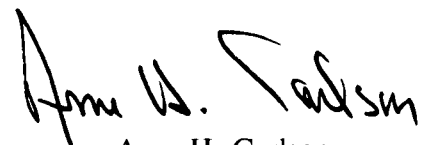
6. No person in the executive branch shall engage in out-of-state travel to be paid from the general fund unless the agency head determines that such travel is vital to the effective operation of state government.

7. None of the foregoing provisions shall be interpreted to invalidate any legal or contractual obligations of the state.

8. Agency heads shall report monthly to the commissioners of finance and administration on savings resulting from their implementation of this order.

Pursuant to *Minnesota Statutes* 1990, Section 4.035, subdivision 2, this order is effective immediately and shall remain in effect until rescinded by property authority or it expires in accordance with *Minnesota Statutes* 1990, Section 4.035, subdivision 3.

IN TESTIMONY WHEREOF, I have set my hand this 7th day of January, 1991.



Arne H. Carlson
Governor

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Board of Architecture, Engineering, Land Surveying and Landscape Architecture

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing the Examination of Landscape Architect and Land Surveyer Applicants

NOTICE IS HEREBY GIVEN that the Board of Architecture, Engineering, Land Surveying and Landscape Architecture is seeking information or opinions from sources outside the agency in preparing to propose amendments to existing rules governing the examination of landscape architect and land surveyor applicants. The adoption of these rules is authorized by *Minnesota Statutes*, Section 326.06, which permits the agency to adopt all rules necessary to accomplish the examination and licensure of architects, engineers, land surveyors and landscape architects.

The Board of Architecture, Engineering, Land Surveying and Landscape Architecture requests information and opinions concerning the subject matter of these rules. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Lowell E. Torseth, Executive Secretary
Board of Architecture, Engineering, Land
Surveying, and Landscape Architecture
133 7th Street East, 3rd Floor
St. Paul, MN 55101-2333

Oral statements will be received during regular business hours by telephone at (612) 296-2388 or in person at

Board of Architecture, Engineering, Land
Surveying and Landscape Architecture
133 7th Street East, 3rd Floor
St. Paul, MN 55101-2333

All statements of information and opinions shall be accepted until February 28, 1991. Any written information received by the Board of Architecture, Engineering, Land Surveying and Landscape Architecture shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Minnesota Comprehensive Health Association

Notice of Meeting of the Association's Actuarial Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association Actuarial Committee will be held on Monday, January 21 at 12:00 noon in the 6th Floor Dining Room at the Blue Cross and Blue Shield of Minnesota building in Egan. For further information call Earl Hoffman at 372-5369.

Minnesota Comprehensive Health Association

Notice of Meeting of the Board of Directors

NOTICE IS HEREBY GIVEN that a meeting of the Board of Directors of the Minnesota Comprehensive Health Association will be held at 9:30 a.m. on Thursday, January 24, 1991, at Northwestern National Life Insurance Company, 20 Washington Avenue South, Minneapolis, Minnesota

Please note that the portion of the meeting to consider medical data relating to appeals is closed to the public.

For additional information, please call 456-8466.

Department of Finance

Cash & Debt Management Division

Notice of 1991 Allocation of Tax-Exempt Authority

For the purpose of an annual volume cap under federal tax law for pool allocations and entitlement pursuant to *Minnesota Statutes* Chapters 474A. The allocations and entitlement are as follows:

ANNUAL VOLUME CAP (pop. 4,387,000 @ 50.00) = \$219,350,000

Pools

| | |
|------------------------------|---------------|
| Small Issues (Manufacturing) | \$ 75,896,000 |
| Multifamily Rental | 46,502,000 |
| Public Facilities | 10,090,000 |
| | <hr/> |
| | \$132,488,000 |

ENTITLEMENT ISSUERS

| | |
|----------------------------------|---------------|
| Minnesota Housing Finance Agency | \$ 51,547,000 |
| City of Minneapolis | 20,180,000 |
| City of St. Paul | 15,135,000 |
| | <hr/> |
| | \$ 86,862,000 |

TOTAL \$219,350,000

The allocations are rounded off to thousands.

For information on the Industrial Development Bonds, please contact the following:

Department of Finance
Cash & Debt Management Division
400 Centennial Building
658 Cedar Street
St. Paul, Minnesota 55155

Contact Person: Gary Blahosky (612) 296-4985 or 296-5900

Dated: 2 January 1991

Peter C. Hutchinson
Commissioner
Minnesota Department of Finance

Office of the Secretary of State

Notice of Vacancies in Multi-Member Agencies

NOTICE IS HEREBY GIVEN to the public that vacancies have occurred in multi-member state agencies, pursuant to *Minnesota Statutes* 15.0597, subdivision 4. Application forms may be obtained from the Office of the Secretary of State, Open Appointments, 180 State Office Building, St. Paul, MN 55155-1299; (612) 297-5845, or in person at Room 174 of the State Office Building. More specific information about these vacancies may be obtained from the agencies listed below. The application deadline is February 5, 1991.

State Curriculum Advisory Committee

647 Capitol Square Bldg., St. Paul 55101. 612-297-2657
Minnesota Statutes 126.67

APPOINTING AUTHORITY: Commissioner of Education. **COMPENSATION:** None.

VACANCY: One member: at-large statewide position, must be a former or current member of a local curriculum advisory committee and must be a parent, teacher, school administrator, or a member of a local Board of Education.

The committee advises the State Board and Department of Education on the planning, evaluation, and reporting process. The committee consists of eleven members including nine members, one appointed from each educational cooperative service units, and two at-large members.

Social Work Licensing Board

2700 University Ave. W. #225., St. Paul 55114. 612-643-2580

Minnesota Statutes 148B.19

APPOINTING AUTHORITY: Governor. COMPENSATION: \$55 per diem plus expenses.

VACANCY: One member: must be a licensed social worker (level of licensure) employed by a private agency. Other requirements are listed in *Minnesota Statutes* 148B.19, subdivision 2—please see the description below of this agency.

The board adopts and enforces rules for licensure of social workers and for regulation of their professional conduct. The board consists of ten members including six licensed social workers (two licensed independent clinical social workers, two licensed independent social workers, and two licensed social workers); three public members as defined in *Minnesota Statutes* 214.02; and one school social worker licensed by the Board of Teaching. The social workers shall represent the following employment settings: two shall represent public agencies, two shall represent private agencies, one shall be in private practice, and one shall be an educator engaged in regular teaching duties at an accredited program of social work. In addition, at least two members shall be persons of color, and at least four members shall reside outside the seven-county metropolitan area. Members must file with the Ethical Practices Board.

Minnesota Sentencing Guidelines Commission

Meridian Natl. Bank Bldg., 205 Aurora Ave., Ste. 205, St. Paul 55103. 612-296-0144

Minnesota Statutes 244.09

APPOINTING AUTHORITY: Governor. COMPENSATION: \$50 per diem plus expenses.

VACANCY: Five members: one public defender, one county attorney, one peace officer, and two public members.

The commissioner will reduce disparity in sentencing practices throughout the state in terms of length of imprisonment as well as imprisonment versus probation and local incarceration. The commission consists of eleven members: one judge of the court of appeals and one district court judge to be appointed by the chief justice of the supreme court; one public defender; one county attorney; one peace officer; one probation officer or parole officer; three public members, one of whom must be a victim of a crime defined as a felony; and the chief justice of the supreme court and the commissioner of Corrections or their designees. The term of any member appointed or reappointed by the governor before the first Monday in January 1991 expires on that date. The term of any member appointed or reappointed after that date is coterminous with the governor. Members, other than judges, must file with the Ethical Practices Board.

Minnesota Board of Chiropractic Examiners Peer Review Committee

2700 University Ave. W., Suite 20, St. Paul 55114-1089. 612-642-0591

Minnesota Statutes 148.01—148.106

APPOINTING AUTHORITY: Executive Director, State Board of Chiropractic Examiners. COMPENSATION: \$55 per diem.

VACANCY: Two professional members.

The committee makes determinations of whether or not certain chiropractors properly utilized services rendered or ordered appropriate treatment or service, and if the cost of treatment was unconscionable. The committee consists of seven members, including five chiropractors and two consumer members. Terms are varied.

State Council on Vocational Technical Education

407 Gallery Bldg., 17 W. Exchange St., St. Paul 55102. 612-296-4202

Minnesota Statutes 136C.50

APPOINTING AUTHORITY: Governor. COMPENSATION: \$55 per diem, reimbursed for expenses.

VACANCY: Two members: one resident of the Eighth Congressional District to represent small businesses, and one member to represent special education. Women and people of color are encouraged to apply. The council advises the governor, the state's education boards, the business community and the public on policy for vocational technical education.

The council consists of thirteen members including seven representatives of the private sector (five from business, industry, and agriculture, and two from labor) and six representatives of high schools and technical colleges among which must be representatives of career guidance and counseling, targeted populations and special education—at least one member from each congressional district.

Minnesota Office on Volunteer Services Advisory Committee

500 Rice St., St. Paul 55155. 612-296-4731

Minnesota Statutes 16B.88

APPOINTING AUTHORITY: Commissioner of Administration. COMPENSATION: Reimbursed for expenses.

VACANCY: Two members: one resident of RDC Area 4, and one member at-large.

The Minnesota Office on Volunteer Services is the statewide leader and a primary service provider to the volunteer community. Its mission is to encourage and sustain volunteer programs, citizen participation efforts and public/private partnerships that contribute to

Official Notices

the quality of life for Minnesota citizens. The committee consists of twenty-one members including at least one member from each economic development region. Three to five meetings per year, usually at the state capitol complex.

Board of Medical Examiners

2700 University Ave. W., Room 106, St. Paul 55114-1080. 612-642-0538
Minnesota Statutes 147.01

APPOINTING AUTHORITY: Governor. COMPENSATION: \$55 per diem plus expenses.

VACANCY: One public member.

The board examines, licenses, and registers medical doctors and doctors of osteopathy, physician assistants, midwives, and physical therapists and enforces the Medical Practices Act. The board consists of sixteen members, including ten licensed M.D. physicians; one licensed Doctor of Osteopathy; and five public members. Monthly meetings, some committee meetings. Members must file with the Ethical Practices Board.

World Trade Center Corporation

400 Minnesota World Trade Center, 30 E. 7th St., St. Paul 55101. 612-297-1580
Minnesota Statutes 44A.01

APPOINTING AUTHORITY: Governor. Senate confirmation. COMPENSATION: \$55 per diem plus expenses.

VACANCY: One member to be appointed by the governor.

This is a public corporation established to facilitate and support Minnesota World Trade Center programs and services and to promote the Minnesota World Trade Center. Nine voting members include three members appointed by the governor and six members appointed by the association of members who represent the international business community. The legislature appoints three senators and three representatives. Members appointed by the governor must be knowledgeable or experienced in international trade in products or services. Members must file with the Ethical Practices Board.

Department of Transportation

Notice of Appointment of State Aid Variance Committee and Meeting

NOTICE IS HEREBY GIVEN that the Commissioner of Transportation has appointed a State Aid Variance Committee who will conduct a meeting on Thursday, February 7, 1991, at 10:00 a.m. in the second floor conference room at the St. Paul Downtown Airport, 644 Bayfield Street, St. Paul, MN 55107.

This notice is given pursuant to *Minnesota Statute* 47K.705.

The purpose of this open meeting is to investigate and determine recommendations for variances from minimum State Aid roadway standards and administrative procedures as governed by *Minnesota Rules* for State Aid Operations 8820.3400 adopted pursuant to *Minnesota Statutes* 161 and 162.

The agenda will be limited to these questions:

1. Petition of the City of Falcon Heights for a variance from minimum standards on a proposed reconstruction project on MSAS 101 (Arona Street) from Crawford Avenue to Roselawn Avenue and on MSAS 102 (Albert Street) from Larpenteur Avenue to Garden Avenue so as to permit a street width of 34 feet; instead of the required minimum of 40 feet; for two traffic lanes and parking on both sides.

2. Petition of the County of Meeker for a variance from the requirement that only those projects for which plans are approved by the State Aid Engineer prior to the award of contract are eligible for state-aid construction funds for a bituminous overlay project on CSAH 11 (SAP 47-611-21) from CSAH 1 to Trunk Highway 12 near Grove City.

3. Petition of the City of St. Paul for a variance from minimum standards on a proposed reconstruction project on MSAS 159 (Lexington Parkway South) from University Avenue to St. Clair Avenue so as to permit a street width of 60 feet instead of the required minimum of 70 feet for four traffic lanes, no parking lanes and a 16 foot median between University Avenue and Summit Avenue; and to permit a street width of 42 feet, two traffic lanes and two parking lanes with parking banned between 7:00-9:00 a.m. and 4:00-6:00 p.m.; between St. Clair Avenue and Lincoln Avenue; and to permit a street width of 42 feet, two traffic lanes and two parking lanes with parking banned between 7:00-9:00 a.m. and 4:00-6:00 p.m. on the west side and with parking banned between 7:00-9:00 a.m. and 3:00-6:00 p.m. on the east side; between Lincoln Avenue and Grand Avenue; and to permit a street width of 42 feet, four traffic lanes and no parking lanes; between Grand Avenue and Summit Avenue; instead of the required minimum of 52 feet, four traffic lanes and no parking lanes, or 72 feet, four traffic lanes and two parking lanes.

The cities and counties previously listed are requested to follow the following time schedule when appearing before the Variance Committee:

• 10:00 a.m. City of Falcon Heights • 10:30 a.m. County of Meeker • 11:00 a.m. City of St. Paul

Dated: 7 January 1991

Douglas H. Differt
Acting Commissioner
Minnesota Department of Transportation

Department of Transportation

Petition of the City of Falcon Heights for a Variance from State Aid Requirements for STREET WIDTH

NOTICE IS HEREBY GIVEN that the City Council of the City of Falcon Heights has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rule as they apply to a proposed reconstruction project on MSAS 101 (Arona Street) from Crawford Avenue to Roselawn Avenue and on MSAS 102 (Albert Street) from Larpenteur Avenue to Garden Avenue.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9912 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a street width of 34 feet; instead of the required minimum of 40 feet; for two traffic lanes and parking on both sides.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 7 January 1991

Douglas H. Differt
Deputy Commissioner/Chief Engineer

Department of Transportation

Petition of the County of Meeker for a Variance from State Aid Requirements for the USE OF STATE AID FUNDS

NOTICE IS HEREBY GIVEN that the County Board of the County of Meeker has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from the requirement that only those projects for which plans are approved by the State Aid Engineer prior to the award of contract are eligible for state-aid construction funds for a bituminous overlay project on CSAH 11 (SAP 47-611-21) from CSAH 1 to Trunk Highway 12 near Grove City.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.2800 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit the use of State Aid funds to finance SAP 47-611-21.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 7 January 1991

Douglas H. Differt
Deputy Commissioner/Chief Engineer

Board of Water and Soil Resources

Notice of Regular Meeting

The Board of Water and Soil Resources will hold their regularly scheduled monthly meeting on Wednesday, January 23, 1991, at the Department of Agriculture Building, Conference Room A, 90 West Plato Boulevard, St. Paul, Minnesota. The meeting will start at 9:00 a.m.

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Commodities contracts with an estimated value of \$15,000 or more are listed under the Materials Management Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Awards of contracts and advertised bids for commodities and printing, as well as awards of professional, technical and consulting contracts, appear in the midweek STATE REGISTER Contracts Supplement, published every Thursday. Call (612) 296-0931 for subscription information.

Materials Management Division—Department of Administration:

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

Commodity: Rotary file
Contact: John Bauer 296-2621
Bid due date at 2pm: January 22
Agency: State University
Deliver to: St. Cloud
Requisition #: 26073-22551

Commodity: Siemens telephone upgrade
Contact: Teresa Ryan 296-7556
Bid due date at 4:30pm: January 25
Agency: Transportation Department
Deliver to: Morris
Requisition #: 79450-00703

Commodity: Cardboard boxes
Contact: Joan Breisler 296-9071
Bid due date at 2pm: January 23
Agency: Natural Resources Department
Deliver to: Various
Requisition #: 29003-04726

Commodity: Electra retort series heat treat furnace
Contact: Mary Jo Bruski 296-3772
Bid due date at 4:30pm: January 18
Agency: State University
Deliver to: St. Cloud
Requisition #: 26073-22504

Commodity: Repair parts: two-way radios-Ericsson/GE
Contact: Patricia Anderson 296-3770
Bid due date at 2pm: January 31
Agency: Transportation Department
Deliver to: Various
Requisition #: Price contract

Commodity: Steel tire rings for picnic areas
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: January 18
Agency: Natural Resources Department
Deliver to: Various parks
Requisition #: 29000-55638

Commodity: Complete vehicle washing system
Contact: Mary Jo Bruski 296-3772
Bid due date at 4:30pm: January 18
Agency: Correctional Facility
Deliver to: Faribault
Requisition #: 02310-18819

Commodity: Repair parts: two-way radios-Motorola
Contact: Patricia Anderson 296-3770
Bid due date at 2pm: January 31
Agency: Transportation Department
Deliver to: Various
Requisition #: Price contract

Commodity: Shelving
Contact: John Bauer 296-2621
Bid due date at 4:30pm: January 22
Agency: Minnesota State Lottery
Deliver to: Eagan
Requisition #: 99997-00071

Minnesota's North Shore

Historic Sites and Place Names of Minnesota North Shore. Stories recounted by a retired DNR Forester about the North Shore's timbermen, pioneer settlers, commercial fishermen, and others who knew the area first hand. Stock #9-11. 35pp. \$3.50 + tax.

Up North. A memorable collection of essays and stories that capture the mystic moods, seasonal subtleties and colorful characters that fill the landscape up north. Stock #19-16. \$14.95 + tax.

A Family Guide to Minnesota's North Shore. The 150 miles from Duluth to the Canadian border offer travelers wilderness experiences, places of historic significance, and visions of astonishing beauty. Stock #19-84. \$3.95 + tax.

Boundary Waters. Almost 100 pages of beautiful color photographs of Minnesota's canoe country, by Jerry Stebbins with rich text by Greg Breining. Stock #19-69. \$24.99 + tax.

Minnesota II. Colorful photographs showing the lyrical balance between country and city, land and water, inhabited by 4.2 million people across 84,000 square miles. A delight for the eyes, with photos by Richard Hamilton Smith and text by Richard A. Coffey. Stock #19-30. \$32.50 + tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$2.00 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard and American Express orders accepted over phone and through mail. **Prices are subject to change.** FAX: (612) 296-2265.



Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Department of Administration: Print Communications Division

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Printing vendors **NOTE: Other printing contracts can be found in the Materials Management Division listing above, and in the Professional, Technical & Consulting Contracts section immediately following this section.**

Commodity: Drivers license withdrawal notice, 150M continuous feed 2-part form, 8³/₈"x4¹/₄" overall includes 1/2" pinfeed both sides, carbonless, camera ready, 1- and 2-sided
Contact: Printing Buyer's Office
Bids are due: January 17
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 13790

Commodity: Name tags, 1M 3¹/₂"x2¹/₄" 80# white text, continuous feed for printer with pinfeed, camera ready, 1-sided
Contact: Printing Buyer's Office
Bids are due: January 17
Agency: Bureau of Criminal Apprehension
Deliver to: St. Paul
Requisition #: 13839

Commodity: 1991 arbor month poster, 15M 17"x22", 2-folds to 8¹/₂"x11", camera ready, 1-sided, 4-color, 100# text, score for folding, 3 transparencies need seps, paper must be recycled, premium printing quality required
Contact: Printing Buyer's Office
Bids are due: January 17
Agency: Agriculture Department—Plant Industry Division
Deliver to: St. Paul
Requisition #: 13838

Commodity: 1991-3 biennial catalog, 55M 96 pages + cover, 8¹/₂"x11", camera ready, perfect bind
Contact: Printing Buyer's Office
Bids are due at 2pm: January 22
Agency: Normandale Community College
Deliver to: Bloomington
Requisition #: 13507

Commodity: PRIM (Public Information Recreation Maps) 54M total—18 different maps, various dimensions 24"-36", 2-sided, camera ready, various overlays
Contact: Printing Buyer's Office
Bid opening 2pm: January 16
Agency: Department of Natural Resources
Deliver to: St. Paul
Requisition #: 13592 (Special Ad)

Commodity: Preprinted envelopes, 15M 11¹/₂"x14¹/₂", with self-seal latex flap, camera ready
Contact: Printing Buyer's Office
Bids are due: January 18
Agency: Human Services Department
Deliver to: St. Paul
Requisition #: 13780

Commodity: Preprinted envelopes, 175M 6"x11³/₈", self-seal gummed latex flap, camera ready
Contact: Printing Buyer's Office
Bids are due: January 18
Agency: Human Services Department
Deliver to: St. Paul
Requisition #: 13779

Commodity: Dental Prior Authorization Form, 60M 9¹/₂"x11" overall includes 1/2" pinfeed both sides, 2-parts with carbon interleave, negs available, 1-sided, continuous
Contact: Printing Buyer's Office
Bids are due: January 18
Agency: Human Services Department
Deliver to: St. Paul
Requisition #: 13778

Commodity: WIC Gestation Calendar, 500, 4"x4", square + 3/4" diameter circle, plastic laminate, square heavier than circle, both parts punched in center and fastened with rivet to allow rotation, camera ready + type to set, 2-sided
Contact: Printing Buyer's Office
Bids are due: January 18
Agency: Minnesota Health Department
Deliver to: Minneapolis
Requisition #: 13802

Commodity: EPSDT Child Screening Form, 100M 4-parts continuous, 9¹/₂"x11" overall included 1/2" pinfeeds both sides, 1- and 2-sided
Contact: Printing Buyer's Office
Bids are due: January 18
Agency: Human Services Department
Deliver to: St. Paul
Requisition #: 13842

Professional, Technical & Consulting Contracts

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Minnesota Center for Arts Education

Notice of Request for Proposal for Magnet Schools Program Consultant

Minnesota Center for Arts Education is seeking a qualified consultant to develop and assist with the implementation of its Magnet Arts Schools Program. Responsibilities include: 1) evaluate specific inservice and transition needs at each school site and for the overall Program; 2) research, design and conduct intensive staff development in collaboration with the Center.

The specific services to be provided under this contract are outlined in detail in the Magnet Schools Program Consultant Request for Proposal (RFP) Statement of Project Scope and Tasks. The formal RFP may be requested from:

I. Karon Sherarts, Resource Programs Director
Minnesota Center for Arts Education
6125 Olson Memorial Highway
Golden Valley, MN 55422
(612) 591-4700

It is anticipated that the total cost of services as described in the RFP to be provided in Phase I (February 28, 1991-June 30, 1991) and Phase II (July 1, 1991-June 30, 1992) will not exceed \$54,000.00 (\$4,000.00 in travel/expenses and \$50,000.00 in fees, at a maximum rate of \$250.00 per day). Phase I cannot exceed \$2,000.00 in travel/expenses and \$10,000.00 in fees; Phase II costs cannot exceed \$2,000.00 in travel/expenses and \$40,000.00 in fees. Phase II of this contract is contingent on an appropriation by the Minnesota State Legislature, for the 1991-92 biennium.

The submissions deadline for completed proposals is 4:00 p.m., February 4, 1991. Proposals must include a resumé, qualifications; description of how scope and tasks will be addressed; timeline; cost estimate; and names of two professional references. Proposal review criteria are: professional qualifications/expertise; experience in the field of innovative K-12 outcome-based arts and interdisciplinary curricula and staff development in diverse public education settings; quality of proposal; feasibility of timeline; cost effectiveness.

Department of Human Services

Chemical Dependency Program Division

Request for Proposals for Chemical Dependency American Indian Programs

The American Indian Program Section of the Chemical Dependency Program Division, Department of Human Services is requesting proposals from American Indian reservation governments and American Indian organizations. Applicants are encouraged to submit proposals for chemical dependency prevention, education, information and referral, short-term counseling and training programs.

Currently funded programs are eligible to submit proposals for two-year funding. Two separate budgets must be submitted with the proposal, one budget for SFY 92 and one for SFY 93.

Copies of the complete Request For Proposal (RFP) and application are available by calling Dorrie Hennagir at (612) 296-4617.

Questions regarding this RFP should be addressed to Ron Welch, Special Assistant Director, American Indian Programs, at (612) 296-4043, or Dorrie Hennagir, Grants Manager at (612) 296-4617.

Department of Human Services

Family Support Programs

Refugee and Immigrant Assistance Division

Extension of Deadline to Submit Proposals for English as a Second Language (ESL) Services for Refugee Women

NOTICE IS HEREBY GIVEN that the deadline to submit proposals for ESL services for refugee women in response to the

Request for Proposals published in the *State Register* on December 10, 1990 is extended to 4:20 p.m. January 25, 1991.

Please direct all questions and requests for copies of the full Request for Proposals to:

Minnesota Department of Human Services
Refugee and Immigrant Assistance Division
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3837
612-296-1383

Department of Revenue

Request for Proposals for Department Visual Standards to Tax Compliance

The department invites proposals for the design and implementation of a visual identity for its written communications that will reflect its current mission and commitment to citizens. The desired outcome is increased voluntary compliance due to consistent presentation and a distinct state identity to eliminate confusion with the IRS. The project will consist of a versatile logotype design, assistance with software applications, and market research on its acceptance. Incorporation of the design in department user manuals will be completed by department staff. Total cost of the project should not exceed \$35,000.

Copies of the Request for Proposal are available from:

Ray Phillips
Communications Division
Department of Revenue
Mail Station 3310
St. Paul, MN 55146-3310
(612) 297-4054

Proposals are due by 4 p.m., February 1, 1991.

Non-State Public Contracts

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

Metropolitan Waste Control Commission

Public Notice for Prequalification for Engineering Services

NOTICE IS HEREBY GIVEN that the Metropolitan Waste Control Commission is soliciting prequalifications for engineering services for the following:

| Service Type | Project Number | Project Name |
|---------------|----------------|--|
| Inventory | 896505 | Metropolitan Wastewater Treatment Plant (MWWTP) Asbestos Study |
| Design | 910100 | Bayport WWTP Phaseout |
| Design | 910300 | Cottage Grove WWTP Exp. |
| Facility Plan | 910600 | Lino Lakes Improvements |
| Facility Plan | 910700 | MWWTP Gravity Thickeners |
| Facility Plan | 910800 | MWWTP Process Computer Sys. |

Non-State Public Contracts

All firms interested in being considered for these projects are invited to submit a letter asking for the project Request For Qualifications (RFQ).

All inquiries and submittals are to be addressed to Mr. Robert Isakson, Acting Program Development Manager, Metropolitan Waste Control Commission, Mears Park Centre, 230 East Fifth Street, St. Paul, Minnesota 55101, (612) 229-2178.

By Order of the
Metropolitan Waste Control Commission
Mr. Gordon O. Voss
Chief Administrator

State Grants

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Department of Health

Community Health Services Division

Emergency Medical Services Section

Notice of Availability of Grants for Regional Emergency Medical Services

The Commissioner of Health announces the availability of funds for two-year grants to all eight geographic emergency medical services (EMS) regions in Minnesota: Northwest, Northeast, West Central, Central, Southwest, South Central, Southeast and Metropolitan.

The total estimated amount available for the two-year period from July 1, 1991, through June 30, 1993—including all sources of funding—is \$2,240,000, or \$280,000 per region.

Of the \$2,240,000 total amount:

- An estimated \$1,440,000 is available from a combination of state and federal sources: (1) the Minnesota Emergency Medical Services System Support Act [*Minnesota Statutes* 144.8093] and (2) Federal Preventive Block Grant. Each region would receive a total of \$180,000 from these combined sources over the two-year period.
- An estimated \$800,000 is expected to be available from the State's Special EMS Relief Account, which is composed of fines collected for violations of the seat-belt use requirement [*Minnesota Statutes* 169.6861]. Each region would receive \$100,000 from this source over the two-year period. The estimate is based on fines collected during calendar year 1990.

This announcement does not obligate the Commissioner to fund proposed projects, and the right is reserved to modify or cancel the solicitation if it is deemed in the right interest of the State to do so.

I. Purpose

The purpose of these grants is to continue the development, maintenance and improvement regional EMS systems throughout the State of Minnesota.

II. Objective

The long-range objective is the reduction of death and disability due to medical emergencies by promoting the prevention of medical emergencies and improving the quality of emergency medical care. Particular emphasis is given to supporting and improving emergency trauma and cardiac care and training.

III. Process

The Commissioner will accept proposals for two-year regional projects from each of the regions: Northwest, Northeast, West Central, Central, Southwest, South Central, Southeast, and Metropolitan. **Proposals will be due on April 8, 1991.** Following staff review, a Commissioner's Determination will be issued for each proposal with one of the following options: 1) approving the proposal at the requested funding level, 2) approving the proposal at a different funding level, 3) denying funding, or 4) returning the proposal for additional information.

IV. Eligible Grant Applicants

Proposals will be considered from not-for-profit corporations or governmental entities. Proprietary corporations are ineligible as the primary grantee under Federal block grant legislation. The regional EMS project must provide services in all counties within its region and must have the demonstrated support of a majority of Community Health Boards and other organizations and agencies that are actively involved in regional EMS activities.

Additionally, the EMS regional system shall be governed by a body consisting of appointed representatives from each of the counties in that region and shall also include representatives from EMS organizations.

V. Proposal Contents

Proposals will be expected to address the following EMS program components: trained personnel, transportation, public safety coordination, communications, public involvement, facilities access (critical care systems planning), and system management.

At a minimum, proposal must contain the following information:

A. Project Administration/Management

1. Administrative Structure
2. Qualifications of Personnel
3. Regional Advisory Committees

B. Budget

1. Line-Item Breakdown
2. Narrative

C. Regional EMS Plan (including the following components)

1. Personnel Training
2. Equipment
3. Public Safety/Involvement
4. Systems Management
5. Communications

This section should address each of the components by examining the following elements: current status; desired status; needs/problems; steps in progress; objectives; and evaluation measures.

VI. Letters of Intent

Parties interested in submitting proposals for regional EMS projects must first submit a *Letter of Intent to Apply for Funds*. The Letter should include: 1) Name of applicant organization, 2) brief description of organization, and 3) name, address and telephone number of a contact person. Each party submitting a Letter of Intent will receive a **Request for Proposal**, which contains detailed information on the organization, format, and content of proposals, as well as submission requirements and procedures.

Letters of Intent, due no later than **January 28, 1991**, are to be submitted to:

Donald O. Hedman, Grants Manager
Emergency Medical Services Section
Minnesota Department of Health
717 S.E. Delaware St.
P.O. Box 9441
Minneapolis, MN 55440
Metro: (612) 623-5488; Greater Minnesota: (800) 747-2011

Department of Human Services

Minnesota Board on Aging

Request for Grant Proposals to Sponsor the Foster Grandparent Program

Amount and Purpose

The Minnesota Board on Aging provides state funds in the amount of \$514,818 annually to support the operation of a Foster Grandparent Program in 24 counties in the metro, northwest and southern areas of the state. The state funds supplement federal ACTION funding (currently in the amount of \$571,111), providing for an additional 148 Foster Grandparent positions.

State Grants

The Board on Aging and ACTION are currently seeking an organization to assume on-going sponsorship of the program. The new sponsor, at minimum, must retain all existing Foster Grandparent positions and, where feasible, all existing Foster Grandparent volunteer stations for the first year of sponsorship.

Letter of Intent

Letters of intent to apply for sponsorship of the Foster Grandparent Program must be submitted by January 31, 1991 to MINNESOTA BOARD ON AGING, 444 LAFAYETTE ROAD, ST. PAUL, MN 55155-3843. Letters must specify an intent also to apply for federal ACTION funding. Only those letters indicating intention to provide service to the entire program area will be considered.

Application Process

Application materials and technical assistance will be provided to organizations submitting letters of intent. The application materials will be similar to those required for federal ACTION funds. Local match of 10% is required, currently provided, for the most part, by volunteer stations and local community organizations.

Applications must be submitted to the Minnesota Board on Aging at the above address by February 28, 1991. Approval by the Minnesota Board on Aging will be made no later than June 6, 1991. The concurrence of the federal ACTION agency will be required prior to issuance of grant awards.

Funding Criteria

Grants will be made to the applicant which, in the judgment of the Minnesota Board on Aging and in concurrence with the federal ACTION agency, will most effectively and efficiently provide on-going sponsorship and support of the program. The ability of the applicant to meet all state and federal requirements for operation of the program will be considered primary.

For Information

Contact ARTHUR WEFLIN, MINNESOTA BOARD ON AGING, 444 LAFAYETTE ROAD, ST. PAUL, MN 55155-3843. 612/296-3217.

Department of Human Services

Minnesota Board on Aging

Request for Grant Proposals to Sponsor the Senior Companion Program

Amount and Purpose

The Minnesota Board on Aging provides state funds in the amount of \$381,000 annually to support the operation of a Senior Companion Program in 24 counties throughout the state. The state funds supplement federal ACTION funding (currently in the amount of \$471,083), providing for an additional 106 Senior Companion positions.

The Board on Aging and ACTION are currently seeking an organization to assume on-going sponsorship of the program. The new sponsor, at minimum, must retain all existing Senior Companion positions and, where feasible, all existing Senior Companion volunteer stations for the first year of sponsorship.

Letter of Intent

Letters of intent to apply for sponsorship of the Senior Companion Program must be submitted by January 31, 1991 to MINNESOTA BOARD ON AGING, 444 LAFAYETTE ROAD, ST. PAUL, MN 55155-3843. Letters must specify an intent also to apply for federal ACTION funding. Only those letters indicating intention to provide service to the entire program area will be considered.

Application Process

Application materials and technical assistance will be provided to organizations submitting letters of intent. The application materials will be similar to those required for federal ACTION funds. Local match of 10% is required, currently provided, for the most part, by volunteer stations and local community organizations.

Applications must be submitted to the Minnesota Board on Aging at the above address by February 28, 1991. Approval by the Minnesota Board on Aging will be made no later than June 6, 1991. The concurrence of the federal ACTION agency will be required prior to issuance of grant awards.

Funding Criteria

Grants will be made to the applicant which, in the judgment of the Minnesota Board on Aging and in concurrence with the federal ACTION agency, will most effectively and efficiently provide on-going sponsorship and support of the program. The ability of the applicant to meet all state and federal requirements for operation of the program will be considered primary.

For Information

Contact ARTHUR WEFLIN, MINNESOTA BOARD ON AGING, 444 LAFAYETTE ROAD, ST. PAUL, MN 55155-3843. 612/296-3217.

Department of Human Services

Minnesota Board on Aging

Request for Grant Proposals to Sponsor the North Central Retired Senior Volunteer Program

Amount and Purpose

The Minnesota Board on Aging provides state funds in the amount of \$35,625 annually to support the operation of a Retired Senior Volunteer Program (RSVP) in Koochiching, Itasca and Aitkin counties. Federal ACTION funding (currently in the amount of \$13,582), and substantial local funding provide additional support for a projected 94,545 hours of volunteer service this year by retired persons over 60 years old.

The Board on Aging and ACTION are currently seeking an organization to assume on-going sponsorship of the program. The new sponsor, at minimum, must retain all existing volunteer positions and, where feasible, all existing volunteer stations for the first year of sponsorship.

Letter of Intent

Letters of intent to apply for sponsorship of the Retired Senior Volunteer Program must be submitted by January 31, 1991 to MINNESOTA BOARD ON AGING, 444 LAFAYETTE ROAD, ST. PAUL, MN 55155-3843. Letters must specify an intent also to apply for federal ACTION funding. Only those letters indicating intention to provide service to the entire 3-county program area will be considered.

Application Process

Application materials and technical assistance will be provided to organizations submitting letters of intent. The application materials will be similar to those required for federal ACTION funds. Local match of 10% is required, currently provided, for the most part, by the counties and local community organizations. (Local match of 30% is required for the federal ACTION funding.)

Applications must be submitted to the Minnesota Board on Aging at the above address by February 28, 1991. Approval by the Minnesota Board on Aging will be made no later than June 6, 1991. The concurrence of the federal ACTION agency will be required prior to issuance of grant awards.

Funding Criteria

Grants will be made to the applicant which, in the judgment of the Minnesota Board on Aging and in concurrence with the federal ACTION agency, will most effectively and efficiently provide on-going sponsorship and support of the program. The ability of the applicant to meet all state and federal requirements for operation of the program will be considered primary.

For Information

Contact ARTHUR WEFLIN, MINNESOTA BOARD ON AGING, 444 LAFAYETTE ROAD, ST. PAUL, MN 55155-3843. 612/296-3217.

Announcements

Environmental Quality Board (EQB): Comments are due February 6 on the EAWs (environmental assessment worksheets) for the following projects at their listed regional governing unit: **Mathisen Gravel Mine—Cliff Creek Project**, Cook County (218) 387-2282; **Sampson Pothole Open Water Development**, Minn. Dept. of Natural Resources (DNR) (612) 296-4796. • Environmental Assessment has been called for by MnDOT (Minn. Dept. of Transportation) for the **Trunk Highway 52—Fillmore County**. A public hearing will be held on January 24 from 4-8 p.m. at the Fountain Fire Hall in Fountain, MN. Contact Kermit K. McRae, district engineer, MnDOT, P.O. Box 6177—Highway 52 North, Rochester, MN 55903 (507) 285-7374. • A draft EIS (environmental impact statement) is available for the **Midway Corridor Light Rail Transit** from Kathryn DeSpiegelaere, Ramsey County Regional Railroad Authority (612) 298-5420. Public hearings are scheduled for Feb. 25 at 7 p.m. in the Fine Arts Bldg., Buetow Auditorium, Concordia College, Hamline & Marshall Aves., St. Paul, and on Feb. 26 at 3 p.m. in the Council Chambers, Third Floor, Ramsey County Courthouse, 15 West Kellogg Blvd., St. Paul, and on Feb. 26 at 7 p.m. with a location yet to be determined. Comments on the Draft EIS are due by March 13.

Governor's Appointments: Former Governor Rudy Perpich announced the appointment of **Sandra Gardebring** as Associate Justice on the Minnesota Supreme Court. Gardebring, 43, has served as an at-large judge on the Minnesota Court of Appeals since July 26, 1989. Replacing her on the Minnesota Court of Appeals will be **Roland C. Amundson** of Minneapolis.

Announcements

Amundson, 41, is currently a judge in the Fourth Judicial District in Hennepin County. Governor Perpich also announced the appointment of five new district court judges: **Harvey C. Ginsberg**, 37, has been appointed to fill the Fourth Judicial District seat in Minneapolis vacated by Amundson's elevation to the Court of Appeals. **John M. Stanoch**, 33, has been appointed to fill the Fourth Judicial District seat in Minneapolis vacated by the death of the Honorable Chester Durda. **Peder B. Hong**, 49, has been appointed to replace the Honorable Thomas Gorman in the First Judicial District seat in Red Wing. **Richard G. Spicer**, 43, has been appointed to the First Judicial District seat in Chaska that was recently transferred by the Supreme Court from the Fifth Judicial District. **Representative R. Joseph Quinn**, 48, has been appointed to fill the new judgeship in the Tenth Judicial District in Stillwater that was recently transferred by the Supreme Court from the Eighth Judicial District. Governor Perpich also announced the appointment of **Gary M. Holmgren** of Woodbury to the Board of Boxing to a term to January 1994. The Board licenses boxers, seconds, managers and franchise holders and makes rules governing sparring and boxing exhibitions.

Licensing Recommended for Dietitians and Nutritionists: Sister Mary Madonna Ashton, former Minnesota Commissioner of Health, has recommended that the state begin licensing dietitians and nutritionists in Minnesota. Commissioner Ashton's recommendations came in response to a request from the Minnesota Dietetic Association (MDA) asking that dietitians and nutritionists be licensed by the state. The Commissioner's recommendation is based on a review of the MDA request by the state Human Services Occupations Advisory Council (HSOAC) and staff at the Minnesota Department of Health (MDH). There are currently over 1500 dietitians and nutritionists practicing in Minnesota, working in a variety of settings. Many people in those occupations are employed by health care institutions and agencies. They also work as independent consultants to health care facilities, agencies and organizations—or in private practice as nutrition counselors and educators. Some work in higher education, training dietitians, nutritionists and other health care professionals. When an occupational group asks to be regulated by the state, the Commissioner is legally required to identify the least stringent form of regulation that will protect the public from harm. In some cases, that may mean no regulation at all.

Smoking High for Young Adult Minnesota Women: While the over-all smoking rate has been dropping for adults in Minnesota, large numbers of young women are continuing to smoke, according to a new report from the Minnesota Department of Health (MDH). Twenty-seven percent of Minnesota women between the ages of 18 and 30 say they are regular smokers, who light up at least once a day. Another eight percent are "occasional" smokers, who may have a cigarette up to several times a week. The figures are based on telephone interviews with 2,017 women, conducted during 1989. The 35 percent smoking rate for young adult women compares with 21 percent for all Minnesotans 18 or older. The adult smoking rate in Minnesota dropped from 29 percent to 21 percent between 1985 and 1989. The situation in Minnesota mirrors national trends, according to MDH officials. Nationwide, among people 18 to 24 years of age, more women are now smoking than men. Unlike men, women are typically becoming smokers after the age of 18, rather than before. Once they start smoking, women typically find it harder to quit than men. Contact Kathleen C. Harty for more information (612) 623-5500.

1991 National Journalism Scholarship Contest: Essays from high school students, ages 16-19, are being sought for a national journalism scholarship contest on the theme, "Employment: Investing in America's Future." The National Journalism Scholarship Program offers this annual contest "to reward excellence in journalistic writing and to help young Americans become aware of the talents that people with disabilities bring to the job market." High school juniors and seniors may submit entries by Feb. 15 to compete for scholarships totaling \$3,000 in Minnesota and \$10,000 nationally, said Cliff Miller, coordinator of the Minnesota contest. The Minnesota \$1,000 first-place scholarship winner and the student's teacher also receive expense-paid trips to Washington, D.C. for the annual meeting of the President's Committee on Employment of People With Disabilities. The state's winning essay automatically will be entered in the national scholarship competition, Miller said. Rules of the competition are outlined in a brochure available from the student's high school counselor or principal. Minnesota essay entries will be judged by representatives of the sponsoring organizations, which include the Division of Rehabilitation Services, State Dept. of Jobs & Training, Disabled American Veterans, the Minnesota State Council on Disability, the Minnesota AFL-CIO and the Minnesota Chamber of Commerce. The top Minnesota winners will receive their awards at a ceremony at the State Capitol. Entries should be submitted to: 1991 National Journalism Scholarship Program, Division of Rehabilitation Services, 390 N. Robert Street, St. Paul, MN 55101.

1990 Bear Harvest Set Record: A record number of black bear were harvested by hunters in Minnesota during the 1990 bear season, according to the Department of Natural Resources (DNR). Despite the record harvest, the black bear population remains healthy. A total of 2,328 bear were taken in 1990, an increase of 22 percent over the previous record of 1,911 set in 1989. Of that 1990 total, 1,947 bear were harvested from nine quota areas, and 381 bear were taken in the "no-quota" area where the number of bear hunters was not limited. Several factors contributed to the record harvest, according to Dave Schad, forest wildlife specialist for the DNR. He said the harvest was due to an abundant bear population in northern Minnesota, an increased number of permits available in most quota areas, and a lack of natural foods in the woods that increased the effectiveness of bait used by hunters.

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Process Parenting—Breaking the Addictive Cycle. A training manual that provides parent education and treatment techniques for professionals who work with recovering chemically dependent parents or dysfunctional families. Stock No. 5-4, \$15.00 plus tax.

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OTHER PUBLICATIONS

Our Minnesota. More than 100 full-color photos by Les and Craig Blacklock portray Minnesota in her seasonal beauty, with text from the personal journal of Fran Blacklock's thirty years of traveling the state. Stock #9-23. \$13.95 plus tax.

Historic Sites and Place Names of Minnesota's North Shore. John Fritzen, long time employee of the Minnesota DNR draws upon his almost 40 years as a forester, mostly spent on Minnesota's colorful and legendary North Shore, to regale readers with tales of timbermen, pioneer settlers, miners, commercial fishermen and others. Black and white photos. Stock #9-11. \$3.50 plus tax.

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Minnesota Manufacturer's Directory, 1990. More than 7,000 entries listing name, address, phone, staff size, sales volume, market area, year of establishment, type of firm, CEO, sales or marketing and purchasing managers, and four manufactured products. Stock #40-2. \$78.50 + \$4.71 sales tax.

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