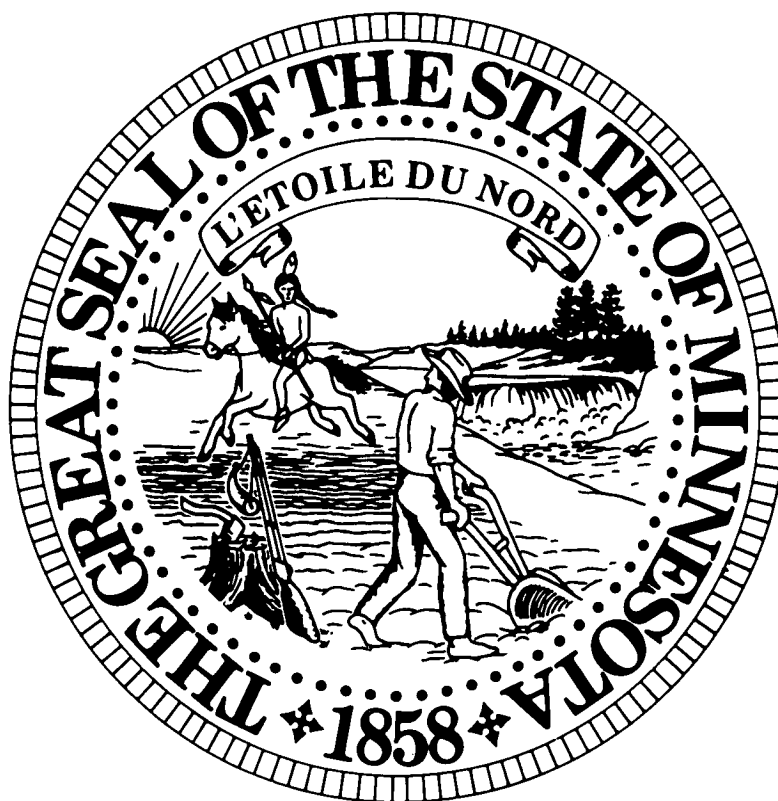


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The Minnesota
**State
Register**

Department of Administration—Print Communications Division



Rules edition
Published every Monday

23 July 1990

Volume 15, Number 4

Pages 141-248

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, supreme court decisions, and a monthly calendar of cases to be heard by the state supreme court.

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
4	Monday 9 July	Monday 16 July	Monday 23 July
5	Monday 16 July	Monday 23 July	Monday 30 July
6	Monday 23 July	Monday 30 July	Monday 6 August
7	Monday 30 July	Monday 6 August	Monday 13 August

*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.

Both editions are delivered postpaid to points in the United States, second class postage paid for the Monday edition at St. Paul, MN, first class for the Thursday edition. Publication Number 326630 (ISSN 0146-7751).

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.

Rudy Perpich, Governor
Sandra J. Hale, Commissioner
Department of Administration

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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

Contents

Minnesota Rules: Amendments & Additions

Issues 1-4 inclusive 144

Proposed Rules

Commerce Department

Medicare supplement 145

Marriage & Family Therapy Board

Marriage and family therapy 167

Waste Management Office

Recyclable material market development grant and loan program 184

Solid waste reduction grant and loan program 190

Vocational Technical Education Board

Technical college counselor license 196

Commissioner's Orders

Natural Resources Department

Order # 2381: Early season regulations for taking Canada geese in 1990 198

Executive Orders

Order # 90-4: Providing for continuation of the Governor's Advisory Committee on Appointments to Multi-Member Agencies 200

Official Notices

Agricultural Chemical Response Compensation Board

Opinion sought for rules on the Agricultural Chemical Response Compensation Board 201

Chiropractic Examiners Board

Opinion sought on rules for acupuncture in the practice of chiropractic 202

Opinion sought on rules for independent medical examinations in the practice of chiropractic 202

Minnesota Comprehensive Health Association

Public hearings on provider payment schedules for the Minnesota Comprehensive Health Association 203

Search for executive director for the association 225

Environmental Quality Board

Public hearing on rules for high voltage lines, power plants and environmental review of certain large energy facilities 226

Labor & Industry Department

Correction to prevailing wage rates 227

Pollution Control Agency

Opinion sought on rules hazardous waste identification regulations by the implementation of the toxicity characteristic leaching procedure 228

Issuance of a general state disposal system permit for facilities located in the state of Minnesota that produce paving asphalt concrete and operate a wet scrubber 228

Public Utilities Commission

Opinion sought on rules for utility customer service 230

Water & Soil Resources Board

Meeting notice 230

State Contracts & Advertised Bids

Administration Department

Materials Management Division: Commodities and requisitions open for bid 231

Print Communications Division: Printing,

typesetting, keylining, design, photo pre-press, and mailing services open for bid 232

Professional, Technical & Consulting Contracts

Health Department

Proposals sought for study of health personnel shortages in rural Minnesota 233

Minnesota Historical Society

Contract available for cultural resource survey of Lake Superior shipwrecks 233

Human Services Department

Proposals sought for language interpretation services 234

Natural Resources Department

Proposals sought for television and radio public service announcement production 234

Public Safety Department

Deadline extension for contract employee to conduct character and criminal background investigations for the Gambling Enforcement Division 234

Trade & Economic Development Department

Proposals sought for audit services 235

Minnesota Veterans Home—Hastings

Proposals sought for various baked goods and delivery 238

Office of Waste Management

Proposals sought for evaluation of cost and revenue estimates for proposed hazardous waste stabilization and containment facility 238

Water & Soil Resources Board

Proposals sought to facilitate the development of rules for metropolitan surface water planning 241

State Grants

Council on Disability

Proposals sought for operating support grants to arts organizations throughout the state that will serve individuals with disabilities 242

Supreme Court Decisions, Opinions & Rules

Decisions, opinion and orders filed Friday 20 July 1990 242

Announcements 246

Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the *State Register*

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.

Date of Issue: 23 July 1990 Vol. 15 Number 4

Administration Department

1300.2100-1302.0900 (adopted)	74
1305.0100; .0150; .0800; .1000; .1100; .1590; .1775; .1795; .2050; .2600; .3860; .3900; .4100; .4850; .5340; .5360; .5380; .5385; .5400 s.2907; .5710; .5720; .5730; .5740; .5900; .6430; .6901 (adopted)	74
1335.0600; .1000; .1100; .1950; .2150; .3100 (adopted)	74
1360.900; .3600 (adopted)	74
1305.0300; .1750; .1790; .2100; .2400; .3000; .3100; .3200; .3300; .3600; .3700; .4200; .4500; .4900; .5300; .5310; .5500; .5800; .6550; .6600; .6900 (repealed)	76
1305.5100-.5118 (adopted)	70
1346-0050-.2600 (adopted)	72

Agriculture Department

1556.0100-.0127 (adopted)	11
1555.0005 s.2,13; .0011; .0013 (repealed)	11
1556.0110; .0120; .0132; .0134 (proposed)	5
1556.0130 (proposed repealer)	5

Commerce Department

2741.0010-.0240 (proposed)	145
----------------------------	-----

Education Department

3530.6300; .6400 (withdrawn)	12
3515.6600 (proposed repealer)	196

Vocational Technical Education Board

3700.0400; 0405; .0410; .0415; .0420; .0425; .0430; .0435; .0770 (proposed)	111
3700.0765 (proposed)	115
3700.1050 (proposed)	196

Electricity Board

3800.2650 (adopted)	117
4690.5000 (adopted)	117

Health Department

4715.0100; .0200; .0310; .0320; .0420; .0500; .0520; .0580; .0620; .0800; .0805; .0810; .0820; .0860; .1220; .1240; .1260; .1300; .1305; .1380; .1440; .1590; .1930; .1940; .1941; .2020; .2100; .2110; .2120; .2163; .2190; .2230;	
--	--

.2260; .2440 (adopted)	76
4715.2130; .2140; .3900; .4000 (repealed)	76
4725.0100; .0200; .0300; .0400; .0450; .0500; .0700; .1000; .1050; .1250; .1300; .1325; .1400; .1500; .1600; .1650; .1675; .1685; .1700; .1800; .1820; .1825; .1830; .1835; .1836; .1837; .1838; .1840; .1842; .1845; .1848; .1849; .6750 (adopted)	78
4725.0100 s.2,3,6,7,15,16,18,25,31,41; .0600; .0700 s.2; .0800; .0900; .1000 s.1,3; .1100; .1200; .1850 (repealed)	78
4730.0600 (proposed)	44
4630.1900; .2000; .2210 (proposed)	7
Housing Finance Agency	
4900.1931-.1937 (adopted)	12
4900.1925-.1930 (adopted)	12
4900.2700-.2707 (adopted)	12
4900.2800-.2805 (adopted)	12
Labor & Industry Department	
5205.1400 (proposed)	105
5221.0100; .2250 (adopted)	124
5205.0010 (adopted)	124
Marriage & Family Therapy Board	
5300.0100-.0360 (proposed)	167
Public Safety Department	
7530.0100; .0300; .0500; .0800; .1000; .1200; .1400; .1500 (adopted)	83
Public Utilities Commission	
7831.0100-.0800 (proposed)	63
Revenue Department	
8130.9250 (proposed)	107
8130.9200 (proposed repealer)	107
Secretary of State	
8250.1700 (proposed)	44
Teaching Board	
8700.2810; .7710 (adopted)	83
Transportation Department	
8810.8000; .8100; .8110; .8200; .8300; .8400; .8500	

(proposed) 45
 8810.9000; .9100; .9200; .9300; .9400; .9500 (proposed) 46
 8810.9800 (proposed repealer) 46
 8820.0100; .0600; .0700; .0800; .1000; .1400; .1500; .1800;
 .1900; .2000; .2100; .2300; .2400; .2500; .2700; .2800;
 .2900; .3100; .3300; .3400; .9910; .9925; .9930; .9935;
 .9940; .9945; .9950; .9955; .9960; .9965; .9970 (proposed) ... 46
 8820.9911-.9919 (proposed repealer) 46

Waste Management Office

9210.0600-.0645 (proposed) 184
 9210.0700-.0770 (proposed) 190

Human Services Department

9500.2060; .2100; .2140; .2340; .2380; .2420; .2440;
 .2500; .2580; .2640; .2680; .2700; .2740; .2800; .2820;
 .2880 (adopted) 117
 9500.2060 subpart 118 (repealed) 117
 9500.1272 (adopted) 120

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.

Department of Commerce

Proposed Permanent Rules Relating to Medicare Supplement

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Department of Commerce intends to adopt the above-entitled rule without a public hearing

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

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 *Minnesota Statute* § 45.023 and § 62A.42.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule 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 department will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

Richard G. Gomsrud
Department Counsel
Minnesota Department of Commerce
133 E. Seventh Street
St. Paul, Minnesota 55101
(612) 296-5689

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 and 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 upon request from:

Richard G. Gomsrud
Department Counsel
Minnesota Department of Commerce
133 E. Seventh Street
St. Paul, Minnesota 55101

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:

Richard G. Gomsrud
Department Counsel
Minnesota Department of Commerce
133 E. Seventh Street
St. Paul, Minnesota 55101

Dated: 28 June 1990

Thomas Borman
Commissioner of Commerce

Rules as Proposed (all new material)

TRANSITIONAL REQUIREMENTS FOR THE CONVERSION OF BENEFITS AND PREMIUMS TO CONFORM TO MEDICARE PROGRAM REVISIONS

2741.0010 PURPOSE.

The purpose of parts 2741.0010 to 2741.0080 is to:

- A. assure the orderly implementation and conversion of Medicare supplement insurance benefits and premiums due to changes in the federal Medicare program;
- B. provide for the reasonable standardization of the coverage, terms, and benefits of Medicare supplement policies or contracts;

- C. facilitate public understanding of the policies or contracts;
- D. eliminate provisions contained in the policies or contracts that may be misleading or confusing in connection with the purchase of the policies or contracts;
- E. eliminate policy or contract provisions that may duplicate Medicare benefits;
- F. provide full disclosure of policy or contract benefits and benefit changes; and
- G. provide for refunds of premiums associated with benefits duplicating Medicare program benefits.

2741.0020 AUTHORITY.

Parts 2741.0010 to 2741.0080 are adopted under *Minnesota Statutes*, section 62A.42, providing authority for regulation of Medicare supplement insurance policies.

2741.0030 APPLICABILITY AND SCOPE.

Parts 2741.0010 to 2741.0080 supersede other rules and requirements relating to Medicare supplement policies or contracts only to the extent necessary to assure that benefits are not duplicated, that applicants receive adequate notice and disclosure of changes in Medicare supplement policies and contracts, that appropriate premium adjustments are made in a timely manner, and that premiums are reasonable in relation to benefits.

Except as otherwise provided, parts 2741.0010 to 2741.0080 apply to:

- A. Medicare supplement policies and contracts delivered, or issued for delivery, or that are otherwise subject to the jurisdiction of the Minnesota Department of Commerce on or after the effective date of parts 2741.0010 to 2741.0080; and
- B. certificates issued under group Medicare supplement policies as provided in item A.

2741.0040 DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 2741.0010 to 2741.0080, the words defined in this part have the meaning given them.

Subp. 2. **Applicant.** "Applicant" means:

- A. in the case of an individual Medicare supplement policy or contract, the person who seeks to contract for insurance benefits; and
- B. in the case of a group Medicare supplement policy or contract, the proposed certificate holder.

Subp. 3. **Certificate.** "Certificate" means a certificate issued under a group Medicare supplement policy.

Subp. 4. **Medicare supplement policy.** "Medicare supplement policy" means a group or individual policy of accident and sickness insurance or any other contract that is advertised, marketed, or designed primarily to provide health care benefits as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare by reason of age.

2741.0050 BENEFIT CONVERSION REQUIREMENTS.

Subpart 1. **Application.** Effective January 1, 1990, no Medicare supplement insurance policy, contract, or certificate in force in Minnesota shall contain benefits that duplicate benefits provided by Medicare.

Subp. 2. **General requirements.**

A. No later than 30 days before the annual effective date of Medicare benefit changes, every insurer, health care service plan, or other entity providing Medicare supplement insurance or benefits to a resident of Minnesota shall notify its policyholders, contract holders, and certificate holders of modifications it has made to Medicare supplement insurance policies or contracts. The notice must be in a form prescribed in part 2741.0240.

(1) The notice shall include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement insurance policy or contract.

(2) The notice shall inform each covered person as to when any premium adjustment due to changes in Medicare benefits will be made.

(3) The notice of benefit modifications and premium adjustments must be in outline form and in clear and simple terms so as to facilitate comprehension. The notice must not contain or be accompanied by a solicitation.

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

B. No modifications to an existing Medicare supplement contract or policy must be made at the time of or in connection with the notice requirements of parts 2741.0010 to 2741.0080 except to the extent necessary to eliminate duplication of Medicare benefits and any modifications necessary under the policy or contract to provide indexed benefit adjustment.

C. As soon as practicable, but no longer than 45 days after the effective date of the Medicare benefit changes, every insurer, health care service plan, or other entity providing Medicare supplement insurance or contracts in Minnesota shall file with the department, in accordance with the applicable filing procedures of Minnesota:

(1) Appropriate premium adjustment necessary to produce loss ratios as originally anticipated for the applicable policies or contracts. The supporting documents as necessary to justify the adjustment must accompany the filing.

(2) Appropriate riders or endorsements needed to accomplish the Medicare supplement insurance modifications necessary to eliminate benefit duplications with Medicare. Riders or endorsements must provide a clear description of the Medicare supplement benefits provided by the policy or contract.

D. Upon satisfying the filing and approval requirements of Minnesota, every insurer, health care service plan, or other entity providing Medicare supplement insurance in Minnesota shall provide each covered person with a rider or endorsement necessary to eliminate benefit duplications under the policy or contract with benefits provided by Medicare.

E. No insurer, health care service plan, or other entity shall require a person covered under a Medicare supplement policy or contract that was in force before January 1, 1990, to purchase additional coverage under the policy or contract unless additional coverage was provided for in the policy or contract.

F. Every insurer, health care service plan, or benefit, or other entity providing Medicare supplement insurance or benefits to a resident of Minnesota shall make premium adjustments as are necessary to produce an expected loss ratio under the policy or contract as will conform with minimum loss ratio standards for Medicare supplement policies and that is expected to result in a loss ratio at least as great as that originally anticipated by the insurer, health care service plan, or other entity for the Medicare supplement insurance policies or contracts. No premium adjustment that would modify the loss ratio experience under the policy other than the adjustments described in this part should be made with respect to a policy at any time other than upon its renewal date. Premium adjustments must be in the form of refunds or premium credits and must be made no later than upon renewal if a credit is given, or within 60 days of the renewal date if a refund is provided to the premium payer.

2741.0055 OFFER OF REINSTITUTION OF COVERAGE.

Subpart 1. **Application.** Except as provided in subpart 2, in the case of an individual who had in effect, as of December 31, 1988, a Medicare supplemental policy with an insurer (as a policyholder or, in the case of a group policy, as a certificate holder) and the individual terminated coverage under the policy before the date of the enactment of the repeal of the Medicare Catastrophic Coverage Act of 1988, the insurer shall:

A. provide written notice no earlier than December 15, 1989, and no later than January 30, 1990, to the policyholder or certificate holder, at the most recent available address, of the offer described in item B; and

B. offer the individual, during a period of at least 60 days beginning not later than February 1, 1990, reinstatement of coverage (with coverage effective as of January 1, 1990), that:

(1) does not provide for any waiting period with respect to treatment of preexisting conditions;

(2) provides for coverage that is substantially equivalent to coverage in effect before the date of termination; and

(3) provides for classification of premiums on which terms are at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage never terminated.

Subp. 2. **Nonapplication.** An insurer is not required to make the offer under subpart 1, item B, in the case of an individual who is a policyholder or certificate holder in another Medicare supplemental policy as of January 1, 1990, if the individual is not subject to a waiting period with respect to treatment of a preexisting condition under the other policy.

2741.0060 REQUIREMENTS FOR NEW POLICIES AND CERTIFICATES.

Subpart 1. **Application.** Effective January 1, 1990, no Medicare supplement insurance policy, contract, or certificate shall be issued or issued for delivery in Minnesota that provides benefits that duplicate benefits provided by Medicare. No Minnesota policy, contract, or certificate shall provide fewer benefits than those required under the existing Medicare Supplement Minimum Standards Act or regulations except where duplication of Medicare benefits would result.

Subp. 2. General requirements.

A. Within 90 days of the effective date of parts 2741.0010 to 2741.0080, every insurer, health care service plan, or other entity required to file its policies or contracts with Minnesota shall file new Medicare supplement insurance policies or contracts that eliminate the duplication of Medicare supplement benefits with benefits provided by Medicare and that provides a clear description of the policy or contract benefit.

B. The filing required under item A must provide for loss ratios that comply with all minimum standards. Policies and certificates submitted to the department for the purpose of complying with *Minnesota Statutes*, sections 62A.31 to 62A.44, and Laws of Minnesota 1990, chapter 403, before the effective date of this part, are considered to have met the filing requirements of this part.

C. Every applicant for a Medicare supplement insurance policy, contract, or certificate shall be provided with an outline of coverage that simplifies and accurately describes benefits provided by Medicare and policy or contract benefits along with benefit limitations.

2741.0070 FILING REQUIREMENTS FOR ADVERTISING.

Every insurer, health care service plan, or other entity providing Medicare supplement insurance or benefits in Minnesota shall provide a copy of any advertisement intended for use in Minnesota whether through written, radio, or television medium to the commissioner of commerce for review by the commissioner. The advertisement must comply with all applicable laws of Minnesota.

2741.0080 BUYER'S GUIDE.

No insurer, health care service plan, or other entity shall make use of or otherwise disseminate a buyer's guide or informational brochure that does not accurately outline current Medicare benefits and that has not been approved by the commissioner.

MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS

2741.0100 APPLICABILITY AND SCOPE.

Except as otherwise specifically provided in parts 2741.0180 and 2741.0190, parts 2741.0100 to 2741.0240 apply to:

A. Medicare supplement policies and subscriber contracts delivered or issued for delivery in Minnesota on or after the effective date of those parts; and

B. certificates issued under group Medicare supplement policies or subscriber contracts that have been delivered or issued for delivery in Minnesota.

Parts 2741.0100 to 2741.0240 do not apply to a policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

2741.0110 DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 2741.0100 to 2741.0240, the terms defined in this part have the meanings given them.

Subp. 2. **Applicant.** "Applicant" means:

A. in the case of an individual Medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits; and

B. in the case of a group Medicare supplement policy or subscriber contract, the proposed certificate holder.

Subp. 3. **Certificate.** "Certificate" means a certificate issued under a group Medicare supplement policy that has been delivered or issued for delivery in Minnesota.

Subp. 4. **Medicare supplement policy.** "Medicare supplement policy" means a group or individual policy of accident and sickness insurance or a subscriber contract of hospital and medical service associations or health maintenance organizations that is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare by reason of age.

2741.0120 POLICY DEFINITIONS AND TERMS.

Subpart 1. **Requirements.** No insurance policy or subscriber contract may be advertised, solicited, or issued for delivery in Minnesota as a Medicare supplement policy unless the policy or subscriber contract contains definitions or terms that conform to the requirements of this part.

Subp. 2. **Accident, accidental injury, or accidental means.** "Accident," "accidental injury," or "accidental means" must be defined to employ "result" language and must not include words that establish an accidental means test or use words such as "external," "violent," "visible wounds," or similar words of description or characterization.

A. The definition must not be more restrictive than the following: "Injury or injuries for which benefits are provided" means

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Proposed Rules

accidental bodily injury sustained by the insured person that is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force.

B. The definition may provide that injuries must not include injuries for which benefits are provided or available under any workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless prohibited by law.

Subp. 3. **Benefit period or Medicare benefit period.** "Benefit period" or "Medicare benefit period" must not be defined as more restrictive than as that defined in the Medicare program.

Subp. 4. **Convalescent nursing home, extended care facility, or skilled nursing facility.** "Convalescent nursing home," "extended care facility," or "skilled nursing facility" must be defined in relation to its status, facilities, and available services.

A. A definition of the home or facility must not be more restrictive than one requiring that it:

- (1) be operated pursuant to law;
- (2) be approved for payment of Medicare benefits or be qualified to receive approval, if so requested;
- (3) be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician;
- (4) provide continuous 24-hour nursing service by or under the supervision of a registered graduate professional nurse (R.N.); and
- (5) maintains a daily medical record of each patient.

B. The definition of the home or facility may provide that the term not include:

- (1) a home, facility, or part of the home or facility used primarily for rest;
- (2) a home or facility for the aged or for the care of drug addicts or alcoholics; or
- (3) a home or facility primarily used for the care and treatment of mental diseases or disorders, or custodial or educational care.

Subp. 5. **Health care expenses.** "Health care expenses" means expenses of health maintenance organizations associated with the delivery of health care services that are analogous to incurred losses of insurers.

This term does not include:

- A. home office and overhead costs;
- B. advertising costs;
- C. commissions and other acquisition costs;
- D. taxes;
- E. capital costs;
- F. administrative costs; or
- G. claims processing costs.

Subp. 6. **Hospital.** "Hospital" may be defined in relation to its status, facilities, and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals.

A. The definition of the term "hospital" must not be more restrictive than one requiring that the hospital:

- (1) be an institution operated pursuant to law;
- (2) be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of duly licensed physicians, medical, diagnostic, and major surgical facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which charge is made; and
- (3) provide 24-hour nursing service by or under the supervision of registered graduate professional nurses (R.N.).

B. The definition of the term "hospital" may state that the term does not include:

- (1) convalescent homes, or convalescent, rest, or nursing facilities;
- (2) facilities primarily affording custodial, educational, or rehabilitary care;
- (3) facilities for the aged, drug addicts, or alcoholics; or
- (4) any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof for the treatment of members or ex-members of the armed forces, except for services rendered where a liability exists for charges made to the individual for the services.

Subp. 7. **Medicare.** "Medicare" must be defined in the policy. Medicare may be substantially defined as "The Health Insurance for the Aged Act, title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or title I, part I of Public Law Number 89-97, as enacted by the Eighty-Ninth Congress of the United States of America, and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes of it," or words of similar import.

Subp. 8. **Medicare eligible expenses.** "Medicare eligible expenses" means health care expenses of the kinds covered by Medicare, to the extent recognized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity as are applicable to Medicare claims.

Subp. 9. **Mental or nervous disorders.** "Mental or nervous disorders" must not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind.

Subp. 10. **Nurses.** "Nurses" may be defined so that the description of nurse is restricted to a type of nurse, such as registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words "nurse," "trained nurse," or "registered nurse" are used without specific instruction, then the use of those terms requires the insurer to recognize the services of an individual who qualified under the terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of Minnesota.

Subp. 11. **Physicians.** "Physician" may be defined by including words such as "duly qualified physician" or "duly licensed physician." The use of those terms requires an insurer to recognize and to accept, to the extent of its obligation under the contract, all providers of medical care and treatment when these services are within the scope of the provider's licensed authority and are provided pursuant to applicable laws.

Subp. 12. **Sickness.** "Sickness" must not be defined to be more restrictive than the following: "Sickness means sickness or disease of an insured person that first manifests itself after the effective date of insurance and while the insurance is in force." The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under a workers' compensation, occupational disease, employer's liability, or similar law.

Subp. 13. **Usual and customary charge.** "Usual and customary charge," for the purpose of the state plan, means the normal charge, in absence of insurance, of the provider for a service or article, but not more than the prevailing charge in the area for a like service or article. A "like service" is of the same nature and duration, requires the same skill, and is performed by a provider of similar training and experience. A "like article" is one that is identical or substantially equivalent. "Area" means the municipality or, in the case of a large city, a subdivision of the city, in which the service or article is actually provided or a greater area as is necessary to obtain a representative cross-section of charges for a like service or article.

2741.0130 PROHIBITED POLICY PROVISIONS.

Subpart 1. **Coverage limitations or exclusions.** No insurance policy or subscriber contract may be advertised, solicited, or issued for delivery in Minnesota as a Medicare supplement policy if the policy or subscriber contract limits or excludes coverage by type of illness, accident, treatment, or medical condition, except as follows:

A. foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain, or symptomatic complaints of the feet;

B. illness, treatment, or medical condition arising out of:

(1) war or act of war, whether declared or undeclared; participation in a felony;

(2) suicide, while sane or insane, attempted suicide, or intentionally self-inflicted injury; or

(3) aviation;

C. cosmetic surgery, except that cosmetic surgery does not include reconstructive surgery when the service is incidental to or follows surgery resulting from trauma, infection, or other diseases of the involved part;

D. care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion, or subluxation in the human body for purposes of removing nerve interference and its effect, where the interference is the result of or related to distortion, misalignment, or subluxation of or in the vertebral column;

E. benefits provided under Medicare or other governmental program, except Medicaid; any state or federal workers' compensation or employer's liability or occupational disease law; services rendered by employees of hospitals, laboratories, or other institutions;

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Proposed Rules

services performed by a member of the covered person's immediate family; and services for which no charge is normally made in the absence of insurance;

F. dental care or treatment;

G. eye glasses, hearing aids, and examination for the prescription or fitting of them;

H. rest cures, custodial care, transportation, and routine physical examinations.

Supplemental policies may not contain, when issued, limitations or exclusions of the type in item A, D, or H that are more restrictive than those of Medicare. Medicare supplement policies may exclude coverage for an expense to the extent of a benefit available to the insured under Medicare.

Subp. 2. **Waivers.** No Medicare supplement policy may use waivers to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

Subp. 3. **Use of terms.** The terms "Medicare supplement," "Medigap," and words of similar import must not be used unless the policy is issued in compliance with parts 2741.0100 to 2741.0240.

Subp. 4. **Duplicate policies.** No Medicare supplement insurance policy, contract, or certificate in force in Minnesota shall contain benefits that duplicate benefits provided by Medicare.

2741.0135 BENEFIT CONVERSION REQUIREMENTS.

A. Effective January 1, 1990, no Medicare supplement insurance policy, contract, or certificate in force in this state shall contain benefits which duplicate benefits provided by Medicare.

B. Benefits eliminated by operation of the Medicare Catastrophic Coverage Act of 1988 transition provisions shall be restored.

C. For Medicare supplement policies subject to the minimum standards adopted by the states pursuant to Medicare Catastrophic Coverage Act of 1988, the minimum benefits shall be:

(1) coverage of part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(2) coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;

(3) coverage of part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

(4) upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of 90 percent of all Medicare part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

(5) coverage under Medicare part A for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced according to federal regulations or already paid for under part A;

(6) coverage for the coinsurance amount of Medicare eligible expenses under part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare part B deductible (\$75); and

(7) effective January 1, 1990, coverage under Medicare part B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced according to federal regulations or already paid for under part A, subject to the Medicare deductible amount.

2741.0140 MINIMUM BENEFIT STANDARDS.

Subpart 1. **Generally.** No insurance policy, subscriber contract, or certificate may be advertised, solicited, or issued for delivery in Minnesota as a Medicare supplement policy that does not meet the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits that are not inconsistent with these standards.

Subp. 2. **General standards.** The following general standards apply to Medicare supplement policies and are in addition to all other requirements of parts 2741.0100 to 2741.0240.

A. A Medicare supplement policy may not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. The policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within 90 days before the effective date of coverage.

B. A Medicare supplement policy may not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

C. A Medicare supplement policy must provide that benefits designed to cover cost-sharing amounts under Medicare will be

changed automatically to coincide with changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with these changes.

D. A "noncancelable," "guaranteed renewable," or "noncancelable and guaranteed renewable" Medicare supplement policy must not:

(1) provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium; or

(2) be canceled or nonrenewed by the insurer solely on the grounds of deterioration of health.

E. (1) Except as authorized by the commissioner, an insurer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

(2) If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in subitem (4), the insurer shall offer certificate holders an individual Medicare supplement policy. The insurer shall offer the certificate holder at least the following choices:

(a) an individual Medicare supplement policy that provides for continuation of the benefits contained in the group policy;

and

(b) an individual Medicare supplement policy that provides only such benefits as are required to meet the minimum standards.

(3) If membership in a group is terminated, the insurer shall:

(a) offer the certificate holder such conversion opportunities as are described in subitem (2); or

(b) at the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.

(4) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that should have been covered under the group policy being replaced.

F. Termination of a Medicare supplement policy must be without prejudice to a continuous loss that began while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

Subp. 3. **Minimum benefit standards.** Parts 2741.0150 and 2741.0160 contain the minimum benefit standards for extended basic and basic Medicare supplement plan coverage.

2741.0150 EXTENDED BASIC MEDICARE SUPPLEMENT PLAN; COVERAGE.

The extended basic Medicare supplement plan must have a level of coverage so that it will be certified as a qualified plan pursuant to *Minnesota Statutes*, chapter 62E and will provide:

A. coverage for all of the Medicare part A inpatient hospital deductible and coinsurance amounts, and 100 percent of all Medicare part A eligible expenses for hospitalization not covered by Medicare for the calendar year;

B. coverage for the daily copayment amount of Medicare part A eligible expenses for the calendar year incurred for skilled nursing facility care;

C. coverage for the 20 percent copayment amount of Medicare eligible expenses excluding outpatient prescription drugs under Medicare part B regardless of hospital confinement for Medicare part B and coverage of the Medicare deductible amount;

D. 80 percent of usual and customary hospital and medical expenses, supplies, and prescription drug expenses not covered by Medicare's eligible expenses;

E. coverage for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells as defined under federal regulations under Medicare parts A and B, unless replaced in accordance with federal regulations; and

F. 100 percent of the cost of immunizations.

2741.0160 BASIC MEDICARE SUPPLEMENT PLAN; COVERAGE.

Subpart 1. **Generally.** The basic Medicare supplement plan must have a level of coverage that will provide:

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Proposed Rules

A. coverage for all of the Medicare part A inpatient hospital coinsurance amounts, and 100 percent of all Medicare part A eligible expenses for hospitalization not covered by Medicare for the calendar year, after satisfying the Medicare part A deductible;

B. coverage for the daily copayment amount of Medicare part A eligible expenses for the calendar year incurred for skilled nursing facility care;

C. coverage for the 20 percent copayment amount of Medicare eligible expenses excluding outpatient prescription drugs under Medicare part B regardless of hospital confinement for Medicare part B after the Medicare deductible amount;

D. coverage for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells as defined under federal regulations under Medicare parts A and B, unless replaced in accordance with federal regulations; and

E. 100 percent of the cost of immunizations.

Subp. 2. **Optional benefit riders.** Only the following optional benefit riders may be added to this plan:

A. coverage for all of the Medicare part A inpatient hospital deductible amount;

B. a minimum of 80 percent of usual and customary eligible medical expenses and supplies not covered by Medicare part B eligible expenses. This does not include outpatient prescription drugs;

C. coverage for all of the Medicare part B annual deductible; and

D. coverage for at least 50 percent, or the equivalent of 50 percent, of usual and customary prescription drug expenses.

Subp. 3. **Medicare eligible expenses.** "Medicare eligible expenses" means health care expenses of the kinds covered by Medicare, to the extent recognized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity as are applicable to Medicare claims.

2741.0170 STANDARDS FOR CLAIMS PAYMENT.

A. Every entity providing Medicare supplement policies or contracts shall comply with Section 4081 of the Omnibus Budget Reconciliation Act of 1987, Public Law Number 100-203.

B. Compliance with the requirements in item A must be certified on the Medicare supplement insurance experience reporting form.

C. The requirements of this part are in addition to any other requirements of law.

2741.0180 LOSS RATIO STANDARDS.

A. Medicare supplement policies shall return to Minnesota policyholders in the form of aggregate benefits under the policy, for each year excluding the year of issuance and the first year thereafter, on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums in Minnesota and in accordance with accepted actuarial principles and practices:

(1) at least 75 percent of the aggregate amount of premiums earned in the case of group policies; and

(2) at least 65 percent of the aggregate amount of premiums earned in the case of individual policies.

All filings of rates and rating schedules must demonstrate that actual and expected losses in relation to premiums comply with this part.

B. Every entity providing Medicare supplement policies in Minnesota shall file annually its rates, rating schedule, and supporting documentation, including ratios of incurred losses to earned premiums by number of years of policy duration demonstrating that it is in compliance with the foregoing applicable loss ratio standards and that the period for which the policy is rated is reasonable in accordance with accepted actuarial principles and experience.

For the purposes of this part, policy forms comply with the loss ratio standards if:

(1) for the most recent year, the ratio of the incurred losses to earned premiums for policies or certificates that have been in force for two years or more is greater than or equal to the applicable percentages contained in this part; and

(2) the expected losses in relation to premiums over the entire period for which the policy is rated comply with the requirements of this part. An expected second-year loss ratio that is greater than or equal to the applicable percentage must be demonstrated for policies or certificates in force less than three years.

C. As soon as practicable, but before the effective date of Medicare benefit changes, every insurer, health care service plan, or other entity providing Medicare supplement insurance or contracts in Minnesota shall file with the commissioner in accordance with the applicable filing procedures of Minnesota:

(1) Appropriate premium adjustments necessary to produce loss ratios as originally anticipated for the applicable policies

or contracts. The supporting documents as necessary to justify the adjustment must accompany the filing. Every insurer, health care service plan, or other entity providing Medicare supplement insurance or benefits to a resident of Minnesota pursuant to *Minnesota Statutes*, sections 62A.31 to 62A.44 shall make the premium adjustments necessary to produce an expected loss ratio under the policy or contract as will conform with minimum loss ratio standards for Medicare supplement policies and that are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the insurer, health care service plan, or other entity for the Medicare supplement insurance policies or contracts. No premium adjustment that would modify the loss ratio experience under the policy other than the adjustments described in this part should be made with respect to a policy at any time other than upon its renewal date or anniversary date.

(2) Each insurer that has Medicare supplement policies in force in this state shall, as a supplement to the annual statement required by *Minnesota Statutes*, section 60A.13, submit, in a form prescribed by the commissioner, data showing its incurred claims experience, its earned premiums, and the aggregate amount of premiums collected and losses incurred for each Medicare policy form in force. If the data submitted does not confirm that the insurer has satisfied the loss ratio requirements of this part, the commissioner shall notify the insurer in writing of the deficiency. The insurer shall have 30 days from the date of the commissioner's notice to file amended rates that comply with this part. If the insurer fails to file amended rates within the prescribed time, the commissioner shall order that the insurer's filed rates for the nonconforming policy be reduced to an amount that would have resulted in a loss ratio that complied with this part had it been in effect for the reporting period of the supplement. The insurer's failure to file amended rates within the specified time or the issuance of the commissioner's order amending the rates does not preclude the insurer from filing an amendment of its rates at a later time. The commissioner shall annually make the submitted data available to the public at a cost not to exceed the cost of copying. The data must be compiled in a form useful for consumers who wish to compare premium charges and loss ratios.

(3) Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplement insurance modifications necessary to eliminate benefit duplications with Medicare. These riders, endorsements, or policy forms must provide a clear description of the Medicare supplement benefits provided by the policy or contract.

2741.0190 FILING REQUIREMENTS FOR OUT-OF-STATE GROUP POLICIES.

An insurer providing group Medicare supplement insurance benefits to a resident of Minnesota under *Minnesota Statutes*, sections 62A.31 to 62A.44 shall file a copy of the master policy and any certificate used in Minnesota in accordance with the filing requirements and procedures applicable to group Medicare supplement policies issued in Minnesota.

2741.0200 PERMITTED COMPENSATION ARRANGEMENTS.

A. The commission, sales allowance, service fee, or compensation to an agent for the sale of a Medicare supplement plan must be the same for each of the first four years of the policy.

B. The commissioner may grant a waiver of this restriction on commissions when the commissioner believes that the insurer's fee structure does not encourage deceptive practices, if the first year commission or other first year compensation is no more than 200 percent of the commission or other compensation paid for selling or servicing the policy or certificate in the second year and following years and this resulting commission produces the minimum loss ratios of *Minnesota Statutes*, section 62A.36.

C. No entity shall provide compensation to its agents or other producers and no agent or producer shall receive compensation greater than the renewal compensation payable by the replacing insurer on renewal policies or certificates if an existing policy or certificate is replaced unless benefits of the new policy or certificate are clearly and substantially greater than the benefits under the replaced policy.

D. For purposes of this part, "compensation" includes pecuniary or nonpecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including, but not limited to, bonuses, gifts, prizes, awards, and finders fees.

E. In no event may the rate of commission, sales allowance, service fee, or compensation for the sale of a basic Medicare supplement plan exceed that which applies to the sale of an extended basic Medicare supplement plan.

2741.0210 REQUIRED DISCLOSURE PROVISIONS.

Subpart 1. **General rules.** Medicare supplement policies must contain the following disclosure provisions:

A. Medicare supplement policies must include a renewal or continuation provision. The language or specifications of such provision must be consistent with the type of contract issued. The provision must be captioned and shall appear on the first page of the policy.

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Proposed Rules

B. Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy issue, any rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement insurance policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy.

C. A Medicare supplement policy that provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import shall include a definition of such terms and an explanation of such terms in its accompanying outline of coverage.

D. If a Medicare supplement policy contains any limitations with respect to preexisting conditions, such limitations must appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

E. Medicare supplement policies or certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the policyholder or certificate holder shall have the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason.

F. Insurers issuing accident and sickness policies, certificates or subscriber contracts that provide hospital or medical expense coverage on an expense incurred or indemnity basis, other than incidentally, to a person eligible for Medicare by reason of age shall provide to all applicants a Medicare Supplement Buyer's Guide in the form developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration. Delivery of the buyer's guide shall be made whether or not the policies, certificates, or subscriber contracts are advertised, solicited, or issued as Medicare supplement policies. Except in the case of direct response insurers, delivery of the buyer's guide shall be made to the applicant at the time of application and acknowledgment of receipt of the buyer's guide shall be obtained by the insurer. Direct response insurers shall deliver the buyer's guide to the applicant upon request but not later than at the time the policy is delivered.

Subp. 2. **Notice requirements.** Medicare supplement policies must include the following notice requirements:

A. As soon as practicable, but no later than 30 days before the annual effective date of any Medicare benefit changes, every insurer, health care service plan, or other entity providing Medicare supplement insurance or benefits to a resident of Minnesota shall notify its policyholders, contract holders, and certificate holders of modifications it has made to Medicare supplement insurance policies or contracts in a format acceptable to the commissioner or in the format set forth in this subpart. In addition, the notice shall:

(1) include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement insurance policy or contract; and

(2) inform each covered person as to when any premium adjustment is to be made due to changes in Medicare.

B. The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

C. Notices shall not contain or be accompanied by any solicitation.

Subp. 3. **Outline of coverage requirements for Medicare supplement policies.** Insurers issuing Medicare supplement policies or certificates for delivery in Minnesota shall provide an outline of coverage to all applicants at the time application is made and, except for direct response policies, shall obtain an acknowledgment of receipt of the outline from the applicant.

If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis that would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate must accompany the policy or certificate when it is delivered and contain the following statement, in no less than 12-point type, immediately above the company name: "NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

The outline of coverage provided to applicants under the previous two paragraphs shall be in the form prescribed below:

[COMPANY NAME]

OUTLINE OF MEDICARE SUPPLEMENT COVERAGE AND PREMIUM INFORMATION

Use this outline to compare benefits and premiums among policies.

1. Read your policy carefully. This outline of coverage provides a very brief description of the important features of your policy. This

is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**

2. Medicare Supplement Coverage. Policies of this category are designed to supplement Medicare by covering some hospital, medical, and surgical services that are partially covered by Medicare. Coverage is provided for hospital inpatient charges and some physician charges, subject to any deductibles and copayment provisions that may be in addition to those provided by Medicare, and subject to other limitations that may be set forth in the policy. The policy does not provide benefits for custodial care such as help in walking, getting in and out of bed, eating, dressing, bathing, and taking medicine [delete if such coverage is provided.]

3. A. [for agents]:

Neither [company's name] nor its agents are connected with Medicare.

B. [for direct response]:

[Company's name] is not connected with Medicare.

4. [A brief summary of the major medical benefit gaps in Medicare parts A and B with a parallel description of supplemental benefits, including dollar amounts (and indexed copayments or deductibles, as appropriate), provided by the Medicare supplement coverage in the following order]:

DESCRIPTION	THIS POLICY PAYS	YOU PAY
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I. Minimum Standards

SERVICE

PART A

INPATIENT HOSPITAL SERVICES:

- Semi-Private Room and Board
- Miscellaneous Hospital Services and Supplies, such as Drugs, X-rays, Laboratory Tests, and Operating Room

BLOOD

PART B

MEDICAL EXPENSE:

- Services of a Physician;
- Outpatient Services

BLOOD

MISCELLANEOUS

II. Additional Benefits

PART A

DESCRIPTION	THIS POLICY PAYS**	YOU PAY
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- Part A Deductible
- Private Rooms
- In-Hospital Private Nurses
- Skilled Nursing Facility Care

PARTS A & B

- Home Health Services

PART B

- Part B Deductible

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Proposed Rules

DESCRIPTION	THIS POLICY PAYS**	YOU PAY
Medical Supplies Other Than Prescribed Drugs		
Medical Charges in Excess of Medicare Allowable Expenses (Percentage Paid)		
OUT-OF-POCKET MAXIMUM		
PRESCRIPTION DRUGS		
MISCELLANEOUS		
Respite Care Benefits		
Expenses Incurred in Foreign Country		

Other:

TOTAL PREMIUM \$.....

IN ADDITION TO THIS OUTLINE OF COVERAGE, [INSURANCE COMPANY NAME] WILL SEND AN ANNUAL NOTICE TO YOU 30 DAYS PRIOR TO THE EFFECTIVE DATE OF MEDICARE CHANGES THAT WILL DESCRIBE THESE CHANGES AND THE CHANGES IN YOUR MEDICARE SUPPLEMENT COVERAGE.

**If this policy does not provide coverage for a benefit listed above, the insurer must state "no coverage" beside that benefit in the first column.

The order of benefits in this outline of coverage should be adjusted by those states which have adopted additional minimum standards.

5. The following chart shall accompany the outline of coverage:

[COMPANY NAME]
**NOTICE OF CHANGES IN MEDICARE AND YOUR
 MEDICARE SUPPLEMENT COVERAGE - 1990**

THE FOLLOWING CHART BRIEFLY DESCRIBES THE MODIFICATIONS IN MEDICARE AND IN YOUR MEDICARE SUPPLEMENT COVERAGE. PLEASE READ THIS CAREFULLY!

[A BRIEF DESCRIPTION OF THE REVISIONS TO MEDICARE PARTS A & B WITH A PARALLEL DESCRIPTION OF SUPPLEMENTAL BENEFITS WITH SUBSEQUENT CHANGES, INCLUDING DOLLAR AMOUNTS, PROVIDED BY THE MEDICARE SUPPLEMENT COVERAGE IN SUBSTANTIALLY THE FOLLOWING FORMAT.]

SERVICES	MEDICARE BENEFITS		YOUR MEDICARE SUPPLEMENT COVERAGE	
	In 1989 Medicare Pays Per Calendar Year	Effective 1/1/90, Medicare Will Pay	In 1989 Your Coverage Pays	Effective 1/1/90, Your Coverage Will Pay
MEDICARE PART A SERVICES AND SUPPLIES				
Inpatient Hospital Services	Unlimited number of hospital days after \$560 deductible	All but \$592 for first 60 days/ benefit period		
Semi-Private Room/Board		All but \$148 a day for 61st-90th days/benefit period		

SERVICES	MEDICARE BENEFITS	YOUR MEDICARE SUPPLEMENT COVERAGE
Misc. Hospital Services and Supplies, such as Drugs, X-rays, Lab Tests, and Operating Room		All but \$296 a day for 91st-150th days (if individual chooses to use 60 nonrenewable lifetime reserve days)
BLOOD	Pays all costs except payment of deductible (equal to costs for first 3 pints) each calendar year. Part A blood deductible reduced to the extent paid under Part B	Pays all costs except nonreplacement fees (blood deductible) for first 3 pints in each benefit period
SKILLED NURSING FACILITY CARE	There is no prior confinement requirement for this benefit	100% of costs for first 20 days (after a 3-day prior hospital confinement)/ benefit period
	First 8 days— All but \$25.50 a day	All but \$74 a day for 21st-100th days/benefit period
	9th through 150th day— 100% of costs	Beyond 100 days— Nothing/ benefit period
	Beyond 150 days—Nothing	

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

SERVICES MEDICARE PART B SERVICES AND SUPPLIES	MEDICARE BENEFITS	YOUR MEDICARE SUPPLEMENT COVERAGE
PRESCRIPTION DRUGS	80% of allow- able charges (after \$75 deductible)	80% of allow- able charges (after \$75 deductible/ calendar year)
BLOOD	Inpatient prescription drugs. 80% of allowable charges for immunosuppres- sive drugs during the first year following a covered transplant (after \$75 deductible/ calendar year)	Inpatient prescription drugs. 80% of allowable charges for immuno- suppressive drugs during the first year following a covered transplant (after \$75 deductible/ calendar year)
	80% of all costs except nonreplacement fees (blood deductible) for first 3 pints in each benefit period (after \$75 deductible/ calendar year)	80% of costs except nonre- placement fees (blood deductible) for first 3 pints (after \$75 deductible/ calendar year)

[Any other policy benefits not mentioned in this chart should be added to the chart in the order prescribed by the outline of coverage. If there are corresponding Medicare benefits, they should be shown.]

[Describe any coverage provisions changing due to Medicare modifications.]

[Include information about when premium adjustments that may be necessary due to changes in Medicare benefits will be effective.]

THIS CHART SUMMARIZING THE CHANGES IN YOUR MEDICARE BENEFITS AND IN YOUR MEDICARE SUPPLEMENT PROVIDED BY [COMPANY] ONLY BRIEFLY DESCRIBES SUCH BENEFITS. FOR INFORMATION ON YOUR MEDICARE BENEFITS, CONTACT YOUR SOCIAL SECURITY OFFICE OR THE HEALTH CARE FINANCING ADMINISTRATION. FOR INFORMATION ON YOUR MEDICARE SUPPLEMENT [POLICY] CONTACT:

[COMPANY OR FOR AN INDIVIDUAL POLICY - NAME OF AGENT]

[ADDRESS/PHONE NUMBER]

6. Statement that the policy does or does not cover the following:
- (a) private duty nursing;
 - (b) skilled nursing home care costs (beyond what is covered by Medicare);
 - (c) custodial nursing home care costs;

- (d) intermediate nursing home care costs;
- (e) home health care above number of visits covered by Medicare;
- (f) physician charges (above Medicare's reasonable charges);
- (g) drugs (other than prescription drugs furnished during a hospital or skilled nursing facility stay);
- (h) care received outside the United States; and

(i) dental care or dentures, checkups, routine immunizations, cosmetic surgery, routine foot care, examinations for the cost of eyeglasses, or hearing aids.

7. A description of any policy provisions that exclude, eliminate, resist, reduce, limit, delay, or in any other manner operate to qualify payments of the benefits described in number 4, including conspicuous statements:

- (a) that the chart summarizing Medicare benefits only briefly describes such benefits; and
- (b) that the Health Care Financing Administration or its Medicare publications should be consulted for further details and limitations.

8. A description of policy provisions respecting renewability or continuation of coverage, including any reservation or rights to change premium.

9. The amount of premium for this policy.

10. A statement of the exceptions, reductions, and limitations contained in the policy including the following language, as applicable, in bold print: "THIS POLICY DOES NOT COVER ALL MEDICAL EXPENSES BEYOND THOSE COVERED BY MEDICARE. THIS POLICY DOES NOT COVER ALL SKILLED NURSING HOME CARE EXPENSES AND DOES NOT COVER CUSTODIAL OR RESIDENTIAL NURSING CARE. READ YOUR POLICY CAREFULLY TO DETERMINE WHICH NURSING HOME FACILITIES AND EXPENSES ARE COVERED BY YOUR POLICY."

11. A statement of the policy's loss ratio as follows: "This policy provides an anticipated loss ratio of . . . percent. This means that, on the average, policyholders may expect that \$ of every \$100 in premium will be returned as benefits to policyholders over the life of the contract."

D. Notice regarding policies or subscriber contracts that are not Medicare supplement policies.

An accident and sickness insurance policy or subscriber contract, other than a Medicare supplement policy; or a policy issued pursuant to a contract under section . . . of the Federal Social Security Act, United States Code, title 42, sections 1395 et. seq.; disability income policy; basic, catastrophic, or major medical expense policy; single premium nonrenewable policy, or other policy issued for delivery in Minnesota to persons eligible for Medicare by reason of age shall notify insureds under the policy or subscriber contract that the policy or subscriber contract is not a Medicare supplement policy. The notice must either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy or subscriber contract, or if no outline of coverage is delivered, to the first page of the policy, certificate, or subscriber contract delivered to insureds. The notice must be in no less than 12-point type and must contain the following language:

"THIS [POLICY, CERTIFICATE, OR SUBSCRIBER CONTRACT] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CONTRACT]. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the company."

2741.0220 REQUIREMENTS FOR APPLICATION FORMS AND REPLACEMENT COVERAGE.

Subpart 1. **Application forms.** Application forms must include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent, except where the coverage is sold without an agent containing such questions may be used.

A. Do you have another Medicare supplement insurance policy or certificate in force (including health care service contract, health maintenance organization contract)?

B. Did you have another Medicare supplement policy or certificate in force during the last 12 months?

(1) If so, with which company?

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Proposed Rules

(2) If that policy lapsed, when did it lapse?

C. Are you covered by Medicaid?

D. Do you intend to replace any of your medical or health insurance coverage with this policy or certificate?

Agents shall list any other health insurance policies they have sold to the applicant, list policies sold which are still in force, and list policies sold in the past five years which are no longer in force.

Subp. 2. **Replacement coverage notice.** Upon determining that a sale will involve replacement, an insurer, other than a direct response insurer, or its agent, shall furnish the applicant, before issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of accident and sickness coverage. One copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent shall be provided to the applicant and an additional copy signed by the applicant shall be retained by the insurer. A direct response insurer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of accident and sickness coverage.

Subp. 3. **Form of notice.** The notice required by subpart 2 for an insurer, other than a direct response insurer, must be provided in substantially the following form:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE

(Insurance company's name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing Medicare supplement insurance and replace it with a policy to be issued by [Company Name] Insurance Company. Your new policy provides 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors that may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT [BROKER OR OTHER REPRESENTATIVE]: (Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

(1) Health conditions that you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy. (This subitem may be modified if preexisting conditions are covered under the new policy.)

(2) State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(3) If you are replacing existing Medicare supplement insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(4) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

.....
Signature of Agent, Broker or Other Representative

.....
(Typed Name and Address of Agent or Broker)

The above "Notice to Applicant" was delivered to me:

.....
(Date)

.....
(Applicant's Signature)

Subp. 4. **Direct response notice.** The notice required by subpart 2 for a direct response insurer shall be as follows:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE

(Insurance company's name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing Medicare supplement insurance and replace it with the policy delivered herewith issued by [Company Name] Insurance Company. Your new policy provides 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors that may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

(1) Health conditions that you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. Your insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(3) If you are replacing existing Medicare supplement insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(4) [To be included only if the application is attached to the policy.] If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to [Company Name and Address] within 30 days if any information is not correct and complete, or if any past medical history has been left out of the application.

.....
(Company Name)

2741.0230 FILING REQUIREMENTS FOR ADVERTISING.

An insurer, health care service plan, or other entity providing Medicare supplement insurance or benefits in Minnesota shall provide a copy of any Medicare supplement advertisement intended for use in Minnesota whether through written, radio, or television medium to the commissioner of the Department of Commerce for review by the commissioner to the extent it may be required under Minnesota law.

2741.0235 STANDARDS FOR MARKETING.

A. Every insurer, health care service plan, or other entity marketing Medicare supplement insurance coverage in this state, directly or through its producers, shall:

(1) establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate;

(2) establish marketing procedures to assure excessive insurance is not sold or issued;

(3) display prominently by type, stamp, or other appropriate means, on the first page of the outline of coverage and policy the following:

“Notice to buyer: This policy may not cover all of the costs associated with medical care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations.”

(4) inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance; and

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Proposed Rules

(5) every insurer or entity marketing Medicare supplement insurance shall establish auditable procedures for verifying compliance with this subpart.

B. In addition to the practices prohibited in *Minnesota Statutes*, chapter 72A, the following acts and practices are prohibited:

(1) knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer;

(2) employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance; or

(3) making use directly or indirectly of any method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

2741.0236 APPROPRIATENESS OF RECOMMENDED PURCHASE AND EXCESSIVE INSURANCE.

In recommending the purchase or replacement of any Medicare supplement policy or certificate, an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

Any sale of Medicare supplement coverage that provides an individual more than one Medicare supplement policy or certificate is prohibited.

2741.0237 REPORTING OF MULTIPLE POLICIES.

On or before March 1, every insurer or other entity providing Medicare supplement insurance coverage in this state shall report the following information for every individual resident of this state for which the insurer or entity has in force more than one Medicare supplement insurance policy or certificate:

- A. policy and certificate number; and
- B. date of issuance.

Items A and B must be grouped by individual policyholder.

2741.0238 PROHIBITION AGAINST PREEXISTING CONDITIONS, WAITING PERIODS, ELIMINATION PERIODS, AND PROBATIONARY PERIODS IN REPLACEMENT POLICIES OR CERTIFICATES.

If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods in the new Medicare supplement policy for periods and probationary periods in the new Medicare supplement policy for similar benefits to the extent such time was spent under the original policy.

2741.0240 FORMAT FOR NOTICES OF CHANGE IN BENEFITS.

[COMPANY NAME]

NOTICE OF CHANGES IN MEDICARE AND YOUR MEDICARE SUPPLEMENT COVERAGE—1990

THE FOLLOWING CHART BRIEFLY DESCRIBES THE MODIFICATIONS IN MEDICARE AND IN YOUR MEDICARE SUPPLEMENT COVERAGE. PLEASE READ THIS CAREFULLY!

[A BRIEF DESCRIPTION OF THE REVISIONS TO MEDICARE PARTS A & B WITH A PARALLEL DESCRIPTION OF SUPPLEMENTAL BENEFITS WITH SUBSEQUENT CHANGES, INCLUDING DOLLAR AMOUNTS, PROVIDED BY THE MEDICARE SUPPLEMENT COVERAGE IN SUBSTANTIALLY THE FOLLOWING FORMAT.]

SERVICES	MEDICARE BENEFITS		YOUR MEDICARE SUPPLEMENT COVERAGE	
	In 1989 Medicare Pays Per Calendar Year	Effective 1/1/90, Medicare Will Pay	In 1989 Your Coverage Pays	Effective 1/1/90, Your Coverage Will Pay

SERVICES	MEDICARE BENEFITS	YOUR MEDICARE SUPPLEMENT COVERAGE
<p>MEDICARE PART A SERVICES AND SUPPLIES</p>		
<p>Inpatient Hospital Services</p>	<p>Unlimited number of hospital days after \$560 deductible</p>	<p>All but \$592 for first 60 days/benefit period</p>
<p>Semi-Private Room/Board</p>		<p>All but \$148 a day for 61st-90th days/benefit period</p>
<p>Misc. Hospital Services and Supplies, such as Drugs, X-rays, Lab Tests, and Operating Room</p>		<p>All but \$296 a day for 91st-150th days (if individual chooses to use 60 nonrenewable lifetime reserve days)</p>
<p>BLOOD</p>	<p>Pays all costs except payment of deductible (equal to costs for first 3 pints) each calendar year. Part A blood deductible reduced to the extent paid under Part B</p>	<p>Pays all costs except nonreplacement fees (blood deductible) for first 3 pints in each benefit period</p>
<p>SKILLED NURSING FACILITY CARE</p>	<p>There is no prior confinement requirement for this benefit</p>	<p>100% of costs for first 20 days (after a 3-day prior hospital confinement)/benefit period</p>
	<p>First 8 days— All but \$25.50 a day</p>	<p>All but \$74 a day for 21st-100th days/benefit period</p>

Proposed Rules

SERVICES	MEDICARE BENEFITS		YOUR MEDICARE SUPPLEMENT COVERAGE
MEDICARE PART B SERVICES AND SUPPLIES	9th through 150th day— 100% of costs Beyond 150 days—Nothing	Beyond 100 days— Nothing/ benefit period	
PRESCRIPTION DRUGS	80% of allowable charges (after \$75 deductible)	80% of allowable charges (after \$75 deductible/ calendar year)	
BLOOD	Inpatient prescription drugs. 80% of allowable charges for immunosuppressive drugs during the first year following a covered transplant (after \$75 deductible/ calendar year)	Inpatient prescription drugs. 80% of allowable charges for immunosuppressive drugs during the first year following a covered transplant (after \$75 deductible/ calendar year)	
	80% of all costs except nonreplacement fees (blood deductible) for first 3 pints in each benefit period (after \$75 deductible/ calendar year)	80% of costs except nonreplacement fees (blood deductible) for first 3 pints (after \$75 deductible/ calendar year)	

[Any other policy benefits not mentioned in this chart should be added to the chart in the order prescribed by the outline of coverage. If there are corresponding Medicare benefits, they should be shown.]

[Describe any coverage provisions changing due to Medicare modifications.]

[Include information about when premium adjustments that may be necessary due to changes in Medicare benefits will be effective.]

THIS CHART SUMMARIZING THE CHANGES IN YOUR MEDICARE BENEFITS AND IN YOUR MEDICARE SUPPLEMENT PROVIDED BY [COMPANY] ONLY BRIEFLY DESCRIBES SUCH BENEFITS. FOR INFORMATION ON YOUR MEDICARE BENEFITS, CONTACT YOUR SOCIAL SECURITY OFFICE OR THE HEALTH CARE FINANCING ADMINISTRATION. FOR INFORMATION ON YOUR MEDICARE SUPPLEMENT [POLICY] CONTACT:

[COMPANY OR FOR AN INDIVIDUAL POLICY - NAME OF AGENT]

[ADDRESS/PHONE NUMBER]

Board of Marriage and Family Therapy

Proposed Permanent Rules Relating to Marriage and Family Therapy

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 Marriage and Family Therapy (hereinafter "Board") is hereby giving notice of its intent to adopt rules without public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes* sections 14.22 to 14.28 (1988). However, in case 25 or more persons request a hearing, thus necessitating that one be held pursuant to *Minnesota Statutes* sec. 14.25 (1988), 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 (1988). 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 August 22, 1990. This period will give interested persons ample time to contact the Board 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 Minnesota Board of Marriage and Family Therapy (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* sections 14.22 to 14.28 (1988).

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or opposition to the proposed rules. The 30 days will expire August 20, 1990. 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 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. 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 August 20, 1990. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes* sections 14.131 to 14.20 (1988) and the hearing notice provided below.

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

Sharon Daven-Fecker, Chairperson
Board of Marriage and Family Therapy
2700 University Avenue West, Suite 225
St. Paul, Minnesota 55114
(612) 643-2580

The statutory authority of the Board to adopt the proposed rules is contained in *Minnesota Statutes* sec. 148B.31, (1), (2), (4), (6), (7), 148B.33 Subd. 2, 148B.37 Subd. 1(3), and 214.06 (1988).

If adopted, the proposed rules would establish definitions, set forth education, experience and supervision requirements for licensure, establish license examination requirements, define standards for reciprocity licensure, license renewal and reinstatement, continuing education and variances, formulate and implement a code of ethics, and set fees.

The proposed rules will be published in the *State Register* issue of July 23, 1990, Volume 15, Number 4, and a free copy of the rules may be obtained from the Board by writing or telephoning the Board at the address or 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 changes has been prepared and may be obtained from the Board by writing or telephoning the Board at the address and telephone number listed above.

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Proposed Rules

Promulgation of the proposed rules will not result in the expenditure of public monies by public bodies nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* sec. 14.115 (1988) regarding small business considerations in rulemaking. It is the position of the Board that it is not subject to *Minnesota Statutes* sec. 14.115 (1988) regarding small business considerations in rule-making. The basis for this position, and the Board's evaluation of the applicability of the methods contained in *Minnesota Statutes* sec. 14.115, subd. 2 (1988) 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 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 September 20, 1990, 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 (1988), in Room 225, Colonial Office Park Building, 2700 University Avenue West, St. Paul, Minnesota 55114, on September 20, 1990, 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 Jon Lunde, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7645. 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* sec. 14.131 to 14.20 (1988) 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 proposed rules would establish definitions, set forth education, experience and supervision requirements for licensure, establish license examination requirements, define standards for reciprocity licensure, license renewal and reinstatement, continuing education and variances, formulate and implement a code of ethics, and set fees.

The proposed rules will be published in the *State Register* issue of July 23, 1990, Volume 15, Number 4, and a free copy of the rules may be obtained from the Board by writing or telephoning the Board 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* 148B.31 (1), (2), (4), (6), (7), 148B.33 Subd.2, 148B.37 Subd. 1(3), and 214.06 (1988).

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 State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* sec. 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 or 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, St. Paul, Minnesota 55101, Telephone: (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; therefore, no further information need be provided under *Minnesota Statutes* sec. 14.11 (1988).

It is the position of the Board that it is not subject to *Minnesota Statutes* sec. 14.115 (1988) regarding small business considerations in rule-making. The basis for this position, and the Board's evaluation of the applicability of the methods contained in *Minnesota Statutes* sec. 14.115, subd. 2 (1988) 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

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 noticed in Part III above will be held, please call or write the Board before September 13, 1990, and leave your name, address, and telephone number. You will be notified as soon as possible after this date and prior to the hearing, if the hearing has been cancelled.

Dated: 9 July 1990

Sharon Daven-Fecker
Chairperson
Board of Marriage and
Family Therapy
(612) 643-2580

Rules as Proposed (all new material)

5300.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 5300.0100 to 5300.0360, unless the context otherwise requires, the following terms have the meanings given.

Subp. 2. **Advertising.** Advertising includes, but is not limited to, business solicitations, with or without limiting qualifications, in a card, sign, or device issued to a person; in a sign or marking in or on a building; or in a newspaper, magazine, directory, or other printed matter. Advertising also includes business solicitations communicated by individual, radio, video, or television broadcasting.

Subp. 3. **Applicant.** "Applicant" means an individual seeking licensure by the Board of Marriage and Family Therapy as a marriage and family therapist.

Subp. 4. **Board.** "Board" means the Board of Marriage and Family Therapy created in *Minnesota Statutes*, section 148B.30, subdivision 1.

Subp. 5. **Certified professions or occupations.** "Certified professions or occupations" means those professions or occupations that have a certification process based upon specific criteria identified as necessary for effective performance of the profession or occupation. The certification process must include:

- A. eligibility requirements established through education or experience or both;
- B. successful completion of a competency-based written examination;
- C. successful demonstration of competent clinical skills; and
- D. assurance of practitioner competencies through mandatory recertification and continuing education requirements.

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Proposed Rules

Subp. 6. **Dual relationship.** "Dual relationship" means a relationship between a therapist and a client that is both professional and one or more of the following: cohabitational, familial, or supervisory, or that includes significant personal involvement or financial involvement other than legitimate payment for therapeutic services rendered.

Subp. 7. **Fee splitting.** "Fee splitting" means the practice of paying commissions to colleagues out of the fees received from clients who have been referred by the colleague.

Subp. 8. **Licensee.** "Licensee" means a licensed marriage and family therapist.

Subp. 9. **LMFT.** "LMFT" are the initials permitted to be used by a licensed marriage and family therapist to designate that the individual is licensed by the Board of Marriage and Family Therapy.

Subp. 10. **Marriage and Family Therapy.** "Marriage and Family Therapy" has the meaning given in *Minnesota Statutes*, section 148B.29, subdivision 3.

Subp. 11. **Postgraduate supervised experience.** "Postgraduate supervised experience" means supervised experience occurring after the educational institution grants the degree for licensure as shown on the applicant's transcript.

Subp. 12. **Regionally accredited.** "Regionally accredited" means those educational institutions accredited by the North Central Association of Schools and Colleges or a similar accrediting body with accreditation standards equal to or greater than the accreditation standards used by the North Central Association of Schools and Colleges.

Subp. 13. **Sexual contact.** "Sexual contact" means any of the following, whether or not occurring with the consent of a patient or former patient:

A. sexual intercourse, cunnilingus, fellatio, anal intercourse or any intrusion, however slight, into the genital or anal openings of the patient's or former patient's body by any part of the therapist's body or by any object used by the therapist for this purpose, or any intrusion, however slight, into the genital or anal openings of the therapist's body by any part of the patient's or former patient's body or by any object used by the patient or former patient for this purpose, if agreed to by the therapist;

B. kissing of, or the intentional touching by the therapist of the patient's or former patient's genital area, groin, inner thigh, buttocks, or breast or of the clothing covering any of these body parts;

C. kissing of, or the intentional touching by the patient or former patient of the therapist's genital area, groin, inner thigh, buttocks, or breast or of the clothing covering any of these body parts if the therapist agrees to the kissing or intentional touching.

Sexual contact includes requests by the therapist for conduct described in items A to C.

Sexual contact does not include conduct described in items A or B that is a part of standard medical treatment of a patient.

Subp. 14. **Sexual harassment.** "Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

(1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, education, or housing;

(2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, or housing; or

(3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment; and in the case of employment, the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action.

Subp. 15. **Supervisee.** "Supervisee" means an individual who is engaged in postgraduate, supervised experience under the direction of a supervisor.

Subp. 16. **Supervision.** "Supervision" means taking full professional responsibility for training, work experience, and performance in the practice of marriage and family therapy of a supervisee, including planning for and evaluation of the work product of the supervisee, and including face-to-face contact between the supervisor and supervisee.

Subp. 17. **Supervisor.** "Supervisor" means an individual who has met the requirements in part 5300.0160, and takes responsibility for the practice of the supervisee during a specific time to enable the supervisee to meet the requirements of licensing.

Subp. 18. **Therapeutic deception.** "Therapeutic deception" means a representation by a therapist that sexual contact with the therapist is consistent with or part of the patient's or former patient's treatment.

Subp. 19. **Therapist.** "Therapist" means a licensee of the board.

Subp. 20. **Variance.** "Variance" means permission from the board to comply with a rule in a manner other than that generally specified in parts 5300.0100 to 5300.0360.

5300.0110 LICENSE REQUIREMENT.

Subpart 1. **License required.** No person, other than those individuals exempt in *Minnesota Statutes*, sections 148B.32, subdivision 2, and 148B.38, shall engage in marriage and family therapy practice, advertise the performance of such services, or use a title or description denoting marriage and family therapist without obtaining a license issued under *Minnesota Statutes*, sections 148B.29 to 148B.39, and parts 5300.0100 to 5300.0360.

Subp. 2. **Engaging in marriage and family therapy practice, defined.** An individual engages in marriage and family therapy practice if the individual performs or offers to perform marriage and family therapy or if the individual is held out as able to perform such a service.

5300.0120 EXCEPTIONS TO LICENSE REQUIREMENT.

As stated in *Minnesota Statutes*, section 148B.38, those qualified individuals of other licensed or certified professions or occupations who are performing services consistent with their training are exempt from parts 5300.0110 to 5300.0360 so long as they do not represent themselves by a title denoting marriage and family therapist, such as marriage and family therapist, marriage therapist, family therapist, marriage and family counselor, marriage counselor, or family counselor unless specifically allowed to do so under *Minnesota Statutes*, section 148B.32, subdivision 2. Those qualified individuals listed in *Minnesota Statutes*, section 148B.38 may advertise the performance of marriage and family therapy services.

5300.0130 REQUIREMENTS FOR LICENSURE.

Subpart 1. **Requirements.** To be eligible for licensure, an applicant must meet the following requirements:

- A. complete the education requirements in *Minnesota Statutes*, section 148B.33, subdivision 1, clauses (5)(i) and (ii);
- B. have obtained the age of majority, the age of majority being 18 years according to *Minnesota Statutes*, section 645.451, subdivision 5.
- C. complete the experience requirements in *Minnesota Statutes*, section 148B.33, subdivision 1, clause (4), and defined in part 5300.0150;
- D. provide evidence of meeting the requirements of *Minnesota Statutes*, section 148B.33, subdivision 1, clause (2), through endorsements from at least two individuals with the qualifications in part 5300.0230;
- E. agree to conduct all professional activities as a licensed marriage and family therapist in accordance with the code of ethics for marriage and family therapists in part 5300.0350; and
- F. pass both parts of the examination listed in part 5300.0240.

Subp. 2. **Denial of licensure to applicant.** An applicant who fails to meet all requirements in this part shall be denied a license.

5300.0140 EDUCATIONAL REQUIREMENTS; DETERMINATION OF EQUIVALENT DEGREE.

Subpart 1. **Evaluation by board.** In determining whether an applicant holds a master's or doctoral degree that is equivalent to degrees described in *Minnesota Statutes*, section 148B.33, subdivision 1, clause (5)(i), the board shall evaluate the applicant's transcripts, documentation from the educational institution that describes the substance and purpose of the applicant's academic training, accreditation and other professional recognition of the educational institution by accrediting bodies, and other necessary information as determined by the board. All requested documentation must be sent directly from the educational institution to the board.

Subp. 2. **Degrees; course work requirements.** A master's or doctoral degree is equivalent to a master's or doctoral degree in marriage and family therapy if the degree is from a regionally accredited institution, if the degree is in a related subject field, and if the degree contains the following coursework:

- A. three courses in human development covering human development, human behavior, personality theory, human sexuality, psychopathology, and behavior-pathology;
- B. three courses in marital and family studies covering theories of family development, theories of family functioning, the family life cycle, sociology of the family, families under stress, contemporary family forms, family subsystems, and theories of marital and family interaction;
- C. three courses in marital and family therapy covering marital and family communication, family psychology, family therapy,

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Proposed Rules

methods of intervention, family assessment, sex therapy, major theories of marital and family therapy such as structural, strategic, transgenerational, experiential, object relations, contextual, and systemic therapy;

D. one course in research covering research design, methods, statistics, and special issues research in marital and family studies or a related field;

E. one course in professional studies covering professional socialization, professional organizations, legal issues, interprofessional cooperation, professional ethics, and family law; and

F. a clinical practicum in marriage and family therapy of at least 300 hours of clinical client contact with individuals, couples, and families for the purpose of assessment and intervention. Of the 300 hours, no more than 150 hours may be with individuals.

Each course listed in items A to F must be equivalent to a three-credit semester or four-credit quarter course. This curriculum may be completed during the qualifying master's or doctoral degree programs; or additional course work may be taken at a college or university accredited by a regionally accredited educational institution after receiving the graduate degree in order to fulfill the requirements for each of the areas described in items A to F. An applicant may not use a course for more than one area described in items A to F.

Subp. 3. **Proof of equivalency.** The burden is on the applicant to prove by a preponderance of the evidence that the coursework is equivalent to the requirements in subpart 2.

5300.0150 EXPERIENCE REQUIREMENTS.

Subpart 1. **Supervised experience required.** The two years supervised, postgraduate experience required by *Minnesota Statutes*, section 148B.33, subdivision 1, clause (4), must meet the requirements in subparts 2 to 6.

Subp. 2. **Years of experience; computation.** In calculating two years of supervised postgraduate experience in marriage and family therapy, the board shall accept a minimum of 1,000 hours of clinical client contact and 200 hours of supervision over a period of not less than 24 months.

Subp. 3. **Clinical client contact; requirements.** The applicant must demonstrate at least 500 hours of the clinical client contact required in the following categories of cases:

- A. unmarried couples;
- B. married couples;
- C. separating and divorcing couples; and
- D. family groups including children.

Subp. 4. **Supervision; setting.** The supervision shall take place in individual and group settings, according to items A and B.

- A. The individual supervision shall take place in a setting in which a supervisor and not more than two supervisees are present.
- B. The group supervision shall take place in a setting in which a supervisor and not more than six supervisees are present.

Subp. 5. **Supervision requirements.** Supervision must involve:

A. at least 200 hours of face-to-face contact between the supervisor and supervisee of which at least 100 hours must be in individual settings;

B. 100 hours of supervision per year; and

C. a focus on the raw data from the supervisee's clinical work that is made directly available to the supervisor through means of written clinical materials, direct observation, and audio recordings.

Subp. 6. **Verifying supervised experience.** A supervisee must verify the required supervised experience by completing a form supplied by the board. The form must be signed by the applicant's supervisor and be notarized. The form must include the setting, nature, and extent of the supervised experience, the time period involved, the number of hours of clinical client contact, the number of hours of supervision, and the name and qualifications of each supervisor.

5300.0160 REQUIREMENTS FOR SUPERVISOR.

A supervisor is acceptable to the board if the supervisor:

A. is licensed as a marriage and family therapist in Minnesota;

B. has at least three years and 3,000 hours of experience in clinical practice as a marriage and family therapist; and

C. provides evidence of training in supervision. Evidence must be shown through academic course work, continuing education, or designation by a national professional organization as a marriage and family therapy supervisor.

5300.0170 RESPONSIBILITIES OF SUPERVISOR.

A supervisor has the following responsibilities:

- A. The supervisor must be knowledgeable of the clinical skills required for effective delivery of marriage and family therapy services;
- B. The supervisor must be knowledgeable of the important literature in the field of marriage and family therapy and professional ethics; and
- C. The supervisor must see that all supervised work is conducted in appropriate professional settings, with adequate administrative and clerical controls.

5300.0180 LICENSURE PROCESS.

The process of licensure by the board as a marriage and family therapist is divided into two separate parts: admission to written examination and admission to licensure.

5300.0190 PROCEDURES FOR ADMISSION TO WRITTEN EXAMINATION.

Subpart 1. **Information required.** To be admitted to written examination, an applicant must submit to the board the information in items A to C.

A. The applicant must submit a completed, notarized application for admission to written examination on a form provided by the board. The application must include an affirmation by the applicant that the statements made in the application are true and correct to the best knowledge of the applicant;

B. The applicant must submit the required, nonrefundable fee for application for admission to written examination specified in part 5300.0360, item A, made payable to the Board of Marriage and Family Therapy; and

C. The applicant must submit official transcripts of all graduate education of the applicant, including verification of the degree granted. The transcripts must be sent directly to the board from the institution granting the degree.

(1) The applicant must demonstrate to the board, by a preponderance of the evidence, that the degreed program documented by the applicant's transcripts meets the requirements of part 5300.0130, subpart 1, item A.

(2) The institution granting the degree must be regionally accredited at the time the degree is granted.

Subp. 2. **Verification of information; board's powers.** The board has authority to investigate or contact persons to verify the authenticity of the information in the application for admission to written examination and to require the applicant to provide verification.

Subp. 3. **Time requirements.** An applicant's file shall be closed if the applicant fails to complete the application for admission to written examination and provide all information required within six months from the date the board receives the application.

Subp. 4. **Admission to written examination.** An applicant shall be admitted to the first regularly scheduled written, objective part of the examination that occurs 60 days or more after the applicant has met the requirements of subpart 1, unless admission is denied under subpart 5.

Subp. 5. **Denial of admission to written examination.** The board shall deny an applicant admission to written examination if the applicant has not met the education requirements of part 5300.0130, subpart 1, item A. The board shall notify the applicant of the denial in writing and state the reasons for the denial. An application for admission to written examination submitted after denial is a new application for admission to written examination which must be accompanied by the fee for application for admission to written examination specified in part 5300.0360, item A.

5300.0200 PROCEDURES FOR ADMISSION TO LICENSURE.

Subpart 1. **Information required.** To be eligible for admission to licensure, an applicant must submit to the board the information in items A to E.

A. The applicant must submit evidence of having passed the written part of the examination in part 5300.0240, subpart 3.

B. The applicant must submit a completed, notarized application for licensure on a form provided by the board. The application must include an affirmation by the applicant that the statements in the application are true and correct to the best knowledge of the applicant and an agreement by the applicant that the applicant will conduct all professional activities as a licensed marriage and family therapist according to the code of ethics in part 5300.0350.

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Proposed Rules

C. The applicant must submit the required, nonrefundable application for licensure fee specified in part 5300.0360, item C, made payable to the Board of Marriage and Family Therapy.

D. The applicant must submit a completed notarized form provided by the board, verifying the applicant's postgraduate, supervised experience, conforming to the requirements of part 5300.0150, subpart 6.

E. The applicant must submit two endorsements attesting to the applicant's good moral character. The endorsements must be completed and signed by individuals who meet the requirements for endorsers under part 5300.0230, subparts 1 and 2. The endorsements must be notarized on forms provided by the board.

Subp. 2. **Verification of information; board's powers.** The board has authority to investigate or contact persons to verify the authenticity of the information in the application for licensure and to require the applicant to provide verification.

Subp. 3. **Denial of admission to licensure.** An applicant who fails to meet all the requirements in subpart 1 shall be denied licensure. An applicant who is denied licensure shall be informed in writing of the denial and the reasons for it. An application for licensure submitted following denial is a new application for licensure which must be accompanied by the fee for application for licensure specified in part 5300.0360, item C.

5300.0210 CONCURRENT APPLICATIONS FOR EXAMINATION AND LICENSURE.

An applicant may file both the application for admission to written examination and the application for licensure at the same time if the experience requirements in part 5300.0150 have been met.

5300.0230 REQUIREMENTS FOR ENDORSEMENT.

Subpart 1. **Endorser; requirements.** For an endorsement to meet the requirements of parts 5300.0130, subpart 1, item D, and 5300.0200, subpart 1, item E, the endorser must:

A. be licensed by the board; or

B. be licensed to practice marriage and family therapy by another state whose licensure standards are at least equivalent to or exceed the requirements for licensure in Minnesota.

Subp. 2. **Limitations.** An endorser must not be an employee, independent contractor, patient, or former patient, or be related in any way to the applicant.

5300.0240 EXAMINATION METHODS; SUBJECTS AND PROCEDURES.

Subpart 1. **Written and oral examination required.** Examination of an applicant for a license as a marriage and family therapist shall be composed of:

A. a written, objective part designed and scored by a professional examination service approved by the Association of Marriage and Family Therapy Regulatory Boards; and

B. an oral part conducted by members of the board.

Subp. 2. **Examination fee.** An applicant who is admitted to written examination under part 5300.0190 must pay the written examination fee in part 5300.0360, item B, before taking the examination.

Subp. 3. **Written part of examination.** The written examination is the examination approved by the Association of Marriage and Family Therapy Regulatory Boards. The written examination shall be offered twice per year on dates established by the Association of Marriage and Family Therapy Regulatory Boards.

Subp. 4. **Oral part of examination.** The oral examination of an applicant shall be held according to those methods determined by the board to be the most practical and expeditious in testing the applicant's qualifications for licensure. The oral examination of an applicant shall take place after the applicant's application for licensure has been accepted by the board and before the applicant is approved for licensure. The oral examination of an applicant shall cover:

A. the applicant's knowledge of the laws governing marriage and family therapists;

B. the applicant's knowledge of the code of ethics;

C. the applicant's awareness of the responsibilities to the board and to the public; and

D. other practice-related areas.

Subp. 5. **Notification procedures.** The board shall notify an applicant in writing of admission to either part of the examination at least 30 days before either part of the examination is scheduled to take place. The notice shall state the date, time, and place where the applicant is scheduled to be examined.

Subp. 6. **Passing score required on examination.** The passing score of the written part of the examination is the passing score determined by the Association of Marriage and Family Therapy Regulatory Boards. The passing score for the oral examination shall be determined by the board. An applicant must pass both parts of the examination to qualify for licensure as a marriage and family therapist.

Subp. 7. **Reexamination permitted.** An applicant who has failed a part of the examination may be reexamined on the part the applicant failed, but not more than five times without a variance. An applicant who is reexamined on the written part of the examination must pay the written examination fee in part 5300.0360, item B.

5300.0250 RECIPROCITY.

Subpart 1. **Other states recognized.** The board shall issue a marriage and family therapist license to an individual who holds a current license as a marriage and family therapist from another state if the board determines that the standards for licensure in effect when the individual was licensed in the other state are at least equivalent to or exceed the current requirements for licensure in Minnesota.

Subp. 2. **Application required.** An individual who holds a current license as a marriage and family therapist from another state must file a completed application for licensure by reciprocity and must pay the fee for application for licensure by reciprocity specified in part 5300.0360, item E. The application must be on a form provided by the board. The application must include a notarized statement that the information in the application is true and correct to the best knowledge of the applicant and an agreement by the applicant that the applicant will conduct all professional activities according to the code of ethics in part 5300.0350.

Subp. 3. **Verification from other state required.** The applicant must direct the board of examiners of the state in which the license is held to send to the board directly a statement that the license is in effect and in good standing on a form provided by the board, and a copy of the state's current licensing law and rules.

Subp. 4. **Discipline in another jurisdiction; effect on licensing.** The board may refuse to grant a license or may impose disciplinary action as described in *Minnesota Statutes*, section 148B.37, subdivision 1, for:

A. revocation, suspension, restriction, limitation, or other disciplinary action against the applicant's license in another state or jurisdiction;

B. failure to report to the board that charges regarding the applicant's license have been brought in another state or jurisdiction;

or

C. having been refused a license by another state or jurisdiction.

Subp. 5. **Proof of equivalency.** The burden is on the applicant to establish, by a preponderance of the evidence, that the standards for licensing in effect when the individual was licensed in the other state are at least equivalent to or exceed the current licensing requirements in Minnesota.

5300.0260 TERM OF LICENSE.

Subpart 1. **Effective date.** An initial license is effective after:

A. the board notifies the applicant in writing that the applicant has been approved for licensure;

B. the applicant has paid the initial license fee in part 5300.0360, item D; and

C. the board assigns a license number to the applicant.

Subp. 2. **Initial licensure period; term of license.** An initial license granted by the board is valid for a period beginning with the effective date in subpart 1 and ending on December 31 of the year in which the license was initially granted. For example, an initial license granted on May 6, 1989, is valid from May 6, 1989, to December 31, 1989. A subsequent license is valid for a one-year period ending on December 31. The license must be renewed according to the procedures in part 5300.0280.

5300.0270 DISPLAY OF LICENSE.

A licensed marriage and family therapist must display the therapist's license and evidence of current renewal in a conspicuous place in the therapist's office, or place of business or employment. Evidence of current renewal will be provided by the board upon renewal of the license. A duplicate license shall be issued to a licensee after the licensee requests a duplicate license from the board and pays the duplicate license fee in part 5300.0360, item K.

5300.0280 RENEWAL OF LICENSE.

Subpart 1. **Renewal every year.** Licenses issued by the board must be renewed every year upon the payment of the renewal fee required in part 5300.0360, item F, completion of a notarized renewal application, and the fulfillment and reporting of continuing education requirements in part 5300.0320.

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Subp. 2. **Notice of renewal.** The board shall send the licensee a written renewal notice identifying the amount of the renewal fee. The notice shall be sent to the licensee's last known address on record with the board.

A licensee must notify the board in writing of any change of name or address within 45 days after moving.

Failure to receive the renewal notice does not relieve the licensee of the obligation to renew the license.

Subp. 3. **Renewal application required.** The licensee must submit to the board a completed renewal application on a form provided by the board. The licensee must submit the renewal application so that the application is postmarked on or before December 31.

If the postmark is illegible, the renewal application is timely if received in the board office by mail on the first work day after December 31.

Subp. 4. **Fee.** The renewal fee required in part 5300.0360, item F, must accompany the renewal application for the renewal application to be complete.

Subp. 5. **Affirmation.** The renewal application must include a notarized statement by the licensee that the information in the application is true and correct to the best knowledge and belief of the licensee.

Subp. 6. **Late fee.** A licensee must pay a late renewal fee and the renewal fee specified in part 5300.0360, items F and G, if the licensee's application for renewal is postmarked after December 31.

5300.0290 FAILURE TO RENEW.

Subpart 1. **Procedures.** The following procedure applies if a licensee fails to submit the renewal application according to part 5300.0280, subparts 3, 4, 5, and 6 or fails to fulfill or report continuing education requirements in part 5300.0320.

Subp. 2. **Expiration of license.** If the licensee fails to submit to the board the renewal application, information about continuing education requirements, and the renewal and late renewal fees specified in part 5300.0360, items F and G, on or before December 31, the license expires and the licensee's right to practice terminates on December 31.

A. The board shall mail to the former licensee a written notice that the licensee's license has expired and the licensee's right to practice has terminated. The board shall send the notice to the licensee's last known address on record with the board.

B. A license that expired under this part may be reinstated under part 5300.0300.

5300.0300 REINSTATEMENT OF LICENSE.

Subpart 1. **Requirements for reinstatement.** A license that has expired under part 5300.0290 may be reinstated if:

A. no fact, circumstance, or condition exists which, if the license were reinstated, would justify its revocation or suspension;

B. the former licensee verifies that the former licensee has not engaged in the practice of marriage and family therapy in this state or any other state, or used a title denoting marriage and family therapist since expiration of the license unless licensed by another state. The verification must be accompanied by a notarized affirmation that the statement is true and correct to the best knowledge and belief of the former licensee;

C. the former licensee submits to the board a completed application for reinstatement on a form provided by the board;

D. the former licensee pays the reinstatement fee specified in part 5300.0360, item H;

E. the former licensee includes with the application for reinstatement a letter stating the reasons for applying for reinstatement; and

F. the former licensee complies with the applicable provisions of subparts 2 and 3.

Subp. 2. **Expiration of less than five years.** A former licensee whose license expired under part 5300.0290 less than five years previous to the application for reinstatement must:

A. submit evidence of meeting the continuing education requirements that would have applied to the former licensee if the license had not expired; and

B. pay the renewal fee specified in part 5300.0360, item F, and late renewal fees specified in part 5300.0360, item G, for each of the years between the date the license expired and the date the former licensee submits a reinstatement application.

Subp. 3. **Expiration of five years or more.** A former licensee whose license expired under part 5300.0290 five years or more before the application for reinstatement must:

A. retake the written examination required for licensure of marriage and family therapists given by the board according to part 5300.0240, subpart 3;

B. submit evidence of meeting the continuing education requirements that would have applied to the former licensee if the license had not expired; and

C. pay the renewal fee specified in part 5300.0360, item F, and late renewal fees specified in part 5300.0360, item G, for each of the five years immediately preceding application for reinstatement.

Subp. 4. **Practice without a license.** A former licensee who has engaged in the practice of marriage and family therapy in this state or used a title denoting marriage and family therapist since the date of expiration of the license, is subject to denial of reinstatement or disciplinary action at the time of reinstatement. Nothing in this subpart precludes the board from seeking injunctive relief under *Minnesota Statutes*, section 214.11 for the unauthorized practice of marriage and family therapy or from referring the matter to criminal law enforcement officials under *Minnesota Statutes*, section 148B.32, subdivision 3.

Subp. 5. **Effect of reinstatement.** Upon reinstatement, the licensee shall be assigned the same license number which the licensee was assigned before expiration of the license.

5300.0310 VOLUNTARY TERMINATION OF LICENSE.

A license may be terminated at any time upon written request by the licensee to the board, unless a complaint is pending against the licensee. If a complaint is pending against a licensee, a license may not be voluntarily terminated until any indicated action relative to the complaint is concluded. The board must receive the request to terminate before expiration of the license for failure to renew under part 5300.0290, subpart 3. A licensee who has voluntarily terminated the license may be relicensed by complying with the requirements for reinstatement of an expired license in part 5300.0300, except that payment of the late renewal fees shall not be required.

5300.0320 CONTINUING EDUCATION REQUIREMENTS.

Subpart 1. **Continuing education required.** A licensee must regularly engage in continuing education related to the practice of marriage and family therapy as defined in this part.

Subp. 2. **Number of hours required.** Continuing education is not required during the licensee's initial licensure period, defined in part 5300.0260, subpart 2. After the initial licensure period, the licensee must complete a minimum of 15 hours of continuing education by December 31 every year.

Subp. 3. **Documentation of courses.** When the licensee applies for renewal of the license, the licensee must submit documentation of the licensee's completion of the required hours of continuing education on an appropriate form furnished by the board. A receipt for payment of the fees for the course is not sufficient evidence of completion of the required hours of continuing education.

Subp. 4. **Courses; board approval required.** A course must be approved by the board according to the procedures in this subpart and subparts 5 to 11.

The board shall consider the following factors in determining whether a course should be approved:

- A. The course's relevance to current psychotherapeutic practice or the therapeutic practices of marriage and family therapists.
- B. Whether the course is structured on sound educational principles.
- C. Whether the course is at least one hour in length. "One hour" means at least 50 minutes spent as a student in direct participation in a structured educational format.
- D. Whether the subject of the course is related to marriage and family therapy. Subjects related to marriage and family therapy include, but are not limited to:
 - (1) human, biological, psychological, and social development;
 - (2) human sexuality;
 - (3) psychopathology;
 - (4) cross-cultural mores and values;
 - (5) professional issues, ethics, and family law;
 - (6) human communication;
 - (7) theories of marriage, family, and child therapy;
 - (8) research methodology;
 - (9) theories and application of psychometric testing in marriage and family therapy;

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Proposed Rules

- (10) methods of supervision;
- (11) assessment, diagnosis, prognosis, and treatment of dysfunctions in premarital and family relationships; or
- (12) psychotherapeutic techniques.

E. Whether the course's instructors are qualified by practical or academic experience to teach, lecture, or make presentations of the course.

Subp. 5. **Committee evaluation.** The board shall use a committee, which may include nonboard members, to evaluate applications for course approval.

Subp. 6. **Sponsor's application for course approval.** Individuals, organizations, associations, corporations, educational institutions, or groups intending to offer courses for approval must submit to the board a completed application on a form provided by the board. The course sponsor must meet the requirements in items A to D to receive and maintain course approval.

A. The application for course approval must be submitted at least 60 days before the course is scheduled to begin and must include the sponsor's application for approval of a continuing education course fee specified in part 5300.0360, item I.

B. The application for course approval must include the following information to enable the board to determine whether the course meets the standards for board approval specified in subpart 4:

- (1) a statement of the objectives of the course and the knowledge the participants will have gained upon completion of the course;
- (2) a description of the content and methodology of the course which will allow the participants to meet the objectives;
- (3) a description of the method to be used by the participants to evaluate the course;
- (4) a listing of the qualifications of each instructor which shows the instructor's current knowledge and skill in the course's subject; and
- (5) a description of the certificate or other form of verification of attendance distributed to each participant upon successful completion of the course.

C. If the board approves a course, it shall assign a number to the course. The approval remains in effect for one year from the date of initial approval. The board shall compile a list of approved courses at least once per calendar year. To retain course approval, a course sponsor must submit to the board a new application for course approval required in items A and B and the application fee for approval of a continuing education course required in part 5300.0360, item I, before the expiration of the one-year period.

(1) Each sponsor of an approved course may announce, as to a course that has been approved by the board, that: "This course has been approved by the Minnesota Board of Marriage and Family Therapy for ... hours of credit."

(2) The course sponsor must submit proposed changes in an approved course to the board for its approval.

D. The board shall approve or disapprove a sponsor's application for course approval.

E. The board shall deny approval of a course if it does not meet the standards in subpart 4. The board shall notify the course sponsor in writing of its reasons for denying approval of a course.

F. The board shall revoke its approval of a course if a course sponsor fails to comply with item C and subpart 4, or if a course sponsor falsifies information requested by the board in the application for approval of a course.

Subp. 7. **A licensee's application for course approval.** A licensee must apply individually for approval of continuing education courses sponsored by organizations that have not applied and been approved by the board in subpart 5. The licensee must submit information required in item A, as well as other information the board reasonably requires to evaluate the course for approval.

A. The following information must be submitted to the board, in addition to the form required in subpart 3, by the licensee:

- (1) the name and address of the organization sponsoring the course;
- (2) a detailed description of the course content;
- (3) the name of each instructor making a presentation, and the instructors' credentials; and
- (4) the location, including the name and address of the facility, at which the course will be conducted.

B. Licensees seeking approval for a course not previously approved by the board are strongly encouraged to seek board approval before attending the course.

C. The board shall deny approval for a course if it does not meet the standards in subpart 4. The board shall notify the applicant in writing of its reasons for denying approval of a course under this subpart.

Subp. 8. **Sources of credit.** Continuing education credit may not be applied for self-study, personal therapy, or other methods not

structured on sound education principles. Continuing education credit may be applied for the following programs that comply with the requirements of subpart 4:

- A. conventions;
- B. workshops and seminars;
- C. lectures;
- D. college postgraduate courses; and
- E. graduate study.

Subp. 9. **Hours of credit.** Continuing education shall be credited on an hour-for-hour basis. "One hour" means at least 50 minutes spent as a student in direct participation in a structured educational format.

Subp. 10. **Exemption from continuing education requirements.** A licensee whose license has not expired and who meets any of the following conditions is exempt from continuing education requirements in this part if the licensee files with the board an affidavit specifying that the licensee:

- A. is retired from practice and does not perform marriage and family therapy services on a volunteer or free basis; or
- B. is permanently disabled and unable to practice marriage and family therapy, accompanied by a notarized statement from the licensee's physician.

Subp. 11. **Discontinuance of exemption from continuing education requirements.** A licensee claiming exemption under subpart 10 who later decides to resume practice must submit to the board, before resuming practice, a written notice that the licensee intends to resume practice. The licensee must also submit evidence that the licensee has completed continuing education requirements that are equivalent to what the requirements would have been without the exemption for the five years or any portion of the five years immediately preceding the date of the notice of intent to resume practice.

5300.0330 REFUSAL TO GRANT LICENSE, SUSPENSION, OR REVOCATION OF LICENSE.

Subpart 1. **Board authority.** The board shall refuse to grant a license, or shall suspend, revoke, condition, limit, qualify, or restrict the license of an individual according to *Minnesota Statutes*, sections 148B.05 and 148B.37, subdivision 1.

Subp. 2. **Conviction of crime.** According to *Minnesota Statutes*, section 148B.37, subdivision 1, clause (2), the crimes that the board shall determine to be of a nature to render the convicted individual unfit to practice marriage and family therapy consist of the crimes described in *Minnesota Statutes*, sections 144.227, 151.37, 152.021, 152.022, 152.023, 152.024, 152.025, 152.027, 609.185, 609.19, 609.195, 609.20, 609.205, 609.21, 609.215, 609.221, 609.222, 609.223, 609.2231, 609.224, 609.231, 609.235, 609.24, 609.245, 609.25, 609.255, 609.26, 609.265, 609.342, 609.343, 609.344, 609.345, 609.3451, 609.352, 609.365, 609.48, 609.485, 609.498, 609.50, 609.507, 609.52, 609.561, 609.562, 609.563, 609.582, 609.595, 609.625, 609.66, 609.713, and 609.79.

Subp. 3. **Probation.** The board may place a licensee on probation under the following circumstances:

- A. in lieu of, or in addition to, any order of the board suspending, revoking, or otherwise acting against the license of any licensee; or
- B. as a condition of restoring any license suspended, revoked, or otherwise acted against by the board.

Subp. 4. **Suspended or revoked license; return to the board.** A licensee whose license has been suspended or revoked must return the license and evidence of current license renewal to the board office by registered or certified mail postmarked within three days after the effective date of the board's order of suspension or revocation. Failure to return the license and evidence of current license renewal is grounds for the board's denial of any subsequent restoration of a license according to *Minnesota Statutes*, section 148B.37, subdivision 2.

Subp. 5. **Restoring a license.** The board shall restore a license according to *Minnesota Statutes*, section 148B.37, subdivision 2. A licensee whose license has been revoked or suspended and subsequently restored by the board must comply with the requirements for reinstatement in part 5300.0300 and must pay the penalty fee in part 5300.0360, item J.

5300.0340 VARIANCE.

Subpart 1. **Variance; when allowed.** A licensee or applicant may petition the board in writing for a variance from rules in parts 5300.0100 to 5300.0360, except for a rule which incorporates a statutory requirement. A variance shall be granted if the board

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Proposed Rules

determines that the licensee or applicant has specified alternative practices or measures equivalent to or superior to the rule in question and if the licensee or applicant provides evidence that:

- A. the rationale for the rule in question can be met or exceeded by the specified alternative practices or measures;
- B. adherence to the rule would impose an undue burden on the licensee or applicant; and
- C. the granting of the variance will not adversely affect the public welfare.

Subp. 2. **Petition; requirements.** A petition for a variance must contain the following information:

- A. the specific rule for which the variance is requested;
- B. the reason for the request;
- C. the alternative practices or measures that will be taken if a variance is granted; and
- D. the length of time for which a variance is requested.

Subp. 3. **Alternatives must be followed.** Any licensee or applicant who is granted a variance must comply with the alternative practices or measures specified in the petition for the variance.

Subp. 4. **Renewal; notice of change; revocation.** If required by the board, a variance shall be renewed upon petition for a renewal of the variance at the time specified by the board when granting the variance if the circumstances justifying the variance continue to exist, their existence is not due to failure to comply with the correction of these conditions, and if all of the requirements of subparts 1, 2, and 3 are met. A licensee or applicant who has been granted a variance must immediately notify the board of any material change in the circumstances that justified the variance. A variance shall be revoked if there is a material change in the circumstances which justified the granting of the variance.

Subp. 5. **Burden of proof.** The burden of proof is upon the licensee or applicant to demonstrate to the board, by a preponderance of the evidence, that the requirements in subparts 1 and 2 have been met.

Subp. 6. **Notice of variance; denial; revocation.** The board shall notify the licensee or applicant in writing when the board grants, denies, renews, or revokes a variance. The notice must specify the reasons for the action. If a variance is granted, the notification must state the period of time for which the variance is effective, if required, and must state alternative practices or measures the licensee or applicant must meet.

5300.0350 CODE OF ETHICS.

Subpart 1. **Scope.** The code of ethics applies to all licensees and applicants who practice marriage and family therapy and applies to their conduct during the period of education and training required for licensure.

Subp. 2. **Purpose.** The code of ethics constitutes the standards against which the professional conduct of a marriage and family therapist is measured.

Subp. 3. **Violations.** A violation of the code of ethics is unprofessional or unethical conduct and is a sufficient reason for disciplinary action or denial of licensure.

Subp. 4. **Integrity.** A marriage and family therapist must act in accordance with the highest standards of professional integrity and competence. A marriage and family therapist must be honest in dealing with clients, students, trainees, colleagues, and the public.

A. A therapist must not perform, nor pretend to be able to perform, professional services beyond the therapist's field or fields of competence.

B. A therapist must not permit a trainee or intern under the therapist's supervision to perform, nor pretend to be competent to perform, professional services beyond the trainee's or intern's level of training.

C. A therapist must recognize the potentially influential position the therapist may have with respect to students, interns, employees, and supervisees, and must avoid exploiting the trust and dependency of these persons. A therapist must make every effort to avoid dual relationships that could impair the therapist's professional judgment or increase the risk of exploitation. Sexual contact between the therapist and students, employees, independent contractors, colleagues, or supervisees is prohibited for two years after the date that the relationship is terminated, whether or not the party is informed that the relationship is terminated. Sexual contact after two years with a former student, intern, employee, or supervisee is prohibited:

- (1) if the former student, intern, employee, or supervisee was emotionally dependent upon the therapist; or
- (2) if the sexual contact occurred by means of therapeutic deception.

D. A therapist must not engage in sexual contact or other harassment, therapeutic deception, or exploitation of students, trainees, interns, employees, independent contractors, colleagues, research subjects, or actual or potential witnesses or complainants in ethical proceedings.

E. A therapist must not use or exploit the professional relationship with a student, trainee, intern, employee, independent contractor, colleague, research subject, or actual or potential witness or complainant in ethical proceedings in any manner for the therapist's emotional, financial, sexual, religious, political, or personal advantage or benefit.

F. A therapist must recognize that there are other professional, technical, and administrative resources available to clients. The therapist must make referrals to those resources when it is in the best interest of clients to be provided with alternative or complementary services. The therapist must make a reasonably prompt referral when requested to do so by the client, without consideration of limitation of third-party payors.

G. A therapist must not offer, nor accept, payment for referrals.

H. A therapist must not knowingly offer services to a client who is in treatment with another professional without consultation among the parties involved. If a client refuses to allow consultation, the therapist should delay the administration of service until the client gives consent to consultation. The exception to the consultation requirement would be if the client reports ethical violations by the other professional.

I. A therapist must understand the areas of competence of related professions and act with due regard for the need, special competencies and obligations of their colleagues in other allied professions, and must not disparage the qualifications of any colleague.

J. A therapist must seek appropriate professional assistance for the therapist's own personal problems or conflicts that are likely to impair the therapist's work performance and clinical judgment.

K. A therapist must not practice under the influence of alcohol or any controlled substance not prescribed by a physician.

L. A therapist must not allow an individual or agency that is paying for the professional services of a client to exert undue influence over the therapist's evaluation or treatment of the client.

M. A therapist must file a complaint with the board when the therapist has reason to believe that another therapist is or has been engaged in conduct which violates this part according to *Minnesota Statutes*, section 148B.07, subdivision 4.

N. A therapist must not engage in any conduct likely to deceive or defraud the public or the board.

O. A therapist must not advertise in a way that is false, fraudulent, or misleading to the public.

P. A therapist must correct, wherever possible, false, misleading, or inaccurate information and representations made by others concerning the therapist's qualifications, services, or products.

Q. A therapist must make certain that the qualifications of a person in a therapist's employ is a student, independent contractor, or an intern represented in a manner that is not false, misleading, or deceptive.

R. A therapist must not engage in any unprofessional conduct. Unprofessional conduct is any conduct violating this part or violating those standards of professional behavior that have become established by consensus of the expert opinion of marriage and family therapists as reasonably necessary for the protection of the public interest.

Subp. 5. Relations to clients. A marriage and family therapist's primary professional responsibility is to the client. A marriage and family therapist must make every reasonable effort to advance the welfare and best interests of families and individuals. A marriage and family therapist must respect the rights of those persons seeking assistance and make reasonable efforts to ensure that the therapist's services are used appropriately. A marriage therapist is bound by these ethics primarily. These ethics supercede any policies of an employer or contractor that may be contrary to the ethics in this part.

A. Once a client has been accepted into therapy, a therapist must not discriminate on the basis of age, sex, race, national origin, religion, physical handicap, political affiliation, or social or economic status. In addition, a therapist must not discriminate on the basis of affectional preference, or choice of lifestyle. When unable to offer services for any reason, a therapist shall make an appropriate referral.

B. A therapist must recognize the potentially influential position the therapist may have with respect to clients, and must avoid exploiting the trust and dependency of clients. A therapist must make every effort to avoid dual relationships with clients that could impair the therapist's professional judgment or increase the risk of exploitation.

C. A therapist must be careful to truthfully represent to clients facts regarding services rendered.

D. A therapist must recognize the importance of clear understandings on financial matters with clients. Arrangements for fees and payments must be made at the beginning of the therapeutic relationship.

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Proposed Rules

E. A therapist must not engage in sexual contact or other physical intimacies with a client. Sexual contact with a former client is prohibited for two years after termination of services whether informed or not that the relationship is terminated. Sexual contact after two years with a former client is prohibited:

- (1) if the former client was emotionally dependent upon the therapist; or
- (2) if the sexual contact occurred by means of therapeutic deception.

F. A therapist must not engage in sexual or other harassment of a client, nor in any verbal or physical behavior that is sexually seductive or sexually demeaning to the client. For purposes of this item, sexual harassment has the meaning given it in *Minnesota Statutes*, section 363.01, subdivision 10a.

G. A therapist must not use or exploit the professional relationship with a client in any manner for the therapist's emotional, financial, sexual, religious, political, or personal advantage or benefit.

H. A therapist must not use any confidence of a client to the client's disadvantage.

I. A therapist must terminate a client relationship when it is reasonably clear that the treatment no longer serves the client's needs or interests.

J. A therapist must not provide services to a client when the therapist's objectivity or effectiveness is impaired. Whenever a therapist's objectivity or effectiveness becomes impaired during a professional relationship with a client, the therapist must notify the client orally and in writing that the therapist can no longer see the client professionally and must assist the client in obtaining services from another professional.

K. A therapist must respect the right of a client to make decisions and must help the client understand the consequences of the decisions. A therapist must advise a client that a decision on marital status is the responsibility of the client.

L. A therapist must inform a client of a divergence of interests, values, attitudes, or biases between a client and the therapist that is sufficient to impair their professional relationship. Either the client or the therapist may terminate the relationship.

M. In the course of professional practice, a therapist must not violate any law concerning the reporting of abuse of children under *Minnesota Statutes*, section 626.556 and vulnerable adults under *Minnesota Statutes*, section 626.557.

N. A therapist must display prominently on the premises of the therapist's professional practice or make available as a handout the bill of rights of clients, including a statement that consumers of marriage and family therapy services offered by marriage and family therapists licensed by the State of Minnesota have the right:

- (1) to expect that a therapist has met the minimal qualifications of training and experience required by state law;
- (2) to examine public records maintained by the Board of Marriage and Family Therapy which contain the credentials of a therapist;
- (3) to obtain a copy of the code of ethics from the *State Register* and Public Documents Division, Department of Administration, 117 University Avenue, Saint Paul, MN 55155;
- (4) to report complaints to the Board of Marriage and Family Therapy, Colonial Park Office Building, 2700 University Avenue West, Suite 225, Saint Paul, MN 55114;
- (5) to be informed of the cost of professional services before receiving the services;
- (6) to privacy as defined by rule and law;
- (7) to be free from being the object of discrimination on the basis of race, religion, gender, or other unlawful category while receiving services;
- (8) to have access to their records as provided in *Minnesota Statutes*, section 144.335, subdivision 2; and
- (9) to be free from exploitation for the benefit or advantage of a therapist.

O. A therapist must, upon request from the client, provide information regarding the procedure for filing a complaint with the board.

Subp. 6. Confidentiality and keeping of records. A marriage and family therapist must hold in confidence all information obtained in the course of professional services. A marriage and family therapist must safeguard client confidences as permitted by law and rule.

A. A therapist, and employees and professional associates of the therapist, must not disclose any private information that the therapist, employee, or associate may have acquired in rendering services except as provided in *Minnesota Statutes*, sections 148B.11, subdivision 3, and 148B.39. All other private information must be disclosed only with the informed consent of the client.

B. A therapist must be responsible for informing clients of the limits of confidentiality.

C. For purposes of safeguarding confidentiality, when seeing a couple or a family, a therapist must define who the "client" is as soon as it is possible to determine the client. For example, the therapist must define whether the couple or family, as a unit, is the client or whether the individuals who make up the couple or family are the clients.

D. When seeing a couple or a family, a therapist must inform the client, at the beginning of the relationship, what the therapist's procedures are for handling confidences from individual members of the family and for protecting individuals' privacy while safeguarding the integrity of the therapy process.

E. Whenever marriage and family therapy services are requested or paid for by one client for another, the therapist must inform both clients of the therapist's responsibility to treat any information gained in the course of rendering the services as private information.

F. A therapist must limit access to client records and must inform every individual associated with the agency or facility of the therapist, such as a staff member, student, or volunteer, that access to client records must be limited to only the therapist with whom the client has a professional relationship, an individual associated with the agency or facility whose duties require access, and an individual authorized to have access by the informed written consent of the client.

G. A therapist must continue to maintain as private information the records of a client after the professional relationship between the therapist and the client has ceased. The therapist must store and dispose of records in ways that maintain confidentiality.

H. A therapist must disclose to the board and its agents client records that the board and its agents consider to be germane to a disciplinary proceeding.

I. A therapist must obtain written, informed consent from each client before electronically recording sessions with that client or before permitting third-party supervisory observation of their sessions. The consent form should specify the purpose and proposed audience for the recording.

J. A therapist must disguise adequately the identity of a client when using material derived from a counseling relationship for purposes of training, research, professional meetings, or publications.

Subp. 7. **Research.** A marriage and family therapist must conduct research activities with full respect for the rights and dignity of participants and with full concern for their welfare according to the requirements of the "Ethical Principles of Psychologists, General Principle 9: Research with Human Participants," American Psychological Association, as amended June 2, 1989. These requirements are incorporated by reference and are not subject to frequent change. The requirements were published in "American Psychologist" March 1990, Volume 45, Number 3, pages 390-395. They are available through the Minitex interlibrary loan system. Participation in research is voluntary.

5300.0360 FEES.

All fees indicated in items A to K shall be paid by cash or in the form of check, bank draft, or money order, made payable to the Board of Marriage and Family Therapy, Colonial Park Office Building, 2700 University Avenue West, Suite 225, Saint Paul, Minnesota 55114. All fees are nonrefundable.

- A. application for admission to written examination fee, \$200;
- B. written examination fee, not to exceed \$250;
- C. application for licensure fee, \$100;
- D. initial license fee, not to exceed \$100;
- E. application for licensure by reciprocity fee, \$300;
- F. annual renewal of license fee, \$100;
- G. late renewal fee, \$50;
- H. reinstatement of license fee, \$150;
- I. sponsor's application for approval of a continuing education course fee, \$25;
- J. penalty fee, \$75;
- K. duplicate license fee, \$25.

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Proposed Rules

The written examination fee in item B will be determined by the professional examination service approved by the Association for Marriage and Family Therapy Regulatory Boards administering the examination.

The initial license fee in item E will be prorated accordingly, depending on the month in which the applicant is approved for licensure.

Office of Waste Management

Proposed Permanent Rules Relating to Recyclable Material Market Development Grant and Loan Programs

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Office of Waste Management (Office) intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1988). The Office's authority to adopt the rules is set forth in *Minnesota Statutes* § 115A.48, subd. 5 (d) (2nd 1989 Supp.).

All persons have until 4:30 p.m. on August 23, 1990, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests 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 rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Office will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1988).

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

Thomas Osdoba
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, Minnesota 55108
612-649-5773
1-800-652-9747 (Minnesota Toll-Free)

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

The proposed rules, if adopted, will establish the criteria and procedures for awarding grants and loans under the Office's Recyclable Material Market Development Grant and Loan Program. The proposed rules are published below. One free copy of the proposed rules is available upon request from the address and telephone number stated 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 rules has been prepared and is available from the Office upon request.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rules will have no negative effect on small businesses, as the rules do not limit the ability of small businesses to participate in this program.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent 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 rules as adopted, must submit a written request to the name and address stated above.

Michael Robertson
Director

Rules as Proposed (all new material)**RECYCLABLE MATERIAL MARKET DEVELOPMENT
GRANT AND LOAN PROGRAMS****9210.0600 SCOPE AND AUTHORITY.**

Parts 9210.0600 to 9210.0645 implement the recyclable material market development grant and loan programs created and described under *Minnesota Statutes*, section 115A.48, by establishing the substantive criteria and procedural conditions under which the director may award grants or loans for recyclable material market development projects.

9210.0610 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in this part apply to parts 9210.0600 to 9210.0645. For terms not defined in this part, the definitions in *Minnesota Statutes*, section 115A.03, apply, unless the context requires otherwise.

Subp. 2. **Director.** "Director" means the director of the Office of Waste Management.

Subp. 3. **Highest end use.** "Highest end use" means the remanufacture or transformation of a recyclable material into a product most similar to the product from which the recyclable material was derived.

Subp. 4. **Office.** "Office" means the Minnesota Office of Waste Management established in *Minnesota Statutes*, section 115A.055.

Subp. 5. **Postconsumer material.** "Postconsumer material" means material generated by a business or a consumer that has served its intended end use and has been separated from solid waste for collection and recycling.

Subp. 6. **Preconsumer material.** "Preconsumer material" means material generated after completion of a manufacturing process that has not been used by a final consumer and would normally be disposed of as solid waste. This definition does not include postconsumer material or residual material generated during a manufacturing process that is commonly reused by the generator.

Subp. 7. **Project.** "Project" means all components of an organized undertaking described in a proposal.

Subp. 8. **Recipient.** "Recipient" means an applicant selected by the director to receive a grant or loan under parts 9210.0600 to 9210.0645.

Subp. 9. **Recyclable material.** "Recyclable material" means preconsumer or postconsumer material that can presently be recycled or that demonstrates potential to be recycled. Refuse-derived fuel or other material that is used as fuel for incineration is not a recyclable material.

Subp. 10. **Recycled products.** "Recycled products" means products containing preconsumer or postconsumer material.

Subp. 11. **Research institution.** "Research institution" means a public or private nonprofit organization whose activities include directed research and scientific investigations.

Subp. 12. **Solid waste.** "Solid waste" has the meaning given it in *Minnesota Statutes*, section 116.06, subdivision 10.

9210.0615 PURPOSE.

The short-term objective of the program is to increase the demand for and use of recyclable material, thus maximizing land disposal abatement. The long-term objective of the program is to facilitate the development of recycling activities that represent the highest end use of recyclable material.

9210.0620 APPLICATION PROCEDURES.

Subpart 1. **Notification by director.** To initiate the process for awarding grants and loans for recyclable material market development projects, the director shall publish a notice in the *State Register* advising eligible applicants of the availability of market development grants and loans. The notice shall describe the procedure for awarding grants and loans and establish a deadline by which proposals must be submitted. In the notice, the director may also limit the types of projects for which a grant or loan would be awarded in the funding round initiated by the notice and may specify the maximum amount of funding to be awarded to a project.

Subp. 2. **Proposals.** Following the publication of a notice in the *State Register*, eligible applicants that seek assistance must submit proposals to the director. Proposals must be received by the director by the deadline established in the notice. Upon the request of the applicant, the office shall handle specific information as nonpublic data pursuant to *Minnesota Statutes*, section 115A.06, subdivision 13.

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

A. Proposals for grant assistance under part 9210.0635 must contain the information set out in part 9210.0635, subpart 6.

B. Proposals for grant or loan assistance under part 9210.0640 must contain the information set out in part 9210.0640, subpart 7.

C. Proposals for grant assistance under part 9210.0645 must contain the information set out in part 9210.0645, subpart 6.

Subp. 3. **Determination of eligibility and completeness.** For all proposals received by the director by the deadline established in the notice, the director shall determine the eligibility of the applicant, the proposed project, and the costs identified in the proposal and shall determine the completeness of the proposal.

Subp. 4. **Notice of determination of eligibility and completeness.** The director shall notify the applicant of the director's determination of eligibility and completeness of the proposal. If the director determines that the applicant or the project is ineligible, the director shall reject the proposal and notify the applicant. If the director determines that any of the project costs are ineligible or that the proposal is incomplete, the director shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 14 days after receiving the notice to correct any inadequacies identified by the director. Extensions shall be granted if requested in a timely manner and good cause exists for the extension. If the inadequacies are not corrected within the time allowed, the proposal shall be rejected.

Subp. 5. **Evaluation of proposal.** The director shall evaluate each proposal that is determined to be eligible and complete according to items A to C.

A. Proposals for grant assistance under part 9210.0635 shall be evaluated using the criteria set out in part 9210.0635, subpart 7.

B. Proposals for grant or loan assistance under part 9210.0640 shall be evaluated using the criteria set out in part 9210.0640, subpart 8.

C. Proposals for grant assistance under part 9210.0645 shall be evaluated using the criteria set out in part 9210.0645, subpart 7.

Subp. 6. **Award of grants or loans.** The director shall award grants or loans for those projects that the director determines will be the most beneficial in facilitating the development of markets for recyclable material and recycled products. The director shall notify those applicants that do not receive grant or loan awards. An applicant that does not receive an award may resubmit a proposal upon future notice by the director under subpart 1.

Subp. 7. **No grant or loan awards.** If the director determines that no proposal will provide sufficient assistance to the state in achieving its market development goals, the director may decide not to award any grant or loan. The director may then reinstate the process for awarding grants and loans by publishing a notice under subpart 1.

Subp. 8. **Consultation.** In the director's evaluation of a proposal, the director shall solicit and consider any recommendations provided by the Market Development Coordinating Council established in *Minnesota Statutes*, section 115A.12, subdivision 1, paragraph (d).

9210.0625 LIMITATIONS.

Subpart 1. **Reduced grant or loan awards.** The director shall ask an applicant to document the impacts of reduced financial assistance before finalizing an award for less than the eligible amount requested by an applicant or less than the maximum award established in the notice under part 9210.0620, subpart 1. Reduced funds shall be awarded where the director determines:

A. program resources are insufficient to provide full assistance to all applicants to which the director intends to award grants or loans; or

B. the applicant could operate the project at a reduced level and still achieve project objectives.

Subp. 2. **Limitations on disbursement of funds.** No grant or loan funds shall be disbursed until the director has:

A. determined the total estimated cost of the project;

B. ascertained that financing of the project cost is assured by the recipient;

C. received commitments from the recipient to implement the project; and

D. executed a written grant or loan agreement with the recipient and, if applicable, the recipient has submitted final design plans for projects under the Capital Grant and Loan Program in part 9210.0640.

9210.0630 GRANT AND LOAN AGREEMENTS.

A grant or loan agreement shall:

A. incorporate by reference the proposal submitted to the director;

B. provide that any cost overruns incurred in the development and implementation of the proposed project shall be the sole responsibility of the recipient;

C. require that the recipient provide periodic written reports to the director on the implementation and results of the project;

D. identify the interest rate and repayment obligations for a loan recipient;

E. authorize the director to rescind the grant and require the grant recipient to repay the grant in full if the director determines that, due to the bad faith of the grant recipient, a project has not been developed and implemented in accordance with the terms and conditions of the grant agreement;

F. authorize the director to determine that the loan recipient is in default and require the loan recipient to immediately repay the loan in full if the director determines that, due to the bad faith of the loan recipient, a project has not been developed and implemented in accordance with the terms and conditions of the loan agreement;

G. authorize the director to cease making further disbursements to the recipient and to recover unspent funds if the director determines that, for reasons other than bad faith, a project has not been developed and implemented in accordance with the terms and conditions of the grant or loan agreement and amendment to the agreement is not justified;

H. require that the recipient perform and complete project activities in accordance with the work schedule in the proposal submitted to the director and incorporated into the grant or loan agreement;

I. require that the recipient maintain detailed records of all expenditures related to the agreement; and

J. establish other conditions or terms needed to manage or implement the grant or loan agreement.

9210.0635 COUNTY GRANT PROGRAM.

Subpart 1. **Scope.** This part establishes the conditions under which the director shall award recyclable material market development program grants to counties.

Subp. 2. **Eligible applicants.** Eligible applicants are counties that have submitted plans under *Minnesota Statutes*, section 115A.551, subdivision 6, as amendments to their approved comprehensive solid waste management plans or solid waste master plans. Eligible counties may apply for funds on behalf of any person, but named recipients shall be the counties.

Subp. 3. **Eligible projects.** Eligible projects are projects in Minnesota that enhance the quality of the supply of recyclable materials, create or expand the capacity to use recyclable materials in a manufacturing process, or increase the demand for recycled products.

Subp. 4. **Eligible costs.** Eligible costs are limited to 25 percent of the capital costs of the project and 75 percent of other project costs.

Subp. 5. **Maximum grant.** The maximum grant award is \$100,000, unless the notice provided by the director under part 9210.0620, subpart 1, establishes a lesser maximum grant.

Subp. 6. **Proposal.** An eligible applicant shall submit a proposal in the form specified by the director. A proposal must include the following information:

A. the names, qualifications, and addresses of the applicant and other project participants, including other counties participating in the proposed project;

B. a description of the proposed project, including:

(1) a description of project activities and an implementation schedule;

(2) location of the project;

(3) type, quantity, and source of recyclable material and recycled products relevant to the project; and

(4) current status of the project;

C. information demonstrating that the project will comply with applicable regulations, including a list of permits required for the project;

D. an itemized description of the project costs, including the total estimated cost, total grant eligible cost, and the amount of grant funding requested;

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Proposed Rules

E. an itemized description of project financing, including applicant contributions, other government contributions, private contributions, and, if applicable, any projected revenues from the project;

F. information demonstrating, where applicable, the technical feasibility of the project, including preliminary design and engineering plans;

G. information demonstrating, where applicable, how the applicant will secure the supply of and demand for recyclable material and recycled products; and

H. a resolution from each county participating in the project that demonstrates that, if a grant is awarded, it will implement the project, provide necessary local financing, and accept and exercise the governmental powers necessary to develop and operate the project.

The director may request additional information from the applicant if it is necessary to clarify and evaluate the proposal.

Subp. 7. **Evaluation of proposals.** The director shall evaluate each proposal that is determined to be eligible and complete. The director shall base this evaluation on the following factors:

A. the technical and economic feasibility of the proposed project;

B. the applicant's ability and intention to implement the proposed project in a timely manner upon receipt of a grant award;

C. the proposed project's compliance with federal, state, and local regulations;

D. the consistency of the proposed project with state market development priorities;

E. the extent to which the proposed project would benefit the market development efforts of more than one county;

F. the extent to which the applicant has achieved significant land disposal abatement through source separation of recyclable materials;

G. the extent to which the proposed project represents the highest end use for each recyclable material;

H. the extent to which the proposed project would use postconsumer material; and

I. the extent to which the proposed project provides information transferable to other persons throughout the state.

9210.0640 CAPITAL GRANT AND LOAN PROGRAM.

Subpart 1. **Scope.** This part establishes the conditions under which the director shall award recyclable material market development program grants and loans for capital investment projects.

Subp. 2. **Eligible applicants.** Eligible applicants are private organizations.

Subp. 3. **Eligible projects.** Eligible projects are projects in Minnesota that create or expand capacity to use recyclable materials as a feedstock in a manufacturing process or to transform recyclable materials into other usable products.

Subp. 4. **Eligible costs.** Eligible costs are limited to the capital costs of the proposed project.

Subp. 5. **Maximum grant.** A project may receive a grant for up to 25 percent of the total eligible costs of the project or \$500,000, whichever is less, unless the notice provided by the director under part 9210.0620, subpart 1, establishes a lesser maximum grant.

Subp. 6. **Maximum loan.** A project may receive a loan for up to 50 percent of the total eligible costs of the project or \$2,000,000, whichever is less, unless the notice provided by the director under part 9210.0620, subpart 1, establishes a lesser maximum loan.

Subp. 7. **Proposal.** An eligible applicant shall submit a proposal in the form specified by the director. A proposal must include the following information:

A. the names, qualifications, and addresses of the applicant and other project participants;

B. a description of the proposed project, including:

(1) a list of project activities and an implementation schedule;

(2) location of the project;

(3) type, quantity, and source of recyclable material and recycled products relevant to the project; and

(4) current status of the project;

C. information demonstrating that the project will comply with applicable regulations, including a list of permits required for the project;

D. a financial report, including:

(1) a five-year business plan;

(2) an itemized description of the project costs, including the total estimated cost, total eligible cost, and the amount of grant or loan funding requested;

(3) an itemized description of project financing, including applicant contributions, other government contributions, private contributions, and projected revenues from the project;

(4) a credit history of the organization; and

(5) financial statements for the last three years;

E. information demonstrating the technical feasibility of the project, including preliminary design and engineering plans, if applicable; and

F. a market analysis for the proposed project, including information demonstrating that the applicant has secured the supply of and demand for recyclable material and recycled products necessary for sustained market development.

The director may request additional information from the applicant if it is necessary to clarify and evaluate the proposal.

Subp. 8. **Evaluation of proposals.** The director shall evaluate each proposal that is determined to be eligible and complete. The director shall base this evaluation on the following factors:

A. the technical and economic feasibility of the proposed project;

B. the applicant's financial capacity and managerial ability, and the applicant's intention to implement the project in a timely manner upon receipt of a grant or loan award;

C. the proposed project's compliance with federal, state, and local regulations;

D. the consistency of the proposed project with state market development priorities;

E. the extent to which the proposed project represents the highest end use for each recyclable material; and

F. the extent to which the proposed project would use postconsumer material.

9210.0645 DIRECTED RESEARCH AND FEASIBILITY STUDY GRANT PROGRAM.

Subpart 1. **Scope.** This part establishes the conditions under which the director shall award recyclable material market development program grants for directed research and feasibility study projects.

Subp. 2. **Eligible applicants.** Eligible applicants are research institutions and private organizations.

Subp. 3. **Eligible projects.** Eligible projects are limited to the following:

A. development of performance data on recycled products that are or could be manufactured in Minnesota;

B. feasibility studies for the development of manufacturing capacity to use recyclable materials from Minnesota as a feedstock; and

C. directed research on products that could be manufactured using recyclable materials from Minnesota as a feedstock or on manufacturing processes that could use recyclable materials from Minnesota as a feedstock.

Subp. 4. **Eligible costs.** Eligible costs for research institutions are limited to 100 percent of the project costs, including labor and supplies necessary to implement the project. Eligible costs for private organizations are limited to 50 percent of the project costs, including labor and supplies necessary to implement the project.

Subp. 5. **Maximum grant.** The maximum grant award is \$100,000, unless the notice provided by the director under part 9210.0620, subpart 1, establishes a lesser maximum grant.

Subp. 6. **Proposal.** An eligible applicant shall submit a proposal in the form specified by the director. A proposal must include the following information:

A. the names, qualifications, and addresses of the applicant and other project participants;

B. a description of the proposed project, including:

(1) a list of project activities and an implementation schedule;

(2) location of the project;

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Proposed Rules

(3) type, quantity, and source of recyclable material and recycled products relevant to the project; and

(4) description or identification of persons that may benefit from project activities and results;

C. the projected economic viability of implementing project results;

D. an itemized description of the project costs, including the total estimated cost, total grant eligible cost, and the amount of grant funding requested; and

E. an itemized description of the project financing, including applicant contributions, other government contributions, and private contributions.

The director may request additional information from the applicant if it is necessary to clarify and evaluate the proposal.

Subp. 7. **Evaluation of proposals.** The director shall evaluate each proposal that is determined to be eligible and complete. The director shall base this evaluation on the following factors:

A. the technical and economic feasibility of the proposed project;

B. the applicant's ability and intention to implement the project in a timely manner upon receipt of a grant award;

C. the extent to which the proposed project promotes market development activities for recyclable materials and recycled products;

D. the consistency of the proposed project with state market development priorities;

E. the extent to which the proposed project promotes the highest end use for each recyclable material;

F. the extent to which the proposed project promotes the use of postconsumer material; and

G. the extent to which the project provides information transferable to other organizations and the absence of available information in the proposed area of study.

Office of Waste Management

Proposed Permanent Rules Relating to Solid Waste Reduction Grant and Loan Programs

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Office of Waste Management (Office) intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1988). The Office's authority to adopt the rules is set forth in *Minnesota Statutes* §§ 115A.53 (1989) and 115A.55, subd. 3 (d) (1989).

All persons have until 4:30 p.m. on August 23, 1990, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests 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 rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Office will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1988).

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

Cristine Leavitt
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, Minnesota 55108
612-649-5771 or
1-800-652-9747 (MN Toll-Free)

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

The proposed rules, if adopted, will establish the criteria and procedures for awarding grants and loans under the Office's Solid Waste Reduction Grant and Loan Program. The proposed rules are published below. One free copy of the proposed rules is available upon request from the address and telephone number stated 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 rules has been prepared and is available from the Office upon request.

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rules will have no negative effect on small businesses, as the rules do not limit the ability of small businesses to participate in this program.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent 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 rules as adopted, must submit a written request to the name and address stated above.

Michael Robertson
Director

Rules as Proposed (all new material)

SOLID WASTE REDUCTION GRANT AND LOAN PROGRAM

9210.0700 SCOPE AND AUTHORITY.

Parts 9210.0700 to 9210.0770 implement the solid waste reduction grant and loan program created and described under *Minnesota Statutes*, sections 115A.53 and 115A.55, by establishing the substantive criteria and procedural conditions under which the director may award grants or loans for solid waste reduction projects.

9210.0710 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in this part apply to parts 9210.0700 to 9210.0770. For terms not defined in this part, the definitions in *Minnesota Statutes*, section 115A.03, apply unless the context states otherwise.

Subp. 2. **Director.** "Director" means the director of the Office of Waste Management.

Subp. 3. **Office.** "Office" means the Minnesota Office of Waste Management established in *Minnesota Statutes*, section 115A.055.

Subp. 4. **Person.** "Person" means an individual, partnership, association, public or private organization, or other legal entity, the state, or an agency, department, or political subdivision of the state.

Subp. 5. **Program.** "Program" means the Solid Waste Reduction Grant and Loan Program.

Subp. 6. **Solid waste.** "Solid waste" has the meaning given it in *Minnesota Statutes*, section 116.06, subdivision 10.

Subp. 7. **Solid waste reduction.** "Solid waste reduction" means an activity that prevents the generation of solid waste including:

- A. producing, procuring, or using products or packaging with a longer useful life;
- B. producing, procuring, or using products or packaging with reduced material; or
- C. changing solid waste generation habits to result in smaller quantities of solid waste generated.

Subp. 8. **Useful life.** "Useful life" means the length of time or number of times that a product may be used or reused in its original form.

9210.0720 APPLICATION PROCEDURES.

Subpart 1. **Notification by director.** To initiate the process for awarding grants and loans for solid waste reduction projects, the director shall publish a notice in the *State Register* advising eligible applicants of the availability of solid waste reduction grants and loans. The notice shall describe the maximum amount of funding available for a project, and establish a deadline by which proposals must be submitted. In the notice, the director may also limit the types of projects for which a grant or loan would be awarded in the funding round initiated by the notice.

Subp. 2. **Proposals.** Following the publication of a notice in the *State Register*, eligible applicants that seek assistance must submit proposals to the director. Proposals must be received by the director by the deadline established in the notice. Upon the request of the applicant, the office shall handle specific information as nonpublic data pursuant to *Minnesota Statutes*, section 115A.06, subdivision 13; however, all information developed as a result of a grant or loan shall be made available to persons through the office's public information program.

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Proposed Rules

- A. Proposals for grants under part 9210.0740 shall contain the information in part 9210.0740, subpart 5.
- B. Proposals for grants under part 9210.0750 shall contain the information in part 9210.0750, subpart 5.
- C. Proposals for loans under part 9210.0760 shall contain the information in part 9210.0760, subpart 5.

Subp. 3. **Determination of eligibility and completeness.** For all proposals received by the director by the deadline established in the notice, the director shall determine the eligibility of the applicant, the proposed project, the costs identified in the proposal, and the completeness of the proposal.

Subp. 4. **Notice of determination of eligibility and completeness.** The director shall notify the applicant of the director's determination of eligibility and completeness of the proposal. If the director determines that the applicant or the project is ineligible, the director shall reject the proposal and notify the applicant. If the director determines that any of the project costs are ineligible or that the proposal is incomplete, the director shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 14 days after receiving the notice to correct any inadequacies. Extensions shall be granted if requested in a timely manner and good cause exists for the extension. If the inadequacies are not corrected within the time allowed, the proposal shall be rejected.

Subp. 5. **Evaluation of proposal.** The director shall evaluate each proposal that is determined to be eligible and complete.

- A. Proposals for grants under part 9210.0740 shall be evaluated using the criteria in part 9210.0740, subpart 6.
- B. Proposals for grants under part 9210.0750 shall be evaluated using the criteria in part 9210.0750, subpart 6.
- C. Proposals for loans under part 9210.0760 shall be evaluated using the criteria in part 9210.0760, subpart 6.

Subp. 6. **Award of grants or loans.** The director shall award grants or loans for those projects that the director determines best satisfy the criteria applicable to the program under which the applicant is requesting financial assistance. The director shall notify those applicants that do not receive grant or loan awards. An applicant that does not receive an award may resubmit a proposal upon future notice by the director under subpart 1.

Subp. 7. **No grant or loan awards.** If the director determines that no proposal will provide sufficient assistance to the state in achieving its solid waste reduction goals, the director may decide not to award any grant or loan. The director may then reinstate the process for awarding grants by publishing a notice under subpart 1.

Subp. 8. **Consultation.** In the director's evaluation of the proposal, the director shall consider recommendations provided by the Solid Waste Management Advisory Council.

9210.0730 LIMITATIONS.

Subpart 1. **Reduced grant or loan awards.** The director shall ask an applicant to document the impacts of reduced financial assistance before awarding funds less than the eligible amount requested by the applicant or less than the maximum award established in the notice under part 9210.0720, subpart 1. Reduced funds shall be awarded where the director determines that:

- A. program resources are insufficient to provide full assistance to all applicants to which the director intends to award grants or loans; or
- B. the applicant could operate the project at a reduced level and still achieve project objectives.

Subp. 2. **Limitations on disbursement of funds.** No grant or loan funds shall be disbursed until the recipient has executed a written grant or loan agreement with the director.

9210.0740 GRANT AND LOAN AGREEMENTS.

A grant or loan agreement shall:

- A. incorporate by reference the proposal submitted to the director;
- B. provide that any cost overruns incurred in the development and implementation of the proposed project shall be the sole responsibility of the recipient;
- C. require that the recipient provide periodic written reports to the director on the implementation and results of the project;
- D. identify the interest rate and repayment obligations for the loan recipient;
- E. authorize the director to rescind the grant and require the grant recipient to repay the grant in full if the director determines that, due to the bad faith of the grant recipient, a project has not been developed and implemented according to the terms and conditions of the grant agreement;
- F. authorize the director to determine that the loan recipient is in default and require that loan recipient immediately repay the loan in full if the director determines that, due to the bad faith of the loan recipient, a project has not been developed and implemented according to the terms and conditions of the loan agreement;
- G. authorize the director to cease making further disbursements to the grant or loan recipient and to recover the unspent funds

if the director determines that, for reasons other than bad faith, a project has not been developed and implemented according to the terms and conditions of the grant or loan agreement and amendment of the agreement is not justified:

H. require that the recipient perform and complete project activities according to the work plan in the proposal submitted to the director and incorporated into the grant and loan agreement;

I. require that all information developed as a result of a grant or loan shall be made available to other persons through the office's public information program;

J. require that the recipient maintain detailed records of all expenditures related to the project; and

K. establish other conditions or terms needed to manage or implement the grant or loan agreement.

9210.0750 PUBLIC INSTITUTION GRANT PROGRAM.

Subpart 1. **Scope.** This part establishes the conditions under which the director shall award solid waste reduction public institution grants.

Subp. 2. **Eligible applicants.** Eligible applicants are political subdivisions and other public entities, including state, county, and local agencies; school districts, universities, and hospitals; and solid waste management districts established under *Minnesota Statutes*, sections 115A.62 to 115A.72. An eligible applicant may apply for a grant on behalf of any person who is not an eligible applicant, but the named recipient shall be the eligible applicant.

Subp. 3. **Eligible projects.** Eligible projects are projects that study the technical and economic feasibility of solid waste reduction activities or projects that implement solid waste reduction activities. Projects that study or implement composting or recycling are not considered eligible projects.

Subp. 4. **Eligible costs.** Eligible costs are limited to:

A. 75 percent of the costs of technical and economic feasibility studies, including labor and supplies necessary to conduct these studies; and

B. 75 percent of the costs of implementing a waste reduction project, except that only 50 percent of the cost of purchasing and installing equipment are eligible.

The cost of operating or maintaining equipment, or of purchasing or renting real property, are not eligible costs. Regardless of the amount of eligible costs, no grant shall be awarded for an amount that exceeds the maximum established by the notice under part 9210.0720, subpart 1.

Subp. 5. **Proposal.** An eligible applicant shall submit a proposal in the form specified by the director. The director may request additional information from the applicant if it is necessary to clarify the proposal. A proposal must include the following information:

A. the names, qualifications, addresses of the applicant and other project participants, and letters of commitment or resolutions from the public entities participating in the proposed project;

B. a description of the proposed project, including:

(1) a work plan that includes a list of project activities, an implementation schedule with specific timelines, and persons involved in completing each activity;

(2) location of the proposed project;

(3) type, source, and quantity of solid waste to be eliminated by the proposed project, including an explanation on how these estimates were determined;

(4) current status of the proposed project; and

(5) description or identification of persons that the proposed project activities and results may be applicable to;

C. a financial report including:

(1) an itemized description of the proposed project costs, including the total estimated cost, total grant eligible costs, the amount of grant funding requested, and a discussion of the economic feasibility of implementing the proposed project;

(2) an itemized description of the proposed project financing, including the applicant contributions, other government contributions, private contributions, and where applicable, any projected revenues from the proposed project;

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Proposed Rules

(3) a business plan that demonstrates ongoing financial commitment over the life of the proposed project, including financial commitment over the projected life of equipment funded by the grant;

(4) if the applicant is applying on behalf of another person that is not an eligible applicant, the proposal must provide a credit history and the last three years' financial statements for the ineligible applicant;

D. information demonstrating, where applicable, the technical feasibility of the proposed project, including preliminary design and engineering plans for capital expenditures; and

E. information demonstrating that the project will comply with applicable regulations, including a list of permits required for the project.

Subp. 6. **Evaluation of proposals.** The director shall evaluate each proposal that is determined to be eligible and complete and shall award grants to those projects that, in the director's view, best satisfy the following criteria:

A. the proposed project is technically and economically feasible;

B. the applicant has the experience and knowledge to complete the proposed project and is committed to implementing the proposed project in a timely manner upon receipt of a grant award;

C. the proposed project is consistent with the office's solid waste reduction priorities;

D. the proposed project has the necessary financial commitment to cover all proposed project costs;

E. the applicant has demonstrated that the proposed project has the support of all public entities that are involved in the proposed project; and

F. the proposed project complies with federal, state, and local regulations.

In addition, the director shall give priority to solid waste reduction projects that have broad application in the state and that have the potential to significantly reduce the generation of solid waste.

9210.0760 FEASIBILITY STUDY GRANT PROGRAM.

Subpart 1. **Scope.** This part establishes the conditions under which the director shall award solid waste reduction feasibility study grants.

Subp. 2. **Eligible applicants.** Eligible applicants are private organizations that generate solid waste in Minnesota.

Subp. 3. **Eligible projects.** Eligible projects are projects that study the technical and economic feasibility of solid waste reduction activities that may be implemented by an eligible applicant. Projects that study composting or recycling are not considered eligible projects.

Subp. 4. **Eligible costs.** Eligible costs are limited to 50 percent of technical and economic feasibility studies, including labor and supplies necessary to conduct these studies. Regardless of the amount of eligible project costs, no grant shall be awarded for an amount that exceeds the maximum established by the notice under part 9210.0720, subpart 1.

Subp. 5. **Proposal.** An eligible applicant shall submit a proposal in the form specified by the director. The director may request additional information from the applicant if it is necessary to clarify the proposal. A proposal must include the following information:

A. the names, qualifications, and addresses of the applicant and other project participants;

B. a description of the proposed project, including:

(1) a work plan that includes a list of project activities, an implementation schedule with specific timelines, and persons involved in completing each activity;

(2) location of the proposed project;

(3) type, source, and quantity of solid waste that implementation of the proposed project may eliminate, including an explanation on how these estimates were determined;

(4) current status of the proposed project; and

(5) identification of persons or organizations that proposed project results may be applicable to;

C. a financial report including:

(1) an itemized description of the proposed project costs, including the total estimated costs, total grant eligible costs, the amount of grant funding requested, and a discussion of the economic feasibility of implementing the proposed project; and

(2) an itemized description of the proposed project financing, including the applicant contributions, other government contributions, private contributions, and where applicable, any projected revenues from the proposed project; and

D. information demonstrating that the project will comply with applicable regulations, including a list of permits required for the project.

Subp. 6. **Evaluation of proposals.** The director shall evaluate each proposal that is determined to be eligible and complete and shall award grants to those projects that, in the director's view, best satisfy the following criteria:

- A. the proposed project is technically and economically feasible;
- B. the applicant has the experience and knowledge to complete the proposed project and is committed to implementing the proposed project in a timely manner upon receipt of a grant award;
- C. the proposed project is consistent with the office's solid waste reduction priorities;
- D. the proposed project has the necessary financial commitment to cover all proposed project costs; and
- E. the proposed project complies with federal, state, and local regulations.

In addition, the director shall give priority to solid waste reduction projects that have broad application in the state and that have the potential to significantly reduce the generation of solid waste.

9210.0770 IMPLEMENTATION LOAN PROGRAM.

Subpart 1. **Scope.** This part establishes the conditions under which the director shall award solid waste reduction loans.

Subp. 2. **Eligible applicants.** Eligible applicants are private organizations that generate solid waste in Minnesota.

Subp. 3. **Eligible projects.** Eligible projects are projects that implement solid waste reduction activities. Projects that implement composting or recycling are not considered eligible projects.

Subp. 4. **Eligible costs.** Eligible costs are limited to 50 percent of the costs of implementing a solid waste reduction activity, except that only 20 percent of a loan award may be spent for final design and engineering plan costs. In addition, the cost of operating or maintaining equipment, or of purchasing or renting real property, are not eligible costs. Regardless of the amount of eligible costs, no loan shall be awarded for an amount that exceeds the maximum established by the notice under part 9210.0720, subpart 1.

Subp. 5. **Proposal.** An eligible applicant shall submit a proposal in the form specified by the director. The director may request additional information from the applicant if it is necessary to clarify the proposal. A proposal must include the following information:

- A. the names, qualifications, and addresses of the applicant and other project participants;
- B. a description of the proposed project, including:
 - (1) a work plan that includes a list of project activities, an implementation schedule with specific timelines, and persons involved in completing each activity;
 - (2) location of the proposed project;
 - (3) type, source, and quantity of solid waste to be eliminated by the proposed project, including an explanation on how these estimates were determined;
 - (4) current status of the proposed project; and
 - (5) description or identification of persons that the proposed project results may be applicable to;
- C. a financial report including:
 - (1) an itemized description of the proposed project costs, including the total estimated cost, total grant eligible costs, the amount of grant funding requested, and a discussion of the economic feasibility of implementing the proposed project;
 - (2) an itemized description of the proposed project financing, including the applicant contributions, other government contributions, private contributions, and if applicable, any projected revenues from the proposed project;
 - (3) a business plan that demonstrates ongoing financial commitment over the life of the proposed project, including financial commitment over the projected life of equipment funded by the loan;
 - (4) a credit history of the organization; and
 - (5) financial statements for the last three years;

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

D. information demonstrating the technical feasibility of the proposed project, including preliminary design and engineering plans for capital expenditures, if applicable; and

E. information demonstrating that the project will comply with applicable regulations, including a list of permits required for the project.

Subp. 6. **Evaluation of proposals.** The director shall evaluate each proposal that is determined to be eligible and complete and shall award grants to those projects that, in the director's view, best satisfy the following criteria:

A. the proposed project is technically and economically feasible;

B. the applicant has the experience and knowledge to complete the proposed project and is committed to implementing the proposed project in a timely manner upon receipt of a loan award;

C. the proposed project is consistent with the office's solid waste reduction priorities;

D. the proposed project has the necessary financial commitment to cover all project costs; and

E. the proposed project complies with federal, state, and local regulations.

In addition, the director shall give priority to solid waste reduction projects that have broad application in the state and that have the potential to significantly reduce the generation of solid waste.

State Board of Vocational Technical Education

Proposed Permanent Rules Relating to Technical College Counselor License

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Board of Vocational Technical Education 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*, Section 14.22 to 14.28. The statutory authority to adopt the rules is *Minnesota Statutes* 136C.04, Subdivision 9.

All persons have 30 days until 4:30 p.m., Thursday, August 23, 1990, in which to submit comment in support of or in opposition to the proposed rule 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 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 either:

Jeanette Daines, Supervisor
Minnesota Technical College System
100 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
Telephone: 612-296-0679

Georgia Pomroy, License Revision Specialist
Minnesota Technical College System
100 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
Telephone: 612-296-0680

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 and 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 Jeanette Daines or Georgia Pomroy at the above address and phone, 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

wish to receive a copy of the adopted rule must submit the written request to either Jeanette Daines or Georgia Pomroy at the above-mentioned address.

Helen Henrie, Interim State Director
State Board of Vocational Technical Education

Rules as Proposed (all new material)**3700.1050 TECHNICAL COLLEGE COUNSELOR.**

Subpart 1. **Activities requiring a license.** A person referred to as a counselor in a technical college must be licensed under this part and must:

- A. apply career development theories to assist students and prospective students in making appropriate career decisions;
- B. assist students and prospective students in obtaining information and resources necessary for attaining academic, career, and personal goals;
- C. select, administer, and interpret psychometric assessment instruments including achievement, ability, aptitude, values, interest, and personality;
- D. apply personal development and counseling theories in assisting students and prospective students with resolving issues relating to interpersonal relationships, personal barriers, and social situations that may interfere with their academic and career objectives;
- E. serve as a student advocate through consulting with technical college staff, staff of other educational institutions, and community agencies to make the environment as beneficial to the educational, emotional, and physical development of students as possible;
- F. plan, facilitate, and implement training workshops and support groups to assist individuals in their career and personal development; and
- G. supervise and administer the activities necessary to meet the specialized transitional needs of students during the admissions, retention, and placement process.

Subp. 2. **Other requirements.** The applicant must meet the requirements in part 3700.0100, except that the applicant need not comply with part 3515.1400, items A to D.

Subp. 3. **Educational and occupational experience.** The applicant must have the experiences as described in items A to D:

- A. master's or higher degree with a major in counseling;
- B. degree must include or have added college credits in all of the following content:
 - (1) supervised practicum/internship in counseling;
 - (2) group counseling; and
 - (3) career development theory and occupational information; and
- C. college credits with content in two of the following:
 - (1) cultural diversity;
 - (2) adult development;
 - (3) ethics;
 - (4) family systems theory; or
 - (5) chemical dependency.

REPEALER. *Minnesota Rules*, part 3515.6600, is repealed.

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

Department of Natural Resources

Commissioner's Order No. 2381: Early Season Regulations for Taking Canada Geese in 1990

PURSUANT TO AUTHORITY vested in me by *Minnesota Statutes* §§ 97A.045, 97A.401, 97B.801, 97B.805 and other law, I Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following early season regulations for taking Canada geese. Unless otherwise specified, all dates and time periods in this order are inclusive.

Section 1. TWIN CITIES METROPOLITAN CANADA GOOSE ZONE HUNT.

(a) **Season Length and Hours.** Canada geese may be taken in the Twin Cities Metropolitan Canada Goose Zone as described in Sec. 1(c) during the 10-day period beginning September 1, 1990, from one-half hour before sunrise to sunset each day.

(b) **Daily and Possession Limits.** From September 1 to September 10, 1990 no person shall in any one day take more than four (4) Canada geese. No person shall have in possession more than eight (8) Canada geese.

(c) The Twin Cities Metropolitan Canada Goose Zone is described as follows:

All of Hennepin County and Ramsey County.

In Anoka County, all of Columbus Township lying south of County State Aid Highway (CSAH) 18, Anoka County, all of the municipalities of Ramsey, Andover, Anoka, Coon Rapids, Spring Lake Park, Fridley, Hilltop, Columbia Heights, Blaine, Lexington, Circle Pines, Lino Lakes, Centerville, and all of the municipality of Ham Lake except that portion described as follows:

Beginning at the intersection of CSAH 18, Anoka County, and U.S. Highway 65, thence east along CSAH 18 to the eastern boundary of Ham Lake, thence north along said boundary to the north boundary of Ham Lake, thence west along said boundary to U.S. Highway 65, thence south along U.S. Highway 65 to the point of beginning.

In Carver County, all of the municipalities of Victoria, Chaska, Chanhassen, and Carver and the Township of Chaska.

In Scott County, all of the municipalities of Shakopee, Savage, Prior Lake, and Jordan, and all of the Townships of Jackson, Louisville, St. Lawrence, Sand Creek, Spring Lake, and Credit River.

In Dakota County, all of the municipalities of Burnsville, Eagan, Mendota Heights, Mendota, Sunfish Lake, Inver Grove Heights, Apple Valley, Lakeville, Rosemount, Farmington, Hastings, Lilydale, West St. Paul, and South St. Paul, and all of the Township of Nininger.

In Washington County, all of the municipalities of Cottage Grove, St. Paul Park, Newport, Woodbury, White Bear Lake, Oakdale, Landfall, Lake Elmo, Pine Springs, Willernie, Birchwood, Mahtomedi, Dellwood, Forest Lake, Marine, Stillwater, Oak Park Heights, Bayport, Hugo, Lakeland, Lakeland Shores, St. Croix Beach, St. Mary's Point, Afton, and Hastings; all of the Townships of Gray Cloud Island, May, Grant, Stillwater, Baytown, Denmark, and West Lakeland, and that portion of Forest Lake Township lying south of State Trunk Highway (STH) 97 and CSAH 2, Washington County, and those portions of New Scandia Township lying south of STH 97, and of a line drawn due east from the intersection of STH 97 and STH 95 to the east boundary of the state.

Sec. 2. SOUTHWEST BORDER CANADA GOOSE ZONE HUNT.

(a) **Season Length and Hours.** Canada geese may be taken in the Southwest Border Canada Goose Zone as described in Sec. 2(c) during the 10-day period beginning September 1, 1990, from one-half hour before sunrise to sunset each day.

(b) **Daily and Possession Limits.** From September 1 to September 10, no person shall, in any one day, take more than two (2) Canada geese. No person shall have in possession more than four (4) Canada geese.

(c) **The Southwest Border Canada Goose Zone** is described as follows:

All of Martin and Jackson Counties except that portion of Jackson County lying north and west of U.S. Highway (Hwy.) 60 and described as follows:

Beginning at the intersection of U.S. Hwy. 60 and the north boundary of Jackson County; thence southwesterly along U.S. Hwy. 60 to the west boundary of Jackson County; thence north along the west boundary of Jackson County to the north boundary of Jackson County; thence east along the north boundary of Jackson County to the point of beginning.

(d) **Notwithstanding the provisions of Commissioner's Order No. 2356** or its successors, the use of motorized watercraft is allowed in the waterfowl feeding and resting area on South Heron Lake established by Sec. 1(e) of Commissioner's Order No. 2356 or its successors for the 10-day period beginning September 1, 1990.

Sec. 3. FERGUS FALLS/ALEXANDRIA CANADA GOOSE ZONE HUNT.

(a) **Season Length and Hours.** Canada geese may be taken in the Fergus Falls/Alexandria Canada Goose Zone as described in Sec. 3(c) during the 10-day period beginning September 1, 1990, from one-half hour before sunrise to sunset each day.

(b) **Daily and Possession Limits.** From September 1 to September 10, no person shall in any one day take more than two (2) Canada geese. No person shall have in possession more than four (4) Canada geese.

(c) **The Fergus Falls/Alexandria Canada Goose Zone** is described as follows:

Beginning at the intersection of State Trunk Highway (STH) 55 and STH 28; thence east on STH 28 to County State Aid Highway (CSAH) 33, Pope County; thence north along CSAH 33 to CSAH 3, Douglas County; thence north along CSAH 3 to CSAH 69, Otter Tail County; thence north along CSAH 69 to CSAH 46, Otter Tail County; thence east along CSAH 46 to the eastern boundary of Otter Tail County; thence north along the east boundary of Otter Tail County to CSAH 40, Otter Tail County; thence west along CSAH 40 to CSAH 75, Otter Tail County; thence north along CSAH 75 to STH 210; thence west along STH 210 to STH 108; thence north along STH 108 to CSAH 1, Otter Tail County; thence west along CSAH 1 to CSAH 14, Otter Tail County; thence north along CSAH 14 to CSAH 44, Otter Tail County; thence along CSAH 44 to CSAH 35, Otter Tail County; thence along CSAH 35 to STH 108; thence along STH 108 to CSAH 19, Wilkin County; thence along CSAH 19 to STH 55, thence along STH 55 to the point of beginning.

Sec. 4. EARLY GOOSE HUNT APPLICATION AND PERMIT.

(a) **A small game license and a permit** issued by the Commissioner of Natural Resources are required to take Canada geese during the seasons established in Secs. 1, 2 and 3. Permits must be obtained by mailing or delivering a 1990 Special Canada Goose Hunt Application to the appropriate address provided on the application. If mailed, applications must be postmarked no later than August 1, 1990, or if hand delivered, no later than 4:30 p.m., August 1, 1990. Applicants must supply full name, complete address including state and zip code, and sign the application, otherwise the application will be rejected.

(b) **Each applicant must submit** along with his or her application a cashier's check, money order or personal check in the amount of \$3.00 payable to the Minnesota Department of Natural Resources. Any checks that are returned to the Department of Natural Resources for nonpayment will invalidate the application and the check will be destroyed. A separate application and fee is required for each hunt. Fees are non-refundable.

(c) **Persons participating in these seasons** must possess a permit validated for the zone in which they are hunting.

Sec. 5. SPECIAL PROVISIONS ON TAKING.

(a) **Taking Canada geese during the seasons established** by Secs. 1, 2 and 3 is prohibited on or within 100 yards of all surface waters including but not limited to wetlands, lakes, rivers, and streams except on specific waters as described or shown on a map that shall be provided to the permittee by the Commissioner.

(b) **Taking Canada geese during the seasons established** by Secs. 1 and 3 in the Twin Cities Metropolitan Canada Goose Zone and Fergus Falls/Alexandria Canada Goose Zone on public roads and their rights-of-way is prohibited. Taking Canada geese on public roads and their rights-of-way is permitted during the season established by Sec. 2 in the Southwest Border Canada Goose Zone.

(c) **Methods of Take.**

(1) Canada geese may be taken only with a shotgun no larger than 10 gauge.

(2) A person may not take geese with a shotgun capable of holding more than three shells, unless it is plugged with a one-piece filler which is incapable of removal without disassembling the gun.

(3) A person may not take geese by the aid of baiting or on or over any baited area. A baited area is considered to be baited for 10 days after the removal of the bait.

(4) The use of live decoys or records or tapes of migratory bird calls or electrically amplified imitations of bird calls is prohibited.

Sec. 6. RETRIEVAL.

A person may not kill any migratory game bird without making a reasonable effort to retrieve the bird and include it in his daily bag limit. Wounded birds reduced to possession shall be immediately killed and included in the daily bag limit.

Sec. 7. OPENING DAY POSSESSION LIMIT.

No person shall have in possession on the opening day of each of the above established seasons more than a single daily limit. Thereafter, possession limits shall apply.

Sec. 8. LOCAL ORDINANCES.

None of the provisions of this order shall be construed as modifying or superseding any ordinance or rule prohibiting discharging of firearms by any local unit of government including county, city, or township.

Sec. 9. FIELD LIMIT.

No person shall possess, have in custody or transport more than the daily bag limit of Canada geese, tagged or not tagged, at or between the place where taken and either:

Commissioners' Orders

- (a) His automobile or principal means of land transportation;
- (b) His personal abode or temporary or transient place of lodging;
- (c) A migratory bird preservation facility;
- (d) A post office; or
- (e) A common carrier facility.

Sec. 10. FEDERAL REGULATIONS.

Nothing in this order shall be construed as allowing any hunter to hunt or take any Canada geese in violation of applicable federal regulations.

Sec. 11. GAME REFUGES AND STATE PARKS.

None of the provisions of this order shall be construed as modifying or superseding any order establishing game refuges within the state nor as permitting the taking of any wild animals within such refuges or within state parks, except that the Fox Lake Statutory Game Refuge in Martin County, the Douglas County Statutory Goose Refuge in Douglas County and the Otter Tail County Statutory Goose Refuge in Otter Tail County, are open to Canada goose hunting for the period beginning September 1 and ending September 10, 1990, in addition to the open seasons prescribed for them by Commissioner's Order No. 2349 or superseding orders. All other statutory game refuges, posted sanctuaries, and state duck refuges are closed to hunting during the seasons established by Secs. 1, 2, and 3.

Sec. 12. STEEL SHOT AND SIZE REGULATIONS.

It shall be unlawful to take ducks, mergansers, geese, coot or moorhens on all lands and waters within the boundaries of the state while possessing shotshells loaded with shot made of any material other than steel or such nontoxic material as may be approved by the Director of the U. S. Fish and Wildlife Service.

Sec. 13. BLINDS AND DECOYS ON PUBLIC LANDS AND PUBLIC WATERS.

When not in use, any blind located on public land or in public waters is deemed public and not the exclusive property of the person or persons that constructed it. Such blinds are open to use by the public on a first come first served basis. Any use of threat or force against another to gain possession of any such blind shall be unlawful.

A person may not erect a blind or place decoys in public waters or on public land more than one hour before the open season. During the open season, a person may not place decoys in public waters or on public land more than one hour before lawful shooting hours.

Sec. 14. FEDERAL DUCK STAMP.

Each waterfowl hunter 16 years of age and over must carry on his person a valid Federal Migratory Bird Hunting and Conservation Stamp (duck stamp) signed in ink across its face.

Sec. 15. MINNESOTA MIGRATORY WATERFOWL STAMP.

Except for residents under the age of 18 and over the age of 65 years, no person who is otherwise required to possess a Minnesota small game license shall hunt or take migratory waterfowl within this state without first purchasing a stamp and having the stamp in possession while hunting or taking migratory waterfowl. Each stamp shall be validated by the signature of the licensee written across its face. People who are hunting on their own property shall not be required to possess a Minnesota waterfowl stamp.

Sec. 16. At all times until delivery to the taker's residence or a commercial processing facility, migratory waterfowl must be transported in an undressed condition. An undressed migratory waterfowl is one with a fully feathered wing attached.

Dated at Saint Paul, Minnesota, this 3 day of July, 1990.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Executive Orders

Executive Order No. 90-4: Providing for Continuation of the Governor's Advisory Committee on Appointments to Multi-Member Agencies; Rescinding Executive Order No. 89-15

I, RUDY PERPICH, 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 Governor is authorized by statute to appoint individuals to state boards, commissions, committees, councils, authorities, public corporations, and task forces; and

WHEREAS, Minnesota state government is enhanced by involving as many of our citizens as possible in public policy- and decision-making; and

WHEREAS, the effective administration of government in Minnesota requires the participation of our most able citizens, and

WHEREAS, Minnesota state government is strengthened by appointing to state agencies the widest possible diversity of our citizens including women, youth, minorities, elderly, the disabled, and others who traditionally may not have served in state government;

NOW, THEREFORE, I hereby order that a Governor's Advisory Committee on Appointments to Multi-Member State Agencies be established:

1. The committee shall consist of the Lieutenant Governor and 15 members, appointed by the Governor. There shall be one member from each congressional district and seven at-large members. Members shall serve at the pleasure of the Governor for terms designated by him. The Lieutenant Governor shall serve as the committee chair.

2. The committee shall assist the Governor in evaluating applicants for positions on multi-member agencies as provided in *Minnesota Statutes* 1988, Section 15.0597. The committee may, at the request of the Governor or another appointing authority, evaluate applicants for positions on other multi-member state agencies.

3. The committee shall establish its own rules of procedure. For each vacancy the committee shall recommend to the Governor the names of three to five applicants it deems most qualified and best able to serve the interests of the people of Minnesota.

4. Committee members may be reimbursed for expenses as provided in *Minnesota Statutes* 1988, Section 15.0593.

Executive Order 89-15 is rescinded.

Pursuant to *Minnesota Statutes* 1988, Section 4.035, this Order shall be effective fifteen days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with *Minnesota Statutes* 1988, Section 4.035, subdivision 3.

IN TESTIMONY WHEREOF, I have set my hand this 11th day of July, 1990.



Rudy Perpich
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.

Agricultural Chemical Response Compensation Board (ACRRA Board)

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing the Agricultural Chemical Response Compensation Board (ACRRA Board)

NOTICE IS HEREBY GIVEN that the Agricultural Chemical Response Compensation Board (ACRRA Board) is seeking infor-

Official Notices

mation or opinions from outside the board in preparing to propose adoption of a rule governing the ACRRRA Board. The adoption is authorized by *Minnesota Statutes*, section 18E.05 which requires the board to adopt rules that establish the boards practices and procedures, reimbursement eligibility procedures, and claims investigation procedures.

The board requests information and opinions concerning the subject matter of the rule. 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: Carol Milligan, Planning Division, Minnesota Department of Agriculture, 90 West Plato Blvd., St. Paul, MN 55107. Oral statements will be received during regular business hours over the telephone at (612) 296-6906 and in person at the above address.

All statements of information and opinions shall be accepted until August 17, 1990. Any written material received by the board 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.

Dated: 16 July 1990

Paul Liemandt
Executive Director

Board of Chiropractic Examiners

Notice of Intent to Solicit Outside Opinions in the Matter of the Proposed Adoption of a Rule of the Board of Chiropractic Examiners Relating to Acupuncture in the Practice of Chiropractic

NOTICE IS HEREBY GIVEN that the State Board of Chiropractic Examiners is seeking information or opinions from sources outside the agency in preparing to propose the adoption of a rule governing acupuncture as it relates to chiropractic. The adoption of the rule is authorized by *Minnesota Statutes*, section 148.08, subdivision 3, which permits the agency to promulgate rules necessary to administer sections 148.01 to 148.105.

The State Board of Chiropractic Examiners requests information and opinions concerning the subject matter of the rule. 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:

Minnesota Board of Chiropractic Examiners
Dr. Joel Wulff, Executive Director
2700 University Avenue, Suite 20
St. Paul, MN 55114

Oral statements will be received during regular business hours over the telephone at 642-0591 and in person at the above address.

All statements of information and opinions shall be accepted until August 31, 1990. Any written material received by the State Board of Chiropractic Examiners 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.

Dated: 10 July 1990

Dr. Joel B. Wulff
Executive Director

Board of Chiropractic Examiners

Notice of Intent to Solicit Outside Opinions in the Matter of the Proposed Adoption of a Rule of the Board of Chiropractic Examiners Relating to Independent Medical Examinations in the Practice of Chiropractic

NOTICE IS HEREBY GIVEN that the State Board of Chiropractic Examiners is seeking information or opinions from sources outside the agency in preparing to propose the adoption of a rule governing Independent Medical Examinations as it relates to chiropractic. The adoption of the rule is authorized by *Minnesota Statutes*, section 148.08, subdivision 3, which permits the agency to promulgate rules necessary to administer sections 148.01 to 148.105.

The State Board of Chiropractic Examiners requests information and opinions concerning the subject matter of the rule. 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:

Minnesota Board of Chiropractic Examiners
Dr. Joel Wulff, Executive Director
2700 University Avenue, Suite 20
St. Paul, MN 55114

Oral statements will be received during regular business hours over the telephone at 642-0591 and in person at the above address.

All statements of information and opinions shall be accepted until August 31, 1990. Any written material received by the State Board of Chiropractic Examiners 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.

Dated: 10 July 1990

Dr. Joel B. Wulff
Executive Director

Minnesota Comprehensive Health Association

Notice of Public Hearings in the Matter of Provider Payment Schedules for the Minnesota Comprehensive Health Association

The Minnesota Department of Commerce has scheduled public hearings on the use of provider payment schedules by the Minnesota Comprehensive Health Association (MCHA) to determine the amounts of their benefit payments. The payment schedules and locations for these hearings are provided below.

The use of provider payment schedules is allowed by *Minnesota Statute* 62E.10, Subd. 9. Experimental Delivery Method. This section enables the Minnesota Commissioner of Commerce to grant the necessary waivers for the use of a provider payment schedule by MCHA. Subdivision 9 is effective until August 1, 1991.

In accordance with this statute, the MCHA Board of Directors contracted with consultants from Peat Marwick to develop a hospital payment schedule and with Deloitte & Touche to develop a medical payment schedule. These schedules have been reviewed by the MCHA Board of Directors, the Minnesota Department of Commerce and the Minnesota provider associations. It is now being made public for review and comment at the following hearings. Written comment can be made to:

Minnesota Commissioner of Commerce
c/o Charles C. Ferguson
Policy Analysis Division
133 East Seventh Street
St. Paul, Minnesota 55101

Public Hearing Schedule

Rochester Monday, August 6th 9:00—11:00 a.m.	Midway Motor Lodge/The Hoffman House 1517—16th Street S.W. Rochester, Minnesota 55902
Marshall Monday, August 6th 3:00—5:00 p.m.	Marshall Area Senior Center 107 South Fourth Street Marshall, Minnesota 56256
St. Cloud Tuesday, August 7th 10:30 a.m.—12:30 p.m.	St. Cloud Civic Center Opportunities Suites 10 Fourth Avenue South St. Cloud, Minnesota 56301
Brainerd Tuesday, August 7th 3:00—5:00 p.m.	Holiday Inn Hwy. 371 South Brainerd, Minnesota 58401
Fergus Falls Wednesday, August 8th 10:00 a.m.—12:00 noon	Holiday Inn I-94 & Hwy. 210 Fergus Falls, MN 56537
Grand Forks Wednesday, August 8th 3:00—5:00 p.m.	Holiday Inn 1210 North 43rd Street Grand Forks, North Dakota 58203

Official Notices

Public Hearing Schedule

Duluth Thursday, August 9th 10:00 a.m.—12:00 noon	Radisson Hotel 500 West Superior Street Duluth, Minnesota 55802
Mpls./St. Paul Friday, August 10th 9:00 a.m.—11:00 a.m.	Sheraton Midway 400 North Hamline Avenue St. Paul, Minnesota 55104

Proposed Provider Payment Schedule for the Minnesota Comprehensive Health Association for Surgery, Radiology, Pathology and Medicine

Prepared by Deloitte & Touche

Introduction

The Minnesota Comprehensive Health Association (MCHA) provides ambulatory and inpatient health services benefits to its enrollees. Pursuant to M.S. 1988, Section 62E.10, subdivision 9, MCHA will formulate a provider maximum payment schedule. MCHA engaged Deloitte & Touche to formulate a provider maximum payment schedule that reflects average reimbursements received for all patients by Twin Cities area health care providers.

To accomplish this, Deloitte & Touche based their provider reimbursement schedule on the following:

- Estimated payments made by commercial insurers in accordance with the most recent survey of the Health Insurance Association of America (HIAA);
- Estimated payments made under the Medicare program;
- Estimated payments made under the medical assistance program;
- Estimated payments made by the two current largest contributing commercial members of MCHA; and
- Estimated payments made under the Worker's Compensation program.

This memorandum will further describe the data sources used to develop the proposed provider reimbursement system. The data modifications used to approximate average payment levels received by Twin Cities providers will be discussed.

Deloitte & Touche has not verified the data provided to us from any of the sources.

Approach and Methodology

The methodology used by Deloitte & Touche is described below. The steps included:

- Code selection,
- Data conversion,
- Procedure weighting,
- Conversion factor development, and
- Proposed fee allowance updating methodology.

Current Procedural Terminology (CPT) Code Selection

To formulate the provider fee schedule as requested by MCHA, Deloitte & Touche used a process that averaged fees for a specific listing of CPT codes. The list of CPT codes that were chosen represent a significant level of dollars in each of the four major physician services categories. These categories are:

- Surgery;
- Radiology;
- Pathology; and
- Medicine.

Our analysis used actual MCHA experience and other information in the Deloitte & Touche data base to develop a representative listing of codes that approximate 70% of the total dollars in each of the four service categories just listed. Attached Exhibit I presents the selected CPT codes.

Data Conversion

Following development of a CPT code list, we obtained the data source inputs to be used in calculating the average fees by CPT code. As mentioned previously, we obtained input from the following sources:

- The most recent survey of the HIAA;
- The Medicare program;
- The medical assistance program (i.e., Medicaid);
- The two current largest contributing commercial members of MCHA; and
- The Worker's Compensation program.

We needed to adapt this information so that the input items would approximate actual payments. The steps applied to each of these data sources was different because certain information was provided to us as payments, while other information was provided as maximum reimbursement levels. The following paragraphs outline the steps performed to convert each of these sources to expected payment levels for calendar year 1990.

HIAA

We used the most recent survey of HIAA surgical and medicine charges. The surgery survey covered the 12-month period September 1, 1988 through August 31, 1989 and the medical survey May 1, 1988 through April 30, 1989. The HIAA survey presents charge levels, and thus we trended these levels at an annual rate of 7.4%. This figure is the October, 1989 medical/physician services component of the Consumer Price Index for Urban Wage Earners and Clerical Workers.

Since the HIAA surveys represent the reimbursement arrangement between providers, patients, and traditional third party insurers, we have used the mean charge levels to represent payments. Various insurers use certain percentiles of the HIAA profile as limits to the amounts they will reimburse. However, the providers are traditionally free to balance-bill their patients. Given this, mean charges reflect the average amount that the providers receive for treating patients in a traditional third party payment mechanism.

Medicare

The Medicare information we used is actual 1987 Twin Cities area experience administered by Travelers, the area's Part B Intermediary. We used the maximum allowable charge for physicians who don't accept assignment and the Medicare allowables for those who do. We have trended this 1987 experience for three years at the estimated increase in the reasonable charge levels.

1987-1988	3.7%
1988-1989	2.5%
1989-1990	2.3%
3 year combined	8.6%

Medicaid

We were provided maximum Medicaid allowed amounts by the State of Minnesota. The Medicaid allowed amounts change due to acts by the State Legislature or the federal government. The information provided to us is the current allowed amounts. These amounts may change due to legislative action, but there is no specific time table. Thus, we have assumed that these rates will be the maximum allowed amounts under the Medicaid program for calendar year 1990.

The Medicaid maximum fee amounts are extremely low, and through all of the major service categories, are significantly lower than the weighted average of the HIAA mean charges. Thus, we have assumed that these maximum allowed amounts represent the per procedure payments received by providers under the Medicaid program even though it is possible that some providers will charge less than these maximum allowed amounts.

Commercial

The two largest contributing commercial members of the MCHA program provided fee information. This information represents maximum allowed limits. This means that when a provider submits a charge for a rendered service, the amount paid to him is the lesser of his actual charge or the amount on this fee schedule. To approximate payments, we have taken a weighted average of the surgical and medicine specific amounts and determined what percentile of the HIAA fee profile they represent. For example, if the maximum allowed fees on a weighted average basis are equivalent to the HIAA 75th percentile, we would average the charges below the 75th percentile and assume that this was the amount paid 75% of the time. For the other 25% of the time, we would assume that the value at the 75th percentile is paid. This average per procedure was then calculated on a weighted average basis and compared to the weighted average basis at the 75th percentile. This discount is applied to all the procedures to approximate the average payment levels.

Worker's Compensation

The last input into the calculation of the weighted average payments received by Twin Cities providers is the amounts allowed as payments under the Worker's Compensation program. The Worker's Compensation program payment allowances are similar in nature to the two largest contributing commercial members of MCHA. These amounts serve as maximum amounts to be reimbursed, and

Official Notices

thus if the billed charge comes in less, that is the amount that is paid. Thus, we used a similar approach to calculate paid amounts which compares the weighted average of these allowances to the HIAA reimbursement percentiles.

The information provided to us was the maximum allowed limits effective from October 1, 1989 through September 30, 1990. We have made no adjustment to these amounts for the 3-month difference between this time period and calendar year 1990. Worker's Compensation only covers approximately 2% of all medical services rendered. The increase would only be for three months, so there would be minimal affect on the average payment rates.

Procedure Weighting

After converting the input data to appropriately reflect estimated calendar year 1990 payment levels, we determined the weighted average payments for the CPT codes used in our analysis. We have split these CPT codes into categories as outlined in attached Exhibit II. These categories are those published in the most recent version of the Physician's Current Procedural Terminology.

Since the goal of this project was to reflect average payments received by Twin Cities providers, we weighed the input of a given payor to reflect the total percentage of services rendered. For example, the average Medicare patient uses significantly more services than the average commercial patient. Thus, the percentage effect that the Medicare schedule has on the total weighted average is greater than Medicare's percentage of the population. However, Medicare's effect is not uniform for all services. For instance, Medicare's reimbursement or payment level minimally affects the average payments received by Twin Cities providers for the performance of maternity services. However, Medicaid's level is very significant relative to its percentage of the population.

We used available population statistics and relative utilization levels from our Deloitte & Touche data base to comprise these weighted average frequency percentages. Where credibility allowed, variations were made by the categories outlined in Exhibit II. To test the efficiency and accuracy of our estimates, we compared the weighted average cost per procedure to the straight average cost per procedure by Exhibit II category. The illustration below indicates that the differences are not significant.

	Weighted Average	Straight Average
Surgery	\$180.90	\$183.38
Radiology	43.72	41.54
Pathology	14.36	14.24
Medicine	33.94	33.37

We recommend using the weighted averages since these attempt to reflect the weighted average payment received which will make MCHA patients financially indistinguishable from other patients.

Conversion Factor Development

The next step was to apply the calculated weighted averages against an accepted relative value schedule. This facilitates the formulation of average dollars per unit that can be applied against unit values to fill in for those procedures that are not included in our Exhibit I CPT code list. We used the unit values available in the 1989 version of the McGraw-Hill Relative Value Schedule. We have calculated conversion factors for the specific surgery categories outlined in Exhibit II, as well as separate dollar values for Radiology, Pathology, and Medicine.

Exhibit III displays the average dollars per unit for each category using the weighted average and the straight averages. These dollars per unit values, if applied against the unit values for the procedures outlined, would produce the same total dollars per category as the weighted averages or the straight averages, respectively. The procedure frequencies used within each of the Exhibit II categories are based upon commercial and HMO experience in the Deloitte & Touche data base.

To analyze the reimbursement effect of the proposed MCHA reimbursement levels, we developed the following dollar per unit comparisons to the Medicare and HIAA data used in our analysis.

Category	MCHA Dollars/Unit	Medicare	MCHA/ Medicare	HIAA	MCHA/ HIAA
Surgery	\$63.04	\$66.37	.950	\$77.33	.815
Radiology	25.86	24.25	1.066	NA	NA
Pathology	45.70	49.68	.920	NA	NA
Medicine	4.19	4.27	.981	4.99	.840

As stated previously in our report, the Medicare amounts referred to include payments in excess of Medicare allowed amounts.

Fee Allowance Updating

Developing a provider payment schedule is not a static process. A system must be devised to incorporate new procedures and a methodology developed to periodically update existing fee levels.

For new procedures a usual, customary and reasonable basis can be used to develop payment levels. Billed charges would be

reimbursed until a minimum level of charges from a minimum number of providers had been submitted. When these numbers had been reached the reimbursement level could be set at the median of these submitted charges.

It will be important to update the charge levels for the existing procedures periodically. For the first few years, one of the available published indexes could be used, such as the medical component of the Consumer Price Index.

An important input item into future data revisions will be the actual charges submitted. These will help MCHA management recognize early on where relative or absolute excesses or deficiencies exist. The relative value scale chosen for this study, the 1989 McGraw-Hill, is based on national medical data. The actual charge data by CPT code submitted to the MCHA program will be helpful in performing future updates.

If the intent of the MCHA provider payment schedule is that it should reflect average payments, a study of this kind will have to be performed after the first few years, especially if the proposed resource based relative value system (RBRVS) significantly affects reimbursement levels for public and private payors. However, even if the RBRVS is not put in place, an update of this analysis will be necessary since the payors increase reimbursement levels at different rates. To reestablish balance, the weighted averages will need to be recalculated.

Limitations

- The CPT codes used for surgical services do not adjust the amounts for any services coded using CPT modifiers.
- The amounts displayed and the unit values used for radiology and pathology services are for professional services only.
- The CPT codes displayed in the attached represent the coding systems currently in place amongst the various input sources. As the coding system changes, or as new procedures evolve, adjustments must be made.
- When developing fees via a relative value schedule extension, there is no perfect system available. Common sense must adjust any values calculated via the extension if submitted charges vary significantly or if no relative value exists.
- The McGraw-Hill relative value system is a widely known relative value system. Another published relative value system or the relativities inherent in another schedule would extend the fee schedule in a different way. This would affect approximately 30% of the dollars submitted.
- We have not made any adjustments to the Medicare or Medicaid data to estimate the effect of the Resource Based Relative Value System.

Exhibit I—MCHA Fee Schedule Development

CPT-4 CODES DESCRIPTION	Weighted Avg	Straight average
Integumentary		
10060 Incision and drainage of abscess; simple	\$44.96	\$46.50
11050 Paring of curettement of a benign lesion with or without chemical cauterization; single lesion	23.27	24.26
11100 Biopsy of skin or subcutaneous tissue; unless otherwise listed	46.74	50.89
11400 Excision of benign skin/subcutaneous lesion; trunk-arms-legs; lesion diameter up to .5 cm	54.96	57.51
11401 Excision of benign skin/subcutaneous lesion; trunk-arms-legs; lesion diameter .5-1 cm	62.61	66.43
11402 Excision of benign skin/subcutaneous lesion; trunk-arms-legs; lesion diameter 1-2 cm	78.44	82.18
11440 Excision of benign skin/subcutaneous lesion;face-ears-eyelids-nose-lips-mucous membrane;lesion dia. up to .5 cm	69.09	73.85
11441 Excision of benign skin/subcutaneous lesion;face-ears-eyelids-nose-lips-mucous membrane; dia. .5-1 cm	82.87	89.97
11750 Excision of nail and nail matrix; partial or complete	150.55	141.14
12001 Repair; simple; scalp-neck-axillae-external genitalia-trunk-extremities; up to 2.5 cm	49.93	50.73
12002 Repair; simple; scalp-neck-axillae-external genitalia-trunk-extremities; 2.5-7.5 cm	73.91	75.60
12011 Repair; simple; face-ears-eyelids-nose-lips-mucous membrane; up to 2.5 cm	70.53	71.67
17100 Destruction benign skin lesions; any method; any area except face; local anesthesia	32.34	34.44
17110 Destruction benign skin lesions; any method; any area ex. face; local anesth.; flat warts/molluscum contagiosum; milia; up to 15	30.30	32.55
17340 Cryotherapy	21.98	24.47
19101 Biopsy of breast; incisional	268.35	269.85
19120 Excision of:cyst;fibro-adenoma; other benign tumor/lesion; male/female; one or more lesions; unilateral	323.30	307.58
19240 Mastectomy; modified radical; including axillary lymph nodes but leaving pectoral muscles	1,143.46	1,133.92
19318 Mammoplasty; reduction	2,097.12	2,126.98

Official Notices

Exhibit I—MCHA Fee Schedule Development

CPT-4 CODES	DESCRIPTION	Weighted Avg	Straight average
Musculoskeletal			
20550	Injection; tendon sheath; ligament or trigger points	38.93	39.95
20605	Arthrocentesis; aspiration or injection; intermediate joint or bursa	46.67	48.83
20610	Arthrocentesis; aspiration or injection; major joint or bursa	48.06	49.94
20680	Removal of buried wire; pin; screw; or metal band; rod; nail; or plate; deep	300.15	304.01
21060	Meniscectomy; temporomandibular joint	2,011.89	1,916.13
21200	Osteoplasty of mandible for prognathism or micrognathism	2,985.71	2,715.65
21203	Osteotomy; mandibular/ramus	2,344.01	2,690.27
21240	Arthroplasty; temporomandibular joint, with or without autograft	2,390.03	2,513.57
22555	Arthrodesis with diskectomy, cervical, anterior interbody approach with iliac or other autogenous bone graft	1,939.71	1,931.30
22645	Thoracic or lumbar fusion, posterior or posterolateral approach, with iliac or other autogenous bone graft	2,776.36	2,415.49
22803	Arthrodesis, primary for scoliosis with or without postoper. cast, 7 or more vertebrae; with iliac or other autogenous bone graft	3,615.70	3,872.73
23420	Repair of complete shoulder cuff avulsion; chronic	1,379.10	1,355.66
25111	Excision of ganglion; wrist	371.86	381.60
25605	Distal radial fracture or epiphy seal separation; with/without ulnar styloid fracture; closed; manipulative reduction	296.80	298.58
27130	Arthroplasty; acetabular and proximal femoral prosthetic replacement	3,014.11	2,938.37
27132	Conversion of previous hip surgery to total hip replacement	3,462.91	3,465.76
27236	Femur; fracture; proximal end; neck; closed or open; open reduction; internal fixation or prosthetic replacement	1,582.15	1,565.78
27244	Femur; fracture; inter- or pertrochanteric; closed or open; open reduction; with internal fixation	1,470.38	1,451.32
27378	Arthroscopy, knee, surgical; debridement with meniscectomy	1,460.47	1,316.78
27425	Lateral retinacular release	909.67	906.77
27447	Arthroplasty; total; knee; femoral and plateau; medial and lateral compartments	2,851.28	2,860.15
28285	Hammertoe; one toe	371.96	377.64
28296	Hallux valgus; with metatarsal osteotomy	824.41	813.74
29075	Plaster; elbow-finger	66.15	65.44
29425	Short leg cast; walking or ambulatory	85.54	86.65
29870	Knee—diagnostic—with—without synovial biopsy	502.63	491.62
29874	Knee—surgical—removal of foreign or loose body	1,219.94	1,279.21
29875	Knee—surgical—synovectomy—limited	1,149.78	1,199.03
29877	Knee—surgical—debridement—shaving (chondroplasty)	1,247.10	1,327.59
29881	Knee—surgical—with meniscectomy	1,424.09	1,456.56
29882	Knee—surgical—with meniscus repair	1,457.05	1,483.05
Respiratory & Cardiovascular			
30420	Rhinoplasty; including major septal repair	1,837.16	1,928.39
30520	Septoplasty; with or without cartilage implant	859.98	873.38
31541	Laryngoscopy; excision of tumor of chords; microsurgical technique	609.30	611.80
31622	Bronchoscopy; diagnostic; flexible or rigid	407.09	423.13
32020	Tube thoracostomy with water seal	363.22	365.18
32100	Thoracotomy; major; with exploration and biopsy	1,234.27	1,200.36
32480	Lobectomy; total or segmental	1,752.03	1,754.51
32500	Wedge resection or enucleation of lesion; single or multiple	1,298.81	1,313.83
33207	Insertion of permanent pacemaker; ventricular	1,410.75	1,373.89
33405	Replacement	3,694.25	3,673.07

Exhibit I—MCHA Fee Schedule Development

CPT-4 CODES	DESCRIPTION	Weighted Avg	Straight average
33430	Mitral valve; replacement	3,658.97	3,707.41
33510	Coronary artery bypass, autogenous (e.g., saphenous vein or internal mammary artery), single artery	2,878.31	2,984.93
33511	Coronary artery bypass, autogenous (e.g., saphenous vein or internal mammary artery), 2 arteries	3,976.98	3,901.20
33512	Coronary artery bypass, autogenous (e.g., saphenous vein or internal mammary artery), 3 arteries	4,489.95	4,405.53
33513	Coronary artery bypass, autogenous (e.g., saphenous vein or internal mammary artery), 4 arteries	4,704.54	4,661.57
33514	Coronary artery bypass, autogenous (e.g., saphenous vein or internal mammary artery), 5 arteries	4,958.53	4,647.87
33999	Unlisted cardiac procedure	626.53	661.45
35081	Abdominal aortic aneurysm	2,614.41	2,562.01
35301	Thromboendarterectomy; carotid; subclavian or vertebral; with/without patch graft; neck incision	1,666.08	1,733.85
36415	Routine venipuncture for collection of specimen	6.29	6.40
36491	Cutdown placement of central venous catheter for hyperalimentation; over age 2	351.28	318.34
37731	Complete stripping of long and short saphenous veins; bilateral	1,038.98	1,055.53
37799	Unlisted vascular procedure	771.20	770.94

Digestive System

41899	Unlisted procedures on dento-alveolar structures	214.20	214.27
42820	Tonsillectomy and adenoidectomy; under age 12	369.89	361.16
42826	Tonsillectomy; primary or secondary; age 12 or older	427.68	421.41
43235	Upper gastrointestinal endoscopy; diagnostic	316.09	322.35
43239	Upper gastrointestinal endoscopy; with biopsy collection of specimen	360.95	368.93
43260	Upper gastrointestinal endoscopy; with cannulation of ampulla of Vater and/or specimen collection for cytology studies	484.44	484.22
43846	Gastric bypass; roux-en-Y	2,283.75	2,229.63
44005	Enterolysis; with acute bowel obstruction	1,009.97	1,038.13
44120	Enterectomy; resection of small intestine with anastomosis	1,288.43	1,317.52
44140	Colectomy; partial; with anastomosis	1,385.02	1,401.52
44145	Colectomy; with coloproctostomy	1,630.68	1,638.50
44160	Colectomy; removal of terminal ileum and ileocolostomy	1,827.36	1,864.03
44950	Appendectomy	651.47	668.04
44960	Appendectomy; for ruptured appendix with abscess or generalized peritonitis	815.35	834.34
45300	Proctosigmoidoscopy; diagnostic	50.55	53.37
45330	Sigmoidoscopy; flexible fiberoptic; diagnostic	103.17	103.88
45331	Sigmoidoscopy; with biopsy	140.09	143.92
45360	Colonoscopy, fiberoptic, beyond 25 cm to splenic flexure; diagnostic procedure	198.33	218.64
45378	Colonoscopy; fiberoptic; beyond splenic flexure; diagnostic	450.41	462.10
45380	Colonoscopy; fiberoptic; beyond splenic flexure; with biopsy collection of specimen for cytology studies	495.31	513.63
45385	Colonoscopy; fiberoptic; beyond splenic flexure; with polypoid lesion(s) removal	594.88	610.15
45505	Proctoplasty; for prolapse of mucous membrane	720.00	705.92
47135	Hepatectomy; total; with transplant	5,233.33	5,976.13
47600	Cholecystectomy	1,041.11	1,068.09
47605	Cholecystectomy; with cholangiography	1,160.92	1,183.90
47610	Cholecystectomy; with open exploration of common duct	1,319.23	1,336.19
49000	Exploratory laparotomy; exploratory celiotomy	691.68	709.86
49500	Repair inguinal hernia; with or without hydrocelectomy; under age 1; unilateral	601.56	573.27
49505	Repair inguinal hernia; age 5 or older; unilateral	663.24	665.66
49520	Repair inguinal hernia; age 5 or older; unilateral; recurrent	791.63	767.48
49560	Repair hernia; ventral	689.10	701.79

Official Notices

Exhibit I—MCHA Fee Schedule Development

CPT-4 CODES	DESCRIPTION	Weighted Avg	Straight average
Urinary System			
50230	Nephrectomy; radical; with regional lymphadenectomy	1,623.30	1,714.77
50360	Renal homotransplantation; implantation of graft; excluding donor and recipient nephrectomy	2,707.81	2,474.46
50590	Lithotripsy; extracorporeal shock wave	1,455.33	1,515.41
51840	Anterior vesicourethropexy; or urethropexy; simple	956.15	1,002.42
51841	Anterior vesicourethropexy; or urethropexy; complicated	1,110.64	1,116.50
52000	Cystourethroscopy; office	115.53	116.41
52005	Cystourethroscopy; office; with ureteral catheterization	202.18	199.92
52281	Cystourethroscopy; calibration/dilation of urethral stricture/stenosis w/w/out meatotomy or injec. proced for cystography; m or f	198.88	201.39
52332	Cystourethroscopy; with insertion of indwelling ureteral stent	277.22	279.95
52336	Ureteroscopy with stone removal—lower	1,147.86	1,195.07
52601	Transurethral resection of prostate; including control...	1,204.26	1,238.95
Male Genital			
54150	Circumcision; clamp procedure; newborn	58.72	57.38
54405	Insertion of inflatable penile prosthesis (including pump and/or reservoir)	1,943.34	2,032.37
54640	Orchiopexy; any type; with/without hernia repair; unilateral	804.45	814.82
55040	Excision of hydrocele; unilateral	504.45	520.00
55250	Vasectomy; unilateral or bilateral (independent procedure) including post-operative semen examinations	256.80	251.02
55845	Prostatectomy; retropubic; bilateral pelvic lymphadenectomy; incl. external iliac; hypogastric and obturator nodes	1,944.86	1,858.08
Female Genital			
57452	Colposcopy	87.62	96.44
57454	Colposcopy; with biopsies	122.03	125.24
57520	Biopsy of cervix; circumferential; with or without D&C; with or without Sturmdorff repair	418.44	433.38
58100	Endometrial biopsy; suction type	69.73	70.16
58120	Dilation and curettage; diagnostic and/or therapeutic	281.44	291.04
58150	Total hysterectomy; with or without tubes; and/or ovaries; one or both	1,232.49	1,245.52
58152	Total hysterectomy; with colpo-urethro-cystopexy	1,666.64	1,762.61
58260	Vaginal hysterectomy	1,183.30	1,199.21
58265	Vaginal hysterectomy; with plastic repair of vagina; anterior and/or posterior colporrhaphy	1,348.57	1,371.71
58600	Transection of fallopian tube; unilateral or bilateral; abdominal or vaginal approach	599.58	626.57
58605	Transection of fallopian tube; postpartum; during same hospitalization	482.42	484.45
58720	Salpingo-oophorectomy; complete or partial; bilateral or unilateral	821.36	854.43
58925	Ovarian cystectomy	788.05	821.27
58980	Endoscopy/laparoscopy for visualization of pelvic viscera	490.65	515.31
58982	Endoscopy/laparoscopy; with fulguration of oviducts	575.94	600.90
58983	Endoscopy/laparoscopy; with occlusion of oviducts by device	598.97	643.73
58984	Endoscopy/laparoscopy; with fulguration of ovarian or peritoneal lesions	689.38	672.98
58985	Endoscopy/laparoscopy; with lysis of adhesions	653.33	642.20
Maternity Care			
59025	Fetal nonstress test	43.49	46.92
59120	Ectopic pregnancy; tubal; requiring salpingectomy/salpingostomy with/without oophorectomy; abdominal or vaginal approach	870.80	907.73
59400	Total obstetrical care including antepartum care; vaginal delivery and postpartum care	827.57	841.41
59410	Vaginal delivery	460.33	502.30
59500	Low cervical cesarean section	866.52	903.25
59501	Low cervical cesarean section; including antepartum and postpartum care	1,222.60	1,202.06
59521	Classic cesarean section; including antepartum and postpartum care	1,044.13	1,075.17
59801	Abortion; 1st trimester; surgically completed	290.11	308.53

CPT-4 CODES	DESCRIPTION	Weighted Avg	Straight average
59820	Treatment of missed abortion; any trimester; medically or surgically completed	284.69	341.32
59840	Legal abortion; by D & C or extraction	214.55	179.05
Endocrine System			
60100	Biopsy; thyroid; needle	97.46	102.22
60200	Local excision of small cyst or adenoma of thyroid; or transection of isthmus	627.09	605.49
60220	Thyroid; total lobectomy; unilateral	981.07	968.43
60225	Thyroid; total lobectomy; unilateral; with contralateral subtotal lobectomy; isthmus included	1,121.07	1,059.58
60240	Thyroidectomy; total or complete	1,337.16	1,281.69
60245	Thyroidectomy; subtotal or partial	1,140.07	1,188.23
60280	Excision of thyroglossal duct cyst or sinus	814.15	776.83
60500	Parathyroidectomy or exploration of parathyroid	1,313.83	1,274.69
60520	Thymectomy; partial or total	1,378.06	1,343.48
Nervous System			
61310	Craniectomy or craniotomy, evacuation of hematoma, extradural, subdural or intracerebral; supratentorial	2,231.01	2,249.51
61510	Excision; brain tumor; supratentorial; except meningioma	2,623.50	2,742.11
61512	Excision; brain tumor; supratentorial; meningioma	3,242.76	3,101.76
61700	Surgery of intracranial aneurysm; intracranial approach; carotid circulation	3,180.57	3,030.94
62223	Shunt; ventriculo-peritoneal	1,401.36	1,414.91
62270	Spinal puncture; lumbar; diagnostic	85.47	86.84
63005	Laminectomy for decompression of spinal cord and/or cauda equina; one or two segments; lumbar	1,919.24	1,908.75
63020	Laminotomy; one interspace for herniated intervertebral disc; and/or decompression of nerve root; unilateral; cervical	1,877.48	1,861.76
63030	Laminotomy; one interspace for herniated intervertebral disc; decompression of nerve root; unilateral; lumbar	1,892.75	1,898.90
63031	Laminotomy; one interspace for herniated intervertebral disc; decompression of nerve root; bilateral; lumbar	2,114.62	2,104.45
63042	Laminotomy; any level; extensive or re-exploration; lumbar	2,202.88	2,232.47
64721	Neurololysis and/or transposition; median at carpal tunnel	653.63	659.33
Eye & Ocular			
65855	Trabeculoplasty (one or more sessions)	670.44	688.39
66821	Discission of secondary membraneous cataract and/or anterior hyaloid (one or more stages)	644.60	674.89
66983	Intracapsular cataract extract, insert lens prosthesis	1,584.03	1,598.06
66984	Extracapsular cataract removal, insert lens prosthesis	1,632.09	1,657.27
66985	Insertion of intraocular lens prosthesis; secondary insertion	1,045.23	1,062.80
67036	Vitrectomy; mechanical; pars plana approach; with or without removal of lens by same technique	2,193.66	2,201.75
67107	Repair of retinal detachment; by scleral buckling; with or without external implants	1,761.82	1,785.75
67108	Repair of retinal detachment; with vitrectomy; with or without air tamponade; procedure 67102-67107 and/or removal of lens	2,674.55	2,455.73
67228	Destruction of extensive or progressive retinopathy/photocoagulation	653.22	659.20
67311	Strabismus surgery; initial; one muscle procedure, patient not previously operated on	807.40	846.22
67312	Strabismus surgery; initial; two muscle procedure, one or both eyes	879.42	893.18
Auditory System			
69210	Removal of impacted cerumen; one or both ears	18.77	18.48
69437	Tympanostomy; bilateral; general anesthesia	315.65	320.15
69620	Myringoplasty	1,024.78	1,064.55
69631	Tympanoplasty without mastoidectomy; without ossicular chain reconstruction	1,742.23	1,733.91
69632	Tympanoplasty without mastoidectomy; with ossicular chain reconstruction	1,876.61	1,869.69
69642	Tympanoplasty with mastoidectomy; with ossicular chain reconstruction	2,067.08	1,905.83
69660	Stapedectomy; with reestablishment of ossicular continuity; with or without use of foreign material	1,713.56	1,743.68

Official Notices

Exhibit I—MCHA Fee Schedule Development

CPT-4 CODES	DESCRIPTION	Weighted Avg	Straight average
Radiology			
70210	Paranasal sinuses; limited	27.61	23.79
70220	Paranasal sinuses; complete	38.77	37.34
70450	Computerized tomography; head; without contrast material	161.35	165.19
70460	Computerized tomography; head; with contrast material(s)	219.66	209.25
70470	Computerized tomography; head; without intravenous contrast material; followed by contrast material(s)	213.91	214.96
70551	I Magnetic resonance imaging; brain; limited (less than 12 slices)	491.90	430.61
71010	Chest; single view; posteroanterior	22.21	20.39
71020	Chest; two views	30.69	28.20
71260	Computerized tomography; thorax; with contrast material(s)	216.47	221.75
72050	Spine; 4 view minimum	48.12	44.40
72100	Spine; lumbar; limited	41.49	36.58
72110	Spine; lumbosacral; complete	55.69	48.92
72131	Computerized tomography; lumbar spine; without contrast	250.26	238.09
72141	I Magnetic resonance imaging; spinal cord and contents; limited (less than 12 slices); cervical	569.88	490.57
72144	Magnetic resonance imaging; spinal cord and contents, extended (25 or more slices); lumbar	575.51	493.29
73030	Shoulder; complete	30.61	27.73
73110	Wrist; complete	27.97	25.95
73130	Hand; complete	28.22	25.62
73140	Finger(s)	22.41	20.37
73560	Knee; limited	28.64	25.41
73564	Knee; complete	43.14	36.28
73570	Radiologic examination, knee; anteroposterior and lateral views; minimum of three views	34.00	34.00
73610	Ankle; complete	28.88	26.32
73630	Foot; complete	29.30	26.89
74160	Computerized tomography; abdomen; with contrast	228.93	241.48
74170	Computerized tomography; abdomen; without initial contrast; followed by contrast	248.30	260.57
74240	Upper gastrointestinal tract; without KUB and with or without delayed films	66.23	61.66
74241	Upper gastrointestinal tract; with KUB	42.38	43.38
74270	Colon; barium enema	65.26	61.44
74280	Colon; air contrast with specific high density barium, with/without glucagon	102.85	91.67
74410	Urography; drip technique	65.55	64.20
75673	Angiography; carotid; cerebral; bilateral; catheter; complete	349.11	328.77
76091	Mammography; bilateral	46.71	46.82
76516	Echographic biometry ophthalmic; A-mode	122.77	104.80
76625	Limited echocardiogram	20.00	10.00
76700	General survey study; includes delineation of any or all organs; masses and fluid collection	76.84	76.63
76705	Limited survey	62.78	64.38
76805	Pregnancy and fetal age determination	64.77	58.74
76815	Repeat fetal age measurement within 30 days of initial	48.12	45.39
76856	Echography; pelvic; real time	85.11	67.81
76947	Ultrasonic guidance for amniocentesis; complete	162.84	110.92
77405	Intermediate megavoltage treatment management	38.51	47.19
77410	Complex megavoltage treatment management	49.81	58.76
77420	Weekly; simple	56.98	119.68
77430	Weekly; complex	89.71	253.56
78305	Bone imaging; multiple areas	173.32	158.33
78306	Bone imaging; whole body	140.84	141.32
Laboratory			
80007	7 clinical chemistry tests	21.51	22.10
80016	13-16 clinical chemistry tests	28.10	27.85

Exhibit I—MCHA Fee Schedule Development

CPT-4 CODES	DESCRIPTION	Weighted Avg	Straight average
80019	19 or more clinical tests (indicate instrument used and number of tests performed)	27.22	26.71
80061	Lipid profile	23.50	24.17
80070	Thyroid panel	28.13	27.57
81000	Urinalysis; routine (pH, specific gravity, protein, tests for reducing substances as glucose), with microscopy	10.49	10.17
81002	Urinalysis; routine; without microscopy	6.15	6.42
82270	Blood: occult, feces, screening	5.11	6.08
82756	Free thyroxine index (T-7)	21.06	20.47
82947	Glucose; except urine (e.g., blood, spinal fluid, joint fluid)	10.11	9.69
82950	Glucose, post glucose dose (includes glucose)	12.34	13.25
82998	Gonadotropin, chorionic RIA	23.91	22.25
83001	Gonadotropin, pituitary, follicle stimulating hormone (FSH); RIA	42.15	42.69
84441	Thyroxin (T-4) method	19.87	17.10
84443	Thyroid stimulating hormone (TSH), RIA	35.84	36.93
84703	Gonadotropin; chorionic; qualitative	18.08	18.82
85014	Blood count; hematocrit	7.19	7.27
85022	Blood count; hemogram, automated, and differential WBC count (CBC)	19.03	18.36
85023	Hemogram and platelet count, automated, and manual differential WBC count (CBC)	22.15	23.91
85024	Hemogram and platelet count, automated, and automated partial differential WBC count (CBC)	19.88	20.97
85027	Blood count; hemogram, automated, with platelet count	19.55	16.84
85028	Blood count; hemogram, automated, and differential WBC count (CBC) with platelet count	23.42	19.66
85610	Prothrombin time	11.74	11.47
85650	Sedimentation rate (ESR); Wintrobe type	8.95	9.02
85651	Sedimentation rate (ESR); Westergren type	9.21	9.08
86255	Fluorescent antibody; screen	26.59	26.98
86280	Hemagglutination inhibition tests (HAI), each (e.g., amebiasis, rubella, viral)	24.11	21.22
86393	Platelet concentrate, preparation mix and pool, each unit	5.40	5.40
86585	Skin test; allergy; tuberculosis, tine test	6.70	7.15
87045	Culture, bacterial, definitive, aerobic; stool	22.50	23.14
87060	Culture, bacterial, definitive, aerobic; throat or nose	11.46	12.39
87070	Culture, bacterial, definitive, aerobic; any other source	19.15	19.73
87081	Culture, bacterial, screening only; for single organisms	11.41	12.19
87082	Culture, presumptive, pathogenic organisms, screening only, by commercial kit (specify type); for single organisms	11.51	11.86
87086	Culture, bacterial, urine; quantitative, colony count	19.11	18.28
87087	Culture, bacterial, urine; commercial kit	11.48	11.36
87088	Culture, bacterial, urine; identification, in addition to quantitative or commercial kit	17.66	18.36
87177	Ova and parasites, direct smears, concentration and identification	24.38	23.60
87186	Sensitivity studies, antibiotic; microtiter, minimum inhibitory concentration (MIC), any number of antibiotics	15.16	17.78
87210	Smear, primary source, with interpretation; wet mount with simple stain, for bacteria, fungi, ova, and/or parasites	10.48	10.67
87250	Virus, inoculation of embryonated eggs, suitable tissue culture, or small animal, includes observation and dissection	41.49	40.50
88150	Cytopathology, smears, cervical or vaginal (e.g., Papanicolaou), screening and interpretation, up to three smears	13.24	12.39
88267	Chromosome analysis, amniotic fluid, count 1-4 cells, 1 karyotype	370.94	410.80
88304	Surgical pathology, gross & microscopic exam. of presumptively abnormal tissue(s); uncomplicated specimen	38.66	38.59
88305	Surgical pathology, gross & microscopic exam. single complicated or multiple uncomplicated specimen(s), w/o complex dissection	51.89	55.43
89399	Unlisted miscellaneous pathology test	19.46	19.63

Official Notices

Exhibit I—MCHA Fee Schedule Development

CPT-4 CODES	DESCRIPTION	Weighted Avg	Straight average
Medicine			
90000	New patient; brief evaluation; history; examination and/or treatment	30.74	29.73
90010	New patient; initial limited history and examination; including initiation of diagnostic and treatment program	37.87	36.64
90015	New patient; initial intermediate history and examination; including initiation of diagnostic and treatment program	44.42	43.53
90020	New patient; initial comprehensive history and examination; including initiation of diagnostic and treatment program	95.39	97.42
90040	Established patient; brief examination; evaluation and/or treatment	22.24	21.69
90050	Established patient; limited examination; evaluation and/or treatment	26.17	25.50
90060	Established patient; intermediate examination; evaluation and/or treatment	32.26	32.21
90070	Established patient; extended examination or re-examination; evaluation and/or treatment	50.10	49.38
90080	Established patient; comprehensive examination and/or re-examination; evaluation and/or treatment	77.55	77.43
90088	Periodic or annual type examination; adult	25.00	25.00
90220	Initial hosp. care; comprehensive med. prob.; comprehensive hist. & exam; extensive review of data & prep. of hosp. records	109.45	110.56
90250	Limited exam.; evaluation; and/or treatment; same/new illness; estab. patient; follow-up care	33.83	33.81
90260	Intermediate exam.; evaluation; and/or treatment; same/new illness; estab. patient; follow-up care	46.38	46.11
90292	Hospital discharge day management, final day of a multiple day stay	51.69	47.74
90505	New patient, brief emergency room examination, evaluation and/or treatment	34.21	32.58
90510	New patient, limited emergency room examination, evaluation and/or treatment	43.58	42.21
90515	New patient; initial intermediate history & exam.; initiation of diag. & treatment prog.	61.61	58.13
90600	Consult.; limited exam. and/or evaluation of a given system; not requiring a comprehensive history & exam.	49.83	50.52
90605	Consult.; intermed. exam./eval. of given system; partial review of general hist. & exam.; comprehen. hist./exam. not req.	66.69	66.83
90620	Consult.; requiring comprehensive hist. and exam.; and/or evaluation	125.45	122.81
90641	Follow-up consultation, limited examination, evaluation and/or treatment	34.21	34.73
90642	Follow-up consultation, intermediate examination, evaluation and/or treatment	48.22	51.20
90701	Immunization, active; diphtheria and tetanus toxoids and pertussis vaccine (DTP)	19.72	18.97
90702	Immunization, active; diphtheria and tetanus toxoids (DT)	9.02	9.03
90707	Immunization, active; measles, mumps, and rubella virus vaccine, live	35.21	32.66
90712	Immunization, active; poliovirus vaccine, live, oral (any type(s))	16.31	15.65
90724	Influenza virus vaccine	10.55	10.19
90737	Hemophilus influenza B measles, pertussis, rabies, Rho(D), tetanus, vaccinia, varicella-zoster	21.93	21.59
90763	Interval history and examination related to healthy individual, early childhood (age 1-4)	29.47	27.53
90764	Interval history and examination related to healthy individual, infant (age under 1 year)	28.67	26.48
90801	Diagnostic interview & exam.; hist.; mental status; analysis/disposition	101.69	97.40
90843	Individual psychotherapy with diagnostic evaluation; drug management as req'd.; 20 to 30 minutes	56.09	53.39
90844	Individual psychotherapy with diagnostic evaluation; drug management as req'd.; 45 to 50 minutes	92.97	87.50
90853	Group medical psychotherapy with diagnostic evaluation, drug management as required	33.67	32.51
90862	Chemotherapy mgmt; including prescription, use and review of medication with no more than minimal medical psychotherapy	43.29	43.33
92012	Ophthalmological services; established patient; intermediate	35.75	35.93
92014	Ophthalmological services; established patient; comprehensive; one or more visits	49.05	50.13
92551	Otorhinolaryngologic services; screening test, pure tone, air only	14.44	13.77
92552	Otorhinolaryngologic services; pure tone audiometry (threshold); air only	17.56	17.83
92553	Otorhinolaryngologic services; air and bone	29.89	29.97
93000	Electrocardiogram; with interpretation and report	36.09	36.40

Exhibit I—MCHA Fee Schedule Development

<u>CPT-4 CODES</u>	<u>DESCRIPTION</u>	<u>Weighted Avg</u>	<u>Straight average</u>
93736	Telephonic analysis of single-chamber internal pacemaker system without programming	38.40	38.62
94010	Spirometry; incl. graph. record, tot. and timed vital cap. expiratory flow rate measurements(s), and/or maximal vol. vent.	29.17	34.14
95117	Prof. immunotherapy serv. for allergen not including provision of allergenic extracts; multiple injections	8.12	8.75
95120	Prof. immunotherapy serv. for allergen in prescr. phys's off./inst., incl. prov of allergenic extract; single antigen	7.55	7.63
95125	Prof. immunotherapy serv. for allergen in prescr. phys's off./inst., incl. prov of allergenic extract; multiple antigens	9.08	8.97
95155	Prof. immunotherapy serv. performed in other than providing physician's off./inst.; multiple antigens (mult. dose vials)	18.75	19.68
97010	Physical medicine treatment to one area; hot or cold packs	14.70	15.14
97012	Physical medicine treatment to one area; traction, mechanical	14.37	14.76
97014	Physical medicine treatment to one area; electrical stimulation (unattended)	13.72	14.13
97110	Treatment to one area; initial 30 minutes; therapeutic exercise	17.98	20.09
97128	Physical medicine to one area; initial 30 minutes; ultrasound	15.22	16.35
97145	Physical medicine to one area; each additional 15 minutes	11.13	11.70
99070	Supplies and materials	20.85	21.44

Exhibit II—CPT Code Categories

<u>Category</u>	<u>CPT Codes</u>
Surgery	10000-69999
Integumentary	10000-19999
Musculoskeletal	20000-29999
Cardiovascular & Respiratory	30000-39999
Digestive	40000-49999
Urinary	50000-53999
Male Genital	54000-55999
Female Genital	56000-58999
Maternity Care & Delivery	59000-59999
Endocrine System	60000-60999
Nervous System	61000-64999
Eye & Ocular Adnexa	65000-68999
Auditory	69000-69999
Radiology	70000-79999
Pathology	80000-89999
Medicine	90000-99999

Exhibit III—1989 McGraw Hill Dollars Per Unit

<u>Category</u>	<u>Weighted Average</u>	<u>Straight Average</u>
Surgery	\$63.04	\$63.91
Integumentary	56.71	58.14
Musculoskeletal	84.77	85.64
Cardiovascular & Respiratory	87.20	87.03

Exhibit III—1989 McGraw Hill Dollars Per Unit

<u>Category</u>	<u>Weighted Average</u>	<u>Straight Average</u>
Digestive	70.88	72.04
Urinary	48.44	49.56
Male Genital	61.57	60.34
Female Genital	63.42	65.05
Maternity Care & Delivery	50.05	50.74
Endocrine System	66.45	66.28
Nervous System	65.80	66.03
Eye & Ocular Adnexa	58.26	59.10
Auditory	64.55	65.15
Radiology	25.86	24.53
Pathology	45.70	45.46
Medicine	4.19	4.12

Proposed Provider Payment Schedule for the Minnesota Comprehensive Health Association for Hospital Inpatient and Outpatient, Home Health, Residential Drug and Alcohol Treatment, Long Term Care and Medical Transportation**Prepared by KPMG Peat Marwick**

Enclosed is the Minnesota Comprehensive Health Association (MCHA) health care provider fee schedule for calendar year 1990, as proposed by KPMG Peat Marwick. Peat Marwick was engaged to calculate rates for the following provider categories: inpatient, outpatient, home health, residential drug and alcohol treatment, long term care, and medical transportation. The specifications for the work were reflected in a Request for Proposal (RFP) from MCHA in 1989. Attachment I contains this RFP for your information. In addition to the actual rates, a summary of the issues, data assumptions and methodology related to rate development is presented.

Data Assumptions

Initially, it was determined that MCHA rates would be set equal to the average weighted payment of the top five payers of health care services in the Twin Cities area. These payers were identified as Medicare, Medicaid, the two largest contributing members of MCHA, and Workers' Compensation. Early in the project, it became clear that the data available from Workers' Compensation was not sufficiently detailed to be included in the rate development process. Therefore, the proposed MCHA rates represent the weighted average rate of the four remaining payers.

Data was requested from each of the four payers in survey format. The survey appears in Attachment II. Payers were requested to provide allowed payment amounts for covered services, that is, the payment that would have been made by each payer in the absence of either coinsurance or deductible contributions from the beneficiary, or partial payment amounts from other responsible payers. Amounts denied as medically unnecessary or non-covered services are not included in payment levels. Where a payer was unable to provide allowed payment amounts, and instead provided actual payment, the amounts were adjusted. This occurred in only one instance.

Data collection and analysis were complicated by differences in the information available from each payer. Data comparability was affected by differences in payer reporting capabilities, claims data collection, reimbursement methodologies, and service coverage. For example, one payer provided annual inpatient data consisting of thousands of individual claims records, while another provided annual inpatient data aggregated into total payment figures. Additional information was collected to support assumptions regarding the development of comparable data. Two payers were unable to provide information specific enough to examine necessary subgroupings beyond the Major Diagnostic Category (MDC) level for inpatient services. For these payers, MDC subgroupings were created by applying the same ratio observed for other payers to these two payers' payment levels.

Complete data was not available from all of the selected payers, either due to data reporting constraints or the fact that the payer does not cover that service.

Methodology

Inpatient Rates

A number of issues were addressed in the development of inpatient rates.

• Hospital Peer Groups

An analysis was performed using MCHA claims data to establish inpatient peer groups to ensure equitable payment for facilities. This analysis examined charges for MCHA members claimed by hospitals across the state. The conclusion of this analysis was to divide Minnesota hospitals into two MCHA peer groups, defined as metropolitan and rest-of-state. Although the possibility of alternative peer groups was explored, the analysis did not support additional groupings. A listing of the hospitals in the metropolitan peer group is presented in Attachment III. All other hospitals fall into the rest-of-state group.

• Payment Categories

It was determined that inpatient payment would be established for MDC as defined by the ICD-9-CM coding scheme. Claims falling into the three MDCs which represent the highest volume of MCHA claims were divided into subcategories, based on level of payment per subcategory. These are:

- MDC 5—Cardiovascular
- MDC 19—Mental Disorders
- MDC 21—Injury/Poisoning/Toxicity

MDC 5 was broken into four subgroups. MDC 19 was divided into three subgroups. MDC 21 was broken into four subgroups. The subgroups are presented in Attachment IV. These subgroups combine a number of DRGs, but nevertheless, provide a further breakdown of high volume MCHA payment categories. Levels of payment for the subgroupings were quite different, suggesting the importance of this further division of MDCs.

In addition, MDC 15 (Newborn/Other Neonatal) was divided into separate categories for newborn and neonatal cases. Although it is expected that MCHA will experience a low volume of newborn and neonate cases, it was decided that the significant difference in the costs of these patients warranted the subgrouping to avoid either overpayments or underpayments in this service category. Due to the observed length of stay in MDC 15, it was assumed that these cases were newborns that remained in the hospital after the mother had been discharged. Normal newborns that are discharged with the mother are assumed to be assigned to MDC 14. This assumption will be verified with the MCHA claims processor.

Each of the proposed payment categories were further adjusted for the differential payment of medical and surgical cases. The payment differentials were based on the relative payment differences between all medical DRGs and all surgical DRGs assigned to a given payment category. Some of the proposed categories did not have both types of DRGs, resulting in a single rate for that category. For example, Category 5-IV Cardiovascular does not have a rate for medical cases because this payment category is comprised solely of surgical DRGs.

The proposed inpatient rates are set equal to the weighted average allowed payment. The weighted average rate was calculated by dividing the total allowed payments for each of the four payers by the total number of cases paid for by the payers. This step was repeated for each MDC.

Weights were then calculated to reflect the difference between payment for medical DRGs and surgical DRGs within each MDC, relative to the weighted average rate. These payment differentials were used to adjust the MDC category rates to determine medical and surgical rates. It is important to point out that the "surgical" status of a DRG is based on the performance of major surgical procedures related to the patient's primary diagnosis. Care should be taken to ensure that unrelated surgical procedures do not affect this designation (e.g., dental extractions performed on an inpatient basis for a patient with a primary diagnosis of mental illness.)

A listing of the codes used to assign claims to the appropriate MDC subgroup will be forwarded to the MCHA claims processor.

To establish comparability in rates, all payment figures were inflated from the midpoint of each payer reporting period to the midpoint of calendar year 1990. Assuming that costs increase over time, the payment at the midpoint represents the average rate over that period. Inflation factors were taken from hospital cost projections made by Data Resources Inc. (DRI). For sake of compatibility with the processing system of the MCHA contracted claims processor, the rates per case were also translated into equivalent rates per day. The final rates appear in Attachment V.

• Outlier Payment Policy

An inpatient outlier policy was developed for MCHA's consideration. Thresholds were established for both the maximum routine payment per case and the maximum routine payment per day. Outliers are those claims that exceed these thresholds, and are paid at a rate different from the routine rate. If a case qualifies as an outlier, the routine fee schedule rate no longer applies. Instead, reimbursement for the case will be 78 percent of all covered charges incurred throughout the episode of care. The proposed level of payment is based on the four-payer average inpatient payment to charge ratio.

Official Notices

The lack of detailed claims data from all payers precluded establishing an outlier policy based on standard deviations. Instead, the per case and per day outliers were defined as follows:

—Per Case Cost Outlier

Cases with a length of stay (LOS) of one day and covered charges greater than \$4,000, or

Cases with a LOS greater than one day and covered charges greater than \$3,000 times the average LOS for that type of case.

—Per Day Cost Outliers

Claims with covered charges of more than \$4,000 for a one day LOS, or

Claims with covered charges exceeding \$3,000 per day.

Outlier thresholds for a single day LOS were established to target those cases where a trauma victim or seriously ill patient is admitted and treated aggressively, but dies within the first day.

Although both per case and per day outliers were explored, it is recommended that the outlier policy be implemented on a per case basis. This is because it is possible that a claim qualifying as an outlier by the per case threshold will not be recognized as an outlier by the per day threshold. This could result in cases where payments exceeding covered charges.

The following example illustrates the application of the per case outlier threshold and the calculation of payment for the claim. It also shows how a claim that qualifies as an outlier when the per case thresholds are applied may not qualify as an outlier when the per day thresholds are applied. If outliers were to be determined under the per day criteria, this claim would be paid at a rate exceeding covered charges.

- Type of Case: Digestive System MDC6—Surgical
- Length of Stay: 40 days
- Total Covered Charges: \$25,000
- Per Day Covered Charges: \$625

Per Case Outlier Threshold: The per case outlier thresholds of \$24,911 is exceeded, and the total payment is 78 percent of total covered charges incurred during this episode of care, or \$19,500.

Per Day Outlier Threshold: The per day outlier threshold of \$3,000 is not exceeded and the total payment is based on a rate of \$699.07 per day. The resulting total payment would be \$27,962.80, or \$2,962.80 more than the covered charges.

The proposed routine fee schedule rates incorporate an adjustment of three percent to create a reimbursement pool for the payment of outliers. It is recommended that MCHA closely monitor the interaction between the proposed outlier thresholds, the payment levels, and the payment pool to determine the adequacy of outlier payment coverage. The outlier thresholds per MDC are presented in Attachment V.

Outpatient Rates

The proposed rate for reimbursing outpatient services was based on the weighted average payment-to-charge ratio of the four payers. This was calculated by dividing the total charges submitted to the four payers by the total payments made for outpatient services. This resulted in the proposed payment rate of 86.3% of covered charges.

Home Health Rates

The proposed rate for home health visits was calculated by dividing the three payers' total reimbursement for home health care services by the total number of visits reimbursed. Payments were trended forward to the midpoint of 1990 using the DRI Home Health Services inflation indices. The overall weighted average payment was adjusted by the weight of skilled care visits and home health aide visits relative to the overall average. Based on comparisons of per visit and per hour payment rates, it was assumed that the average visit represents two hours of skilled or home health aide time. Therefore, the proposed hourly rates are \$35.14 per skilled visit and \$28.75 per home health aide visit.

Residential Treatment Center Rates

The rate for days of service in residential drug and alcohol abuse treatment centers was calculated by dividing the total payments made by the payer by the total days of service covered by the payer. DRI inflation factors were used to project equivalent payments at the midpoint of 1990. The proposed rate for these services is \$221.59 per day.

Long-Term Care and Medical Transportation Rates

By law, all payers of health care services in the state of Minnesota reimburse medical transportation and long term care services at mandated rates. Attachment VI presents the fee schedule for all Minnesota medical transportation services. The mandated long term

care rates are quite complex, resulting in facility-specific rates adjusted for up to eleven different levels of care. Attachment VII is a summary of these rates by each level of care. A listing of the facility-specific rates is currently being prepared and will be forwarded to the MCHA claims processor.

Based on our conversation, we assume that the proposed fee schedules are intended to be applied as maximum rates. Actual payment will depend on a comparison of the fee maximum and the allowable charges submitted. Final payment will be the lower of the fee schedule maximum or the allowable charges submitted.

KPMG Peat Marwick

Attachment III—Minnesota Hospitals by Peer Group: Peer Group 1—Metropolitan

Abbott Northwestern	Minneapolis
Childrens Hospital	St. Paul
Divine Redeemer Hospital	St. Paul
Fairview Ridges	Burnsville
Fairview Southdale	Edina
Golden Valley Health Center	Minneapolis
Hennepin County Med Center	Minneapolis
Mercy Medical County	Coon Rapids
Methodist Hospital	St. Louis Park
Metropolitan Medical Center	Minneapolis
Minneapolis Children's Medical Center	Minneapolis
Midway Hospital	Minnesota
Mt. Sinai Hospital	Minneapolis
North Memorial Hospital	Minneapolis
Riverside Medical Center	Minneapolis
Rochester Methodist Hospital	Rochester
St. Johns N.E. Community	Maplewood
St. Joseph's Hospital	St. Paul
St. Mary's Hospital of Rochester	Rochester
St. Paul Ramsey Hospital	St. Paul
United Hospital	St. Paul
Unity Medical Center	Fridley
University of MN Children Hospital	Minneapolis
University of MN Hospital	Minneapolis

Attachment IV—Top Three MDC Category: DRG Subgroups

MDC 5-I

DRG NUMBER	DRG Description
142	Syncope & Collapse W/O CC
141	Syncope & Collapse With CC
139	Cardiac Arrhythmia/Conduction Disorder W/O CC
143	Chest Pain
135	Cardiac Congen & Valv Disorders Age>17 W/ CC
119	Vein Ligation & Stripping
140	Angina Pectoris
133	Atherosclerosis W/O CC
145	Other Circulatory System Diagnoses W/O CC
128	Deep Vein Thrombophlebitis

MDC 5-II

DRG NUMBER	DRG Description
131	Peripheral Vascular Disorders W/O CC
134	Hypertension
138	Cardiac Arrhythmia/Conduction Disorders W/ CC
132	Atherosclerosis With CC

Official Notices

Attachment IV—Top Three MDC Category: DRG Subgroups (continued)

130	Peripheral Vascular Disorders With CC
125	Circ Disorders Not AMI W/ Cath W/O Cmplx Diag
127	Heart Failure & Shock
114	Upper Limb & Toe Amputation—Circ Disorder
122	Circ Disorders W/ AMI W/O CV Comp Disch Alive
144	Other Circulatory System Diagnoses With CC

MDC 5-III

DRG NUMBER	DRG Description
123	Circulatory Disorders W/ AMI, Expired
117	Pacemaker Revision—Not Device Replacement
129	Cardiac Arrest, Unexplained
124	Circ Disorders Not AMI W/ Cath & Complex Diag
118	Cardiac Pacemaker Device Replacement
121	Circ Disorders W/ AMI & CV Comp Disch Alive
113	Amputation—Circ Disorder (Except DRG 114)
126	Acute & Subacute Endocarditis
112	Other Vascular Procs W/O Pump
120	Other Circulatory System O.R. Procs

MDC 5-IV

DRG NUMBER	DRG Description
116	Perm Pacemaker Implant W/O AMI, or Shock
111	Major Reconstruct Vasc Proc W/O Pump & W/O CC
115	Perm Pacemaker Implant W/ AMI, or Shock
110	Major Reconstruct Vasc Proc W/O Pump & W/ CC
109	Other Cardiothoracic Procs W/O Pump
107	Coronary Bypass W/O Cardiac Cath
105	Cardiac Valve Proc W/ Pump & W/O Cath
106	Coronary Bypass W/ Cardiac Cath
108	Other Cardiothoracic or Vasc Procs W/ Pump
104	Cardiac Valve Proc W/ Pump & W/ Cath

MDC 19-I

DRG NUMBER	DRG Description
425	Acute Adjust React & Disturb of Psysoc Dysfnc
428	Disorders of Personality & Impulse Control
426	Depressive Neuroses

MDC 19-II

DRG NUMBER	DRG Description
427	Neuroses Except Depression
432	Other Mental Disorder Diagnoses
429	Organic Disturbances & Mental Retardation

MDC 19-III

DRG NUMBER	DRG Description
431	Childhood Mental Disorders
430	Psychoses
424	O.R. Proc W/ Principal Diag of Mental Illness

MDC 21-I

DRG NUMBER	DRG Description
446	Multiple Trauma Age 0-17
451	Poisoning & Toxic Effects of Drugs Age 0-17
448	Allergic Reactions Age 0-17
447	Allergic Reactions Age>17

Attachment IV—Top Three MDC Category: DRG Subgroups (continued)

- 445 Multiple Trauma Age>17 W/O CC
- 455 Other Injury, Poison & Toxic Eff Diag W/O CC

MDC 21-II

DRG NUMBER	DRG Description
453	Complications of Treatment W/O CC
450	Poisoning & Toxic Eff of Drugs Age>17 W/O CC
444	Multiple Trauma Age>17 With CC
449	Poisoning & Toxic Eff of Drugs Age>17 With CC

MDC 21-III

DRG NUMBER	DRG Description
452	Complications of Treatment With CC
454	Other Injury, Poison & Toxic Eff Diag With CC
443	Other O.R. Procs for Injuries W/O CC
441	Hand Procedures for Injuries

MDC 21-IV

DRG NUMBER	DRG Description
439	Skin Grafts for Injuries
442	Other O.R. Procs for Injuries With CC
440	Wound Debridements for Injuries

Attachment V—Proposed MCHA Inpatient Rates: Calendar Year 1990

MDC DESCRIPTION	MDC NUMBER	STATEWIDE RATES		STATEWIDE RATES		Average Length of Stay	Average Length of Stay
		SURGICAL CASES Per Case	SURGICAL CASES Per Day	MEDICAL CASES Per Case	MEDICAL CASES Per Day	Surgical Cases	Medical Cases
NERVOUS SYSTEM	1	9893.22	942.33	2973.10	466.23	10.50	6.4
EYE	2	1873.13	843.07	1974.57	533.67	2.22	3.7
EAR, NOSE, THROAT, MOUTH	3	2491.63	1016.90	1373.80	530.17	2.45	2.6
RESPIRATORY SYSTEM	4	10142.24	1023.15	3116.79	520.01	9.91	6.0
CARDIOVASCULAR	5-I	1857.43	520.17	1807.98	468.41	3.57	3.9
CARDIOVASCULAR	5-II	3413.24	360.89	2761.08	528.44	9.46	5.2
CARDIOVASCULAR	5-III	7141.13	977.19	4818.10	781.25	7.31	6.2
CARDIOVASCULAR	5-IV	14648.51	1318.22	0.00	0.00	11.11	0.0
DIGESTIVE SYSTEM	6	5804.83	699.07	2053.59	454.66	8.30	4.5
HEPATOBIILIARY SYSTEM/PANCREAS	7	5648.46	654.78	2455.04	468.61	8.63	5.2
MUSCULOSKELETAL SYSTEM	8	5732.08	674.76	1964.20	397.36	8.50	4.9
SKIN/SUBCUTANEOUS SYSTEM	9	3499.27	629.51	2617.43	454.42	5.56	5.8
ENDOCRINE SYSTEM	10	4914.04	630.19	2330.82	439.60	7.80	5.3
URINARY SYSTEM/KIDNEY	11	6714.82	982.95	2365.67	484.68	6.83	4.9
MALE REPRODUCTIVE	12	2675.67	527.74	1871.81	437.54	5.07	4.3
FEMALE REPRODUCTIVE	13	3104.81	684.19	1531.93	461.99	4.54	3.3
PREGNANCY/CHILDBIRTH/PUERPERIAM*	14	4321.65	1254.47	1616.79	639.23	3.44	2.5
NEWBORNS W CC	15-1	0.00	0.00	2755.45	615.06	0.00	4.5
NEONATES	15-2	0.00	0.00	11557.95	713.45	0.00	16.2
BLOOD & BLOOD FORMING ORGANS	16	34798.01	3222.82	3753.55	707.71	10.80	5.3
MYELOPROLIFERATIVE DISORDERS	17	8172.91	886.96	3658.59	658.00	9.21	5.6
INFECTIOUS & PARASITIC DISEASES	18	7408.93	687.54	2298.98	475.79	10.78	4.8
MENTAL DISORDERS	19-I	0.00	0.00	2605.73	363.74	0.00	7.2
MENTAL DISORDERS	19-II	0.00	0.00	3265.54	331.79	0.00	9.8
MENTAL DISORDERS	19-III	5822.34	311.47	5042.57	423.38	18.69	11.9
SUBSTANCE ABUSE	20	0.00	0.00	2964.95	275.35	0.00	10.8

Official Notices

Attachment V (cont.)—Proposed MCHA Inpatient Rates: Calendar Year 1990

MDC DESCRIPTION	MDC NUMBER	STATEWIDE RATES		STATEWIDE RATES		Average Length of Stay	Average Length of Stay
		SURGICAL CASES Per Case	Per Day	MEDICAL CASES Per Case	Per Day	Surgical Cases	Medical Cases
INJURY/POISONING/DRUG TOXICITY/ MSC	21-I	0.00	0.00	523.85	269.71	0.00	1.9
INJURY/POISONING/DRUG TOXICITY/ MSC	21-II	0.00	0.00	1061.40	435.77	0.00	2.4
INJURY/POISONING/DRUG TOXICITY/ MSC	21-III	2396.64	979.49	1587.25	575.17	2.45	2.8
INJURY/POISONING/DRUG TOXICITY/ MSC	21-IV	4098.79	1098.64	0.00	0.00	3.73	0.0
BURNS	22	12069.43	813.25	3344.37	550.24	14.84	6.1
FACTORS INFLUENCING HEALTH STATUS	23	1773.23	987.70	2911.33	556.44	1.80	5.2

* Assumed to include normal newborns

** Assumed to include newborns remaining in the hospital after mother's discharge

MDC DESCRIPTION	MDC NUMBER	OUTLIER THRESHOLDS				OUTLIER THRESHOLDS			
		SURGICAL CASES		MEDICAL CASES		SURGICAL CASES		MEDICAL CASES	
		Per Case Charge Threshold	Per Day Charge Threshold	Per Case Charge Threshold	Per Day Charge Threshold	Per Case Charge Threshold	Per Day Charge Threshold	Per Case Charge Threshold	Per Day Charge Threshold
		LOS=1	LOS>1	LOS=1	LOS>1	LOS=1	LOS>1	LOS=1	LOS>1
NERVOUS SYSTEM	1	4000	31496	4000	3000	4000	19131	4000	3000
EYE	2	4000	6665	4000	3000	4000	11100	4000	3000
EAR, NOSE, THROAT, MOUTH	3	4000	7351	4000	3000	4000	7774	4000	3000
RESPIRATORY SYSTEM	4	4000	29738	4000	3000	4000	17981	4000	3000
CARDIOVASCULAR	5-I	4000	10712	4000	3000	4000	11579	4000	3000
CARDIOVASCULAR	5-II	4000	28373	4000	3000	4000	15675	4000	3000
CARDIOVASCULAR	5-III	4000	21923	4000	3000	4000	18502	4000	3000
CARDIOVASCULAR	5-IV	4000	33337	4000	3000	4000	0	4000	3000
DIGESTIVE SYSTEM	6	4000	24911	4000	3000	4000	13550	4000	3000
HEPATOBIILIARY SYSTEM/PANCREAS	7	4000	25879	4000	3000	4000	15717	4000	3000
MUSCOLOSKELETAL SYSTEM	8	4000	25485	4000	3000	4000	14829	4000	3000
SKIN/SUBCUTANEOUS SYSTEM	9	4000	16676	4000	3000	4000	17280	4000	3000
ENDOCRINE SYSTEM	10	4000	23393	4000	3000	4000	15906	4000	3000
URINARY SYSTEM/ KIDNEY	11	4000	20494	4000	3000	4000	14643	4000	3000
MALE REPRODUCTIVE	12	4000	15210	4000	3000	4000	12834	4000	3000
FEMALE REPRODUCTIVE	13	4000	13614	4000	3000	4000	9948	4000	3000
PREGNANCY/CHILD-BIRTH/PUERPERIAM*	14	4000	10335	4000	3000	4000	7588	4000	3000
NEWBORNS W CC	15-1	4000	0	4000	3000	4000	13440	4000	3000
NEONATES	15-2	4000	0	4000	3000	4000	48600	4000	3000

Attachment V (cont.)—Proposed MCHA Inpatient Rates: Calendar Year 1990

BLOOD & BLOOD FORMING ORGANS	16	4000	32392	4000	3000	4000	15911	4000	3000
MYELOPROLIFERATIVE DISORDERS	17	4000	27644	4000	3000	4000	16680	4000	3000
INFECTIOUS & PARASITIC DISEASES	18	4000	32328	4000	3000	4000	14496	4000	3000
MENTAL DISORDERS	19-I	4000	0	4000	3000	4000	21491	4000	3000
MENTAL DISORDERS	19-II	4000	0	4000	3000	4000	29526	4000	3000
MENTAL DISORDERS	19-III	4000	56079	4000	3000	4000	35731	4000	3000
SUBSTANCE ABUSE	20	4000	0	4000	3000	4000	32304	4000	3000
INJURY/POISONING/ DRUG TOXICITY/ MSC	21-I	4000	0	4000	3000	4000	5827	4000	3000
INJURY/POISONING/ DRUG TOXICITY/ MSC	21-II	4000	0	4000	3000	4000	7307	4000	3000
INJURY/POISONING/ DRUG TOXICITY/ MSC	21-III	4000	7340	4000	3000	4000	8279	4000	3000
INJURY/POISONING/ DRUG TOXICITY/ MSC	21-IV	4000	11192	4000	3000	4000	0	4000	3000
BURNS	22	4000	44523	4000	3000	4000	18234	4000	3000
FACTORS INFLUENCING HEALTH STATUS	23	4000	5386	4000	3000	4000	15696	4000	3000

* Assumed to include normal newborns

** Assumed to include newborns remaining in the hospital after mother's discharge

MDC DESCRIPTION	MDC NUMBER	PEER GROUP 1 RATES				PEER GROUP 2 RATES			
		SURGICAL CASES		MEDICAL CASES		SURGICAL CASES		MEDICAL CASES	
		Per Case Relative Wt 1.144	Per Day	Per Case Relative Wt 1.144	Per Day	Per Case Relative Wt 0.866	Per Day	Per Case Relative Wt 0.866	Per Day
NERVOUS SYSTEM	1	11317.84	1078.03	3401.23	533.37	8567.53	816.06	2574.71	403.75
EYE	2	2142.86	964.47	2258.91	610.52	1622.13	730.10	1709.98	462.16
EAR, NOSE, THROAT, MOUTH	3	2850.42	1163.33	1571.63	606.52	2157.75	880.64	1189.71	459.13
RESPIRATORY SYSTEM	4	11602.73	1170.49	3565.61	594.89	8783.18	886.05	2699.14	450.33
CARDIOVASCULAR	5-I	2124.90	595.07	2068.33	535.86	1608.53	450.47	1565.71	405.64
CARDIOVASCULAR	5-II	3904.74	412.86	3158.67	604.54	2955.86	312.53	2391.09	457.63
CARDIOVASCULAR	5-III	8169.45	1117.91	5511.91	893.75	6184.22	846.25	4172.48	676.56
CARDIOVASCULAR	5-IV	16757.90	1508.05	0.00	0.00	12685.61	1141.58	0.00	0.00
DIGESTIVE SYSTEM	6	6640.72	799.73	2349.31	520.13	5026.98	605.39	1778.41	393.74
HEPATOBIILIARY SYSTEM/PANCREAS	7	6461.84	749.07	2808.56	536.08	4891.57	567.04	2126.06	405.81
MUSCOLOSKELETAL SYSTEM	8	6557.49	771.92	2247.05	454.59	4963.98	584.34	1701.00	344.12
SKIN/SUBCUTANEOUS SYSTEM	9	4003.16	720.16	2994.34	519.85	3030.37	545.16	2266.69	393.53
ENDOCRINE SYSTEM	10	5621.66	720.93	2666.45	502.90	4255.56	545.74	2018.49	380.69
URINARY SYSTEM/ KIDNEY	11	7681.75	1124.50	2706.32	554.48	5815.03	851.24	2048.67	419.73
MALE REPRODUCTIVE	12	3060.97	603.74	2141.36	500.54	2317.13	457.03	1620.99	378.91

Official Notices

Attachment V (cont.)—Proposed MCHA Inpatient Rates: Calendar Year 1990

MDC DESCRIPTION	MDC NUMBER	PEER GROUP 1 RATES				PEER GROUP 2 RATES			
		SURGICAL CASES		MEDICAL CASES		SURGICAL CASES		MEDICAL CASES	
		Per Case Relative Wt 1.144	Per Day	Per Case Relative Wt 1.144	Per Day	Per Case Relative Wt 0.866	Per Day	Per Case Relative Wt 0.866	Per Day
FEMALE									
REPRODUCTIVE PREGNANCY/CHILD-BIRTH/PUERPERIAM*	13	3551.91	782.72	1752.52	528.52	2688.77	592.51	1326.65	400.09
NEWBORNS W CC	14	4943.97	1435.12	1849.61	731.28	3742.55	1086.37	1400.14	553.57
NEONATES	15-1	0.00	0.00	3152.23	703.63	0.00	0.00	2386.22	532.64
BLOOD & BLOOD FORMING ORGANS MYELOPROLIFERATIVE DISORDERS	15-2	0.00	0.00	13222.29	816.19	0.00	0.00	10009.18	617.85
INFECTIOUS & PARASITIC DISEASES	16	39808.92	3686.91	4294.06	809.62	30135.07	2790.96	3250.58	612.87
MENTAL DISORDERS	17	9349.81	1014.68	4185.43	752.75	7077.74	768.10	3168.34	569.83
MENTAL DISORDERS	18	8475.82	786.55	2630.04	544.30	6416.14	595.41	1990.92	412.03
MENTAL DISORDERS	19-I	0.00	0.00	2980.96	416.12	0.00	0.00	2256.56	315.00
MENTAL DISORDERS	19-II	0.00	0.00	3735.77	379.57	0.00	0.00	2827.95	287.33
MENTAL DISORDERS	19-III	6660.76	356.32	5768.70	484.35	5042.15	269.73	4366.87	366.65
SUBSTANCE ABUSE	20	0.00	0.00	3391.90	314.99	0.00	0.00	2567.64	238.45
INJURY/POISONING/DRUG TOXICITY/MSC	21-I	0.00	0.00	599.29	308.55	0.00	0.00	453.66	233.57
INJURY/POISONING/DRUG TOXICITY/MSC	21-II	0.00	0.00	1214.24	498.52	0.00	0.00	919.17	377.38
INJURY/POISONING/DRUG TOXICITY/MSC	21-III	2741.76	1120.54	1815.81	657.99	2075.49	848.24	1374.56	498.09
INJURY/POISONING/DRUG TOXICITY/MSC	21-IV	4689.01	1256.84	0.00	0.00	3549.55	951.42	0.00	0.00
BURNS	22	13807.42	930.36	3825.95	629.48	10452.12	704.28	2896.22	476.51
FACTORS INFLUENCING HEALTH STATUS	23	2028.57	1129.92	3330.56	636.57	1535.62	855.35	2521.21	481.88

* Assumed to include normal newborns

** Assumed to include newborns remaining in the hospital after mother's discharge

Attachment VI—Medical Transportation Fee Schedule

PROC CODE	PROCEDURE DESCRIPTION	PROC CHAR
A0010	BLS BASE RATE, EMERGENCY, ONE WAY	70.00
A0020	BLS, PER MILE, ONE WAY	2.50
A0030	CONVENTIONAL AIR AMBULANCE TRANSPORT	0.00
A0040	HELICOPTER AIR AMBULANCE TRANSPORT	0.00
A0060	WAITING TIME-1/2 HOUR INCREMENTS	10.00
A0070	OXYGEN, ADM. & SUPPLIES, LIFE SUSTAIN. SITUA	20.00
A0130	NON-EMER TRANSP: WHEELCHAIR VAN	16.00
A0150	NON-EMER TRANSP: AMBUL. BASE RATE, ONE WAY	35.00
A0220	ALS BASE RATE, ALL INCLUSIVE, EMER. ONE WAY	225.00
A0221	ALS, PER MILE, TRANSPORT, ONE WAY	2.50
A0222	AMBULANCE, RETURN TRIP, TRANSPORT	70.00
A0223	ALS BASE RATE, ALS SUPPLY SEP. ONE WAY	225.00
A0225	NEONATAL EMER. TRANSP, BASE RATE, ONE WAY	225.00
A0999	UNLISTED AMBULANCE SERVICE (SPECIFY)	10.00
A4200	GAUZE PADS STERILE OR NON-STERILE	0.00
A4214	STERILE SALINE OR WATER 30CC VIAL	0.00
JO170	INJ ADRENALIN EPINEPHRIN UF TO IML AMPU	2.00

<u>PROC CODE</u>	<u>PROCEDURE DESCRIPTION</u>	<u>PROC CHAR</u>
JO460	INJ ATROPINE SULFATE UP TO 0.3	1.81
A2000	INJ LIDOCAINE 50CC	2.72
J2270	MORPHINE UP TO 10 MG	2.16
J3360	VALIUM UP TO 5 MG	3.20
J7030	NORMAL SALINE SOLUTION 1000 CC	0.00
J7040	INFUSION, NORMAL SALINE SOL STERILE 500ML	0.00
J7050	NORMAL SALINE SOLUTION 250 CC	0.00
J7060	D5W 500 CC	0.00
J7070	D5W 1000 CC	0.00
Y0051	AMB. NITE CALL 8PM-8AM, HOLIDAY, WEEKEND	10.00
Y0052	AMBULANCE ATTENDANT, ADDITIONAL	10.00
Y0069	EKG MONITORING IN AMBULANCE	20.00
Y0071	DEFIBRILLATION SUPPLIES USED IN AMB.	10.00
Y0072	EKG SUPPLIES USED IN AMBULANCE	5.00
Y0073	INTUBATION SUPPLIES USED IN AMBULANCE	15.00
Y0074	SUCTION SUPPLIES USED IN AMBULANCE	3.00
Y0135	NON-EMER TRANSP: WHEELCHAIR, MILEAGE	1.00
Y0145	NON-EMER TRANSP: STRETCHER	35.00
Y0146	NON-EMER TRANSP: EXTRA ATTENDANT	9.00
Y0147	NON-EMER TRANSP: RETURN TRIP	16.00
Y0220	DRUG SUPPLY USED IN AMB, SPECIFY	0.00
Y0230	BURN SHEETS USED IN AN AMBULANCE	5.00
Y0231	CERVICAL COLLAR USED IN AMBULANCE	15.00
Y0232	UNDERPADS USED IN AN AMBULANCE	1.00
Y0233	OTHER DISP SUPPLIES USED IN AMB, SPECIFY	0.00

Source: Minnesota Department of Human Services, December, 1989.

Attachment VII—Average Nursing Home SNF Rates

<u>Level of Care</u>	<u>Average Charge Per Day</u>
A	\$49.46
B	55.47
C	58.61
D	62.02
E	67.68
F	64.53
G	70.30
H	78.05
I	79.85
J	83.36
K	92.56

Source: Minnesota Department of Human Services, September, 1989.

Minnesota Comprehensive Health Association

Notice of Search for Executive Director for the Minnesota Comprehensive Health Association

The Board of Directors of the Minnesota Comprehensive Health Association has voted to hire an executive director. See job description below.

Persons interested in applying for this position should submit their resumes and salary requirements to:

Mr. Dennis Reese, President of MCHA and
 Vice President of Finance and CFO
 Physicians Health Plan

P.O. Box 1587
 Minneapolis, MN 55440-7001

Official Notices

Minnesota Comprehensive Health Association (MCHA) Position Description

Title

Executive Director

Reporting Relationship

Reports to the Board of Directors through the President.

General Summary

The Executive Director is responsible at the direction of the Board of Directors for overall operation, managing the Writing Carrier contract, legislative agenda, coordination of board activities, public policy, public relations, and communication of the Minnesota Comprehensive Health Association.

Principal Duties and Responsibilities

- Keep the Board of Directors well informed through Board meetings, participation, and effective/timely analysis of the Plan operations.
- Maintain effective relationships with the Legislature, Department of Commerce, appropriate state and local governmental agencies, industry representatives, enrollee organizations, and constituents of the State of Minnesota.
- Coordinate the development of an annual legislative agenda at the direction of the Board of Directors and actively promote the agenda with the Department of Commerce and the state legislature.
- Ensure the maintenance of effective communication tools to facilitate public awareness and understanding.
- Monitor the investment and accounting for all Plan funds.
- Responsibility for the management of the contracts with the Writing Carrier and the administration to ensure compliance with all contractual provisions. Develop and implement performance standards and management reporting guidelines.
- Authorize, monitor and approve all contracts and expenses for professional services, Plan expenditures, and general administrative expense of the program subject to authorization and approval guidelines established by the Board and its Finance Committee.
- Ensure timely update of contracts, forms, and rate increases on an as needed basis.
- Ensure that the administration and operation of the Plan is in compliance with the applicable statutes, rules, regulations and operating rules.
- Be the responsible authority for compliance with the Data Practices Act.
- Perform other duties as defined from time to time by the Board of Directors.
- Chair the Appeals Committee and be a non-voting member of all other committees.

Background and Qualifications

- Five to ten years of relevant experience in operations and public policy including a senior position with a thorough understanding of the legislative process in Minnesota, business, finance and health insurance.
- Public sector and legislative experience preferred.
- Experience working with and making reports to a Board of Directors.
- Strong negotiation, interpersonal and communications skills.
- Experience in financial management, health insurance operations, cost containment, and knowledge of claims handling and state funding procedures.
- Demonstrated administrative ability to direct, organize and coordinate government programs and activities.
- Professional degree desirable but not required.

Environmental Quality Board

Notice of Public Hearing on Proposed Permanent Rules Relating to High Voltage Lines, Power Plants and Environmental Review of Certain Large Energy Facilities

A public hearing on this dual rulemaking will be held as previously noticed. The EQB has received the minimum of 25 requests to conduct the hearing. Refer to the June 18, 1990 edition of the *State Register* 14 S.R. 2914-2933 for proposed rule amendments.

Notice of Intent to Adopt a Rule With a 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 (1986), on July 26, 1990, in room 302 of the Centennial Building, 658 Cedar Street, St. Paul, Minnesota, commencing at 10:00 a.m. Additional days may be scheduled as needed. All interested or affected persons will have an opportunity to participate, and 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 submitted 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 Phyllis Reha, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota, 55415, telephone 612/341-7611, either before or within five days after the hearing ends. The Administrative Law Judge may, at the hearing, order the record kept open for a longer period not to exceed 20 calendar days. Written material received during this period will be available for review at the Office of Administrative Hearings. After the close of the comment period, the EQB and interested persons have three business days to respond in writing to any new information submitted during the comment period. 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 (1986) and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedures may be directed to the Administrative Law Judge.

The proposed rules are amendments to existing rules which regulate the location of certain transmission line routes and power plant sites in the State of Minnesota and the environmental review of same. The proposed rules are authorized by *Minnesota Statutes*, sections 116C.66, 116D.04, and 116D.045. A free copy of the proposed rules may be obtained by writing or telephoning: Bob Cupit, Environmental Quality Board, 300 Centennial Office Building, 658 Cedar Street, St. Paul, MN 55155, telephone 612/296-2096.

The proposed rules may be modified as a result of the rule hearing process if the modifications do not result in a substantial change in the proposed rules as noticed. Those who are potentially affected by the substance of the proposed rules are therefore advised and encouraged to participate in the process.

NOTICE IS HEREBY GIVEN THAT A STATEMENT OF NEED AND REASONABLENESS is available for review at the EQB offices and at the Office of Administrative Hearings. This document describes the need for and reasonableness of each proposed rule and identifies the information relied upon to support the proposed rules. 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 EQB may not take any final action on the proposed rules for a period of five business days. If you wish to be so notified, you may do so at the hearing. After the hearing, you may request notification by writing to the Administrative Law Judge.

Any person may request notification of the date on which the proposed rules were adopted and filed with the Secretary of State. The notice will be mailed to any person requesting this notice on the same day the rule is filed. If you wish to be so notified, you may so indicate at the hearing or send a written request to the EQB at any time prior to the filing of the rule with the Secretary of State.

Department of Labor & Industry

Labor Standards Division

Notice of Correction to Prevailing Wage Rates

The prevailing wage rate certified June 11, 1990 for labor classification 309—FIVE AXLE UNIT in Wright county for Highway/Heavy construction project has been corrected.

Copies of the corrected certifications may be obtained by contacting the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155.

Ken Peterson, Commissioner
Department of Labor and Industry

Pollution Control Agency

Division of Hazardous Waste

Notice of Intent to Solicit Outside Opinion Regarding Proposed Amendments to Hazardous Waste Identification Regulations by the Implementation of the Toxicity Characteristic Leaching Procedure (TCLP), *Minnesota Rules Chapter 7045*

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) is seeking opinions from outside sources regarding the amendment of rules governing the identification of hazardous waste by the implementation of the Toxicity Characteristic Leaching Procedure.

The existing rules under consideration for amendment are found at *Minnesota Rules* pts. 7045.0102 (Mixtures of Hazardous and Nonhazardous Wastes), 7045.0131 (Characteristics of Hazardous Wastes), 7045.0135 (Lists of Hazardous Wastes), 7045.0216 (Evaluation Reports to the Commissioner), 7045.0230 (Content of Disclosure), and 7045.0634 (Land Treatment). These rules were adopted pursuant to *Minnesota Statutes* sec. 116.07, Subd. 4 (1988) which allows the Agency to adopt rules relating to the regulation of hazardous waste.

The purpose of this rulemaking is to bring state rules into conformance with existing federal regulations found in Title 40, *Code of Federal Regulations* parts 261.8, 261.24, 261.30, and 265.273. The federal regulations replace the Extraction Procedure (EP) leach test with the Toxicity Characteristic Leaching Procedure (TCLP) for the identification of hazardous waste. The promulgation of the TCLP rule will add twenty-five organic chemicals to the list of contaminants regulated as characteristic hazardous wastes in Minnesota.

The Agency requests information and opinions concerning the subject matter of the proposed amendments. Interested persons or groups may submit data or views orally or in writing. Oral or written statements or comments should be directed to:

Glenn Skuta
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155
Telephone: (612) 643-3478

Oral statements will be received during regular business hours, 8:00 a.m. to 4:00 p.m., Monday through Friday.

Statements and comments will be accepted until August 23, 1990. Any written materials received by the Agency shall become part of the rulemaking record in the event that the rule is amended.

Gerald L. Willet
Commissioner

Minnesota Pollution Control Agency

Water Quality Division

Notice of Intent to Issue a General State Disposal System Permit for Facilities Located in the State of Minnesota that Produce Paving Asphalt Concrete and Operate a Wet Scrubber

Under the General Permit Program, a single general permit may be issued to a category of permittees whose operations, emissions, activities, discharges or facilities are the same or substantially similar. This program applies to categories of facilities that meet the following conditions:

- A. There are several permit applicants or potential permit applicants who have the same or substantially similar operations, emissions, activities, discharges or facilities;
- B. The permit applicants or potential permit applicants discharge, emit, process, handle, or dispose of the same types of waste;
- C. The operations, emissions, activities, discharges, or facilities are subject to the same or substantially similar standards, limitations, and operating requirements;
- D. The operations, emissions, activities, discharges, or facilities are subject to the same or similar monitoring requirements; and
- E. In the opinion of the Commissioner, the facilities would be more appropriately controlled under a general permit than under individual permits.

On the basis of preliminary staff review and application of applicable standards and regulations, including *Minnesota Rules* ch. 7050 and 7060, the Commissioner of the Minnesota Pollution Control Agency has made a preliminary determination that general permit No. MN GL58335 should be issued for construction, installation, and operation of the above described class of facilities subject to certain special requirements.

Upon issuance, this permit will apply to all facilities in the State of Minnesota that produce paving asphalt concrete and operate a wet scrubber, and which do not have a current individual State Disposal System (SDS) permit. Any affected facility which does not currently have an individual SDS permit, and which does not wish to be covered by this general permit, must within 90 days of the date of this notice submit an application for an individual SDS permit to the Agency.

Upon issuance, this permit will supersede all current individual SDS permits held by facilities eligible for coverage by this general permit, except as otherwise determined by the Commissioner. Any affected facility which does not wish to have its current individual SDS permit superseded by this general permit must notify the Commissioner within 90 days of the date of this notice. The determination of whether or not a facility is included in this general permit will be made by the Commissioner.

The Commissioner's determination that the permit should be issued is tentative. Interested persons are invited to submit written comments upon the proposed permit action. The comment period begins July 23, 1990, and ends August 21, 1990. Any comments received no later than the last day of the comment period will be considered in the formulation of final determinations.

The applications, draft permit, and other documents are available for inspection at the address shown below and may be copied any time between 9:30 a.m. and 3:30 p.m., Monday through Friday. Copies of the public notice are available at the address shown below and at the Agency's Regional Offices located in Duluth, Brainerd, Detroit Lakes, Marshall and Rochester. If you have any questions regarding the draft permit or would like to receive a copy of the draft permit, please contact Jim Strudell at (612) 296-7238.

Any comments submitted are required by *Minnesota Rules* Part 7001.0110 to include the following information:

1. A statement of the person's interest in the permit application or the draft permit;
2. A statement of the action the person wishes the Agency to take, including specific references to sections of the draft permit that the person believes should be changed; and
3. The reasons supporting the person's position, stated with sufficient specificity as to allow the Commissioner to investigate the merits of the person's position.

During the comment period, any person may submit a request for a public informational meeting or a contested case hearing on the proposed permit action. A public informational meeting is an informal meeting that the Agency may hold to help clarify and resolve issues. A contested case hearing is a formal proceeding before a state Administrative Law Judge.

Any request for a public informational meeting or a contested case hearing must include the items 1 through 3 listed above and also a statement of the reasons the person desires the Agency to hold a public informational meeting or contested case hearing and the issues that the person would like the Agency to address at the public informational meeting or contested case hearing.

In the absence of any requests for a public informational meeting or contested case hearing, the final decision on the proposed permit action will be made by the Commissioner under a delegation made by the Minnesota Pollution Control Agency Board. However, any person may request that this permit be considered by the Agency Board prior to final permit action. Such requests must be made in accordance with *Minnesota Rules* Part 7000.0500, Subp. 6.

Comments or requests should be submitted in person or by mail within the comment period to:

Regulatory Compliance Section
Water Quality Division
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155

The application/permit and public notice numbers should appear next to the above address on the envelope and on each page of any submitted comments or requests.

Please be advised that the public is entitled to participate in the activities of both the Minnesota Pollution Control Agency Board and the Commissioner in accordance with the provisions of *Minnesota Rules* pts. 7000.1500 and 7000.1600.

The permit will be issued if the Agency determines that the proposed permittee or permittees will, with respect to the facility or activity to be permitted, comply or undertake a schedule of compliance to achieve compliance with all applicable state and federal pollution control statutes and rules administered by the Agency and the conditions of the permit, and that all applicable requirements of *Minnesota Statutes* 116D and the rules promulgated thereunder have been fulfilled.

Please bring the foregoing to the attention of persons whom you know would be interested in this matter.

Gerald L. Willet
Commissioner

Minnesota Public Utilities Commission

Notice of Intent to Solicit Outside Information Regarding Proposed Rules and Amendments to Rules Governing Utility Customer Service, *Minnesota Rules*, parts 7820.0200 to 7820.1400 and 7820.2400 to 7820.5600, Docket No. G,E-999/R-86-322

NOTICE IS HEREBY GIVEN that the Minnesota Public Utilities Commission (Commission) is seeking information and opinions from outside sources in preparing to propose the adoption and amendment of rules governing utility customer service. The adoption of the rules and rule amendments is authorized by *Minnesota Statutes* §§ 216B.08 and 216B.09, which allow the Commission to promulgate rules in furtherance of the purposes of its various statutory mandates and to fix just and reasonable standards of service.

The subject matter of the rules includes but is not limited to the following:

- (1) customer information required in conjunction with an application for service;
- (2) payment responsibilities of landlords and tenants;
- (3) payment and service disputes between customer and utility;
- (4) meter reading and billing periods;
- (5) deposit requirements; and
- (6) late payment charges.

The Commission requests information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views in writing or orally. Written statements or comments should be directed to:

Dan Lipschultz
Minnesota Public Utilities Commission
780 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101
(612) 296-9617

Oral statements or comments will be received by Dan Lipschultz at the number given above or by Betty Ware at (612) 296-7126 during regular business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday.

All statements of information and opinion will be accepted until a notice of intent to adopt the above-entitled rules and rule amendments is published in the *State Register*. Any written materials received by the Commission shall become part of the rulemaking record in the event that the rules and rule amendments are adopted.

Dated: 16 July 1990

Richard R. Lancaster
Executive Secretary

Board of Water and Soil Resources

The Board of Water and Soil Resources will hold their July 25, 1990 meeting at the Holiday Inn-North, 2540 North Cleveland Avenue, Roseville, Minnesota. The meeting will convene 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: IBM PS/2's-No
Substitution

Contact: Bernadette Vogel 296-3778

Bid due date at 2pm: July 27

Agency: North Hennepin Community
College

Deliver to: Minneapolis

Requisition #: 27153-21281

Commodity: Food Delivery Carts

Contact: Joan Breisler 296-9071

Bid due date at 4:30pm: July 22

Agency: Human Services Regional
Treatment Center

Deliver to: Brainerd

Requisition #: 55304-08721

Commodity: Kroy Signage

Contact: John Bauer 296-2621

Bid due date at 4:30pm: July 30

Agency: Normandale Community
College

Deliver to: Bloomington

Requisition #: 27156-10650

Commodity: Factory Rebuilt

Continental Aircraft Engine

Contact: Mary Jo Bruski 296-3772

Bid due date at 4:30pm: July 30

Agency: Public Safety Department

Deliver to: St. Paul

Requisition #: 07500-11020

Commodity: Thermographic Survey

Equip-Weatherization Program

Contact: Pamela Anderson 296-1053

Bid due date at 2pm: August 1

Agency: Job & Training Department

Deliver to: St. Paul

Requisition #: 21200-31119

Commodity: DS1 Testbed Expansion

Contact: Don Olson 296-3771

Bid due date at 2pm: August 17

Agency: Various

Deliver to: Various

Requisition #: Price Contract

Commodity: Locking hardware

Contact: Steve Burgstahler 296-3775

Bid due date at 2pm: July 31

Agency: Administration Department—
Building Construction

Deliver to: AhGwah Ching

Requisition #: 02310-17975

Commodity: 8' Sign posts

Contact: Steve Burgstahler 296-3775

Bid due date at 2pm: July 31

Agency: Natural Resources Department

Deliver to: St. Paul

Requisition #: 29008-80405

Commodity: Answering positions—
rebid

Contact: Teresa Ryan 296-7556

Bid due date at 2pm: July 31

Agency: Natural Resources Department

Deliver to: St. Paul

Requisition #: 29006-00556-1

Commodity: Econlite Intersection
Monitor II

Contact: Pamela Anderson 296-1053

Bid due date at 2pm: July 31

Agency: Transportation Department—
Electric Service

Deliver to: St. Paul

Requisition #: 79000-11261

Commodity: 80386 SX computers

Contact: Bernadette Vogel 296-3778

Bid due date at 2pm: July 31

Agency: Labor & Industry Department

Deliver to: St. Paul

Requisition #: 42203-14751

Commodity: Tractor loader backhoe &
snowblower

Contact: Mary Jo Bruski 296-3772

Bid due date at 2pm: July 31

Agency: Correction Facility

Deliver to: Faribault

Requisition #: 78790-01345

Commodity: Busing contract

Contact: Mary Jo Bruski 296-3772

Bid due date at 2pm: July 31

Agency: State University Southwest

Deliver to: Marshall

Requisition #: 26175-01213

Commodity: Intel System 302

Contact: Bernadette Vogel 296-3778

Bid due date at 4:30pm: July 30

Agency: State University

Deliver to: St. Cloud

Requisition #: 26073-21933

Commodity: Computer high speed
printers

Contact: Don Olson 296-3771

Bid due date at 2pm: August 1

Agency: Various

Deliver to: Various

Requisition #: Price Contract

State Contracts and Advertised Bids

Commodity: ¾ ton truck with plow
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: August 2
Agency: Iron Range Resources & Rehabilitation Board
Deliver to: Eveleth
Requisition #: 43000-12100

Commodity: Hydraulic cylinder rams
Contact: Dale Meyer 296-3773
Bid due date at 2pm: August 7
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: Price Contract

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: Articulars Newsletter, 23M per issue, five issues, 4-pages, 17" x 22" 2-folds to 8½" x 11", 2-sided, camera ready
Contact: Printing Buyer's Office
Bid are due at 2pm: July 30
Agency: Center for Arts Education
Deliver to: St. Paul
Requisition #: 10035

Commodity: Two newsletters: Nursing Continuing Education Consortium—25M Fall 1990, 19.5M Winter and Spring 1991 each, 8¼" x 2-" folded twice to 8¼" x 7¾", and Allied Health Continued Education, three issues 12M each, 17" x 17" folded to 3¾" x 8½"; both camera ready, 2-sided
Contact: Printing Buyer's Office
Bids are due: July 25
Agency: North Hennepin Community College
Deliver to: Brooklyn Park
Requisition #: 10067 & 10068

Commodity: Temporary Class Record, 60M 2-part continuous form, 8½" x 11" detached, negs available, 1-sided, carbon interleave
Contact: Printing Buyer's Office
Bids are due: July 25
Agency: Community College System
Deliver to: St. Paul
Requisition #: 10120

Commodity: Nursing Home Administrators Newsletter, three issues, 3M per issue, 8½" x 11" 2-folds to 8½" x 3¾", camera ready, 2-sided
Contact: Printing Buyer's Office
Bids are due: July 25
Agency: North Hennepin Community College
Deliver to: Brooklyn Park
Requisition #: 10070

Commodity: Mailing Labels, 5M individual labels, union label desirable, 1-sided
Contact: Printing Buyer's Office
Bids are due: July 25
Agency: Secretary of State
Deliver to: St. Paul
Requisition #: 10108

Commodity: Sixty Day Special Plate/Temporary Permit, 50M 2-part sets in 500 books, 7" x 3¾", preprinted numbering, camera ready, 2-sided
Contact: Printing Buyer's Office
Bids are due: July 25
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 9989

Commodity: Post card w/embossed blue/gold seal, 5M 6¼" x 4¾", type to set, 1-sided, must have union bug
Contact: Printing Buyer's Office
Bids are due: July 25
Agency: Governor's Office
Deliver to: St. Paul
Requisition #: 10090

Commodity: Registration Certificate, 2M 8½" x 11", camera ready, 1-sided
Contact: Printing Buyer's Office
Bids are due: July 25
Agency: Architecture/Engineering Board
Deliver to: St. Paul
Requisition #: 10119

Commodity: Supplemental Annual Statement
Contact: Printing Buyer's Office
Bids are due: July 25
Agency: Teachers Retirement Association
Deliver to: St. Paul
Requisition #: 9997

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.

Department of Health

Request for Proposals for a Study of Health Personnel Shortages in Rural Minnesota

The Department of Health is requesting proposals for a contract to study health personnel shortages in rural Minnesota pursuant to *Minnesota Laws 1990*, Chapter 568, Article 2, Sec. 98.

The contract calls for work on several topics, including (1) an overview of nationwide problems of rural health personnel shortages; (2) a description of current standards used to determine the existence of shortages; (3) a summary of information on programs in other states and on the federal level to address shortages; (4) a summary of literature on health personnel training and education programs; and (5) information on other states' data systems on health personnel.

The contract period will be from approximately early September 1990 through late December 1990. The contract has an estimated value of \$35,000 to \$40,000. The agency is not bound by this amount.

A Request for Proposals may be obtained by calling or writing:

Marianne Miller
Health Economics Program
Minnesota Department of Health
P.O. Box 9441
717 Delaware Street SE
Minneapolis, Minnesota 55440
Phone (612) 623-5520

Proposals must be received by 4:30 p.m. on August 13, 1990.

Minnesota Historical Society

Notice of Contract Availability for Cultural Resource Survey of Lake Superior Shipwrecks

The Minnesota Historical Society is seeking proposals from qualified investigators to survey and evaluate two shipwrecks in Lake Superior, complete National Register nomination forms, and to revise the draft multiple property documentation form for Lake Superior shipwrecks.

Maximum amount available: \$20,000

Project data: The principal investigator will be responsible for assembling a diving team, directing the field survey, writing preliminary and final reports, completing revisions to the draft multiple property form, and completing National Register nominations. The draft multiple property form for Lake Superior Shipwrecks is currently being prepared and will be available to the contractor in early August 1990.

The initial field survey and a preliminary report evaluating the sites' potentials must be completed by September 30, 1990. The final report and National Register nominations must be completed by December 20, 1990. The final report should include management recommendations.

These services will be provided under contract. More detailed information, including project description, professional requirements, and specific proposal requirements is available by calling the State Historic Preservation Office. Additional background information is available for inspection by appointment at the Fort Snelling History Center during business hours. To schedule an appointment, call Michele Decker at 612-726-1171.

Contractor qualifications, amount of bid, and quality of the proposals will be considered in making any awards.

Qualified contractors should send proposals to: Gary W. Goldsmith, Contracting Officer, 1500 Mississippi Street, St. Paul, MN 55101. Proposals must be received no later than the close of the business day (5:00 p.m.) Tuesday, August 14, 1990. Late proposals will not be accepted.

Award of any of these contracts is contingent upon the availability of funds. The solicitation for proposals does not obligate the Society to complete these projects, and the Society reserves the right to cancel solicitation if it is considered to be in the Society's best interests. The Society also reserves the right to reject or accept any or all proposals and to waive any irregularities therein.

Professional, Technical & Consulting Contracts

Department of Human Services

Family Support Programs Refugee and Immigrant Assistance Division

Request for Proposals for Language Interpretation Services

NOTICE IS HEREBY GIVEN that the Refugee and Immigrant Assistance Division, Family Support Programs, Minnesota Department of Human Services is seeking proposals for the provision of language interpretation services for medical assistance recipients for the period October 1, 1990—June 30, 1991.

Amount of funds available: \$ 22,260.00

Areas to be served:

1. The Northwest Region which consists of the following counties: Kittson, Roseau, Lake of the Woods, Marshall, Pennington, Red Lake, Beltrami, Clearwater, Polk, Norman, Mahnommen, Clay, Becker, Hubbard, Wilkin, Otter Tail, Grant, Douglas, Traverse, Stevens and Pope.
2. The Northeast Region which consists of the following counties: Koochiching, Itasca, St. Louis, Lake, Cook, Cass, Wadena, Crow Wing, Todd, Morrison, Mille Lacs, Aitkin, Pine, Isanti, Kanabec, Chisago and Carlton.
3. The Central Region which consists of the following counties: Big Stone, Lac qui Parle, Yellow Medicine, Swift, Chippewa, Kandiyohi, Renville, Sibley, McLeod, Meeker, Wright, Stearns, Sherburne and Benton.
4. The South Region which consists of the following counties: Lincoln, Lyon, Redwood, Brown, Nicollet, LeSueur, Rice, Goodhue, Wabasha, Pipestone, Murray, Cottonwood, Watonwan, Blue Earth, Waseca, Steele, Dodge, Olmsted, Winona, Rock, Nobles, Jackson, Martin, Faribault, Freeborn, Mower, Fillmore and Houston.

The criteria for services and application procedures were specified in the Request for Proposals issued on February 29, 1990.

The deadline to submit proposals is August 27, 1990.

Please contact the Refugee and Immigrant Assistance Division at (612) 296-1383 for a copy of the Request for Proposals issued February 29, 1990.

Minnesota Department of Natural Resources

Boat & Water Safety Section

Request for Proposals for Television and Radio Public Service Announcement Production

The Minnesota Department of Natural Resources is seeking proposals for producing two television and three radio public service announcements (PSAs) to increase Minnesotan's knowledge pertaining to the dangers of drunken boating, of not using boat lights at night, and the importance of wearing life jackets. Copies of the Request for Proposals may be obtained at the Department of Natural Resources, Boat and Water Safety Section, 5th Floor, 500 Lafayette Road, St. Paul, MN 55155-4046, (612) 296-3310.

Prospective bidders wishing a preview copy of the Department's past TV and radio PSAs should drop off a blank 30 minute 1/2" VHS video tape and a blank 30 minute audio cassette tape with a self-addressed mailing label (street address, no PO boxes please). Copies will be shipped via UPS approximately five days after blank tapes are received.

Estimated cost is \$65,000. Final date for submitting proposals is Monday, August 13, 4 p.m.

Department of Public Safety

Gambling Enforcement Division

Contract Open for Bids

Due to an error in the notice published in the July 9, 1990, *State Register*, 15 S.R. 98, the deadline for submission of bids is extended to 4:30 p.m. July 30, 1990.

Department of Trade and Economic Development

Minnesota Public Facilities Authority

Request for Proposal for Audit Services

Introduction

This Request for Proposals does not obligate the State to complete the project, and the State reserves the right to cancel the solicitation if it is not considered to be in the State's best interest.

Submission of Proposals

All proposals must be sent to and received by the Contracting Officer, who is:

Terence R. Pohlkamp, (612) 296-2416, at the
Department of Trade and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101-1421

No later than 4:00 p.m. August 17, 1990. Late proposals will not be accepted. Submit five (5) copies of the proposals. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address clearly written on the outside. To facilitate proper handling, proposals should be marked with the words "SEALED BID—DO NOT OPEN" prominently displayed on the outside of the envelope. Each copy of the proposal must be signed in ink, by an authorized member of the firm. Prices and terms of the proposal as stated must be valid for the length of the project. It is recommended that firms call to confirm that their proposal has been received.

Background

The Minnesota Public Facilities Authority (the "Authority") was created in 1987 under *Minnesota Statutes*, Chapter 446A. The State of Minnesota Department of Trade and Economic Development provides administrative staff and support services to the Authority. The Authority has the responsibility for awarding State grants to municipalities selected by the Minnesota Pollution Control Agency (the "PCA") for the construction of wastewater treatment facilities and for the administration of the State's Water Pollution Control Revolving Fund Program established under Title VI of the Federal Clean Water Act.

Under the Water Quality Act of 1987 which amended the Clean Water Act of 1972, the federal grants program for wastewater treatment projects is to be phased out completely by federal fiscal year 1990 and replaced by a state loan program which requires the creation of state revolving loan funds ("SRFs") to accept federal capitalization grants and the required state matching funds equal to twenty percent (20%) of the federal grant. The SRFs are to be available to provide financial assistance to local entities in connection with the construction of systems for the storage, treatment, recycling and reclamation of municipal sewage and industrial wastes.

Program

The Authority is directed to establish a Water Pollution Control Revolving Fund, the SRF for Minnesota, under the Clean Water Act. Pursuant to its Program, the Authority offers financial assistance in the form of below market rate loans to municipalities and eligible political subdivisions to assist them in attaining and maintaining compliance with federal and state water quality standards. The Program will use the state matching funds required under the Clean Water Act and revenue bond proceeds to fund the loans. All or a portion of the federal capitalization grant received in a year when bonds are issued to make loans will be retained as security for all bonds and invested to provide a source of revenue, together with certain bond proceeds, to offset the interest rate subsidy given to borrowers.

Series 1989A Bonds were issued in July, 1989 for the purposes of (i) providing loans to borrowers for the funding of eligible costs of construction of publicly-owned wastewater treatment facilities in accordance with Title VI of the Clean Water Act, (ii) paying a portion of the interest accruing in the Series 1989A Bonds, and (iii) paying certain expenses of issuing the Series 1989A Bonds.

Pursuant to the Clean Water Act, funds from an SRF may provide financial assistance only to any municipality, intermunicipal, interstate, or state agency. Pursuant to the Act, borrowers are limited to a Minnesota state agency, home rule charter or statutory city, county, sanitary district or other governmental subdivision. However, in the Bond Resolution, the Authority has reserved the right to make loans to any such other entities as may be permitted from time to time by the Act and the Clean Water Act. The borrowers who have loans outstanding will differ, the principal amount of and interest rates on the loans will vary and the creditworthiness of individual borrowers will be different.

The loans will be made at below market interest rates, at terms not to exceed twenty (20) years after project completion; principal and interest payments must start, at the latest, one (1) year after completion of the project and loans must fully amortize. Loan repayments must be from a dedicated source of revenue and must be credited to the SRF. Pursuant to its rules the Authority determines

Professional, Technical & Consulting Contracts

the interest rate on loans on a basis not directly related to its cost of funds.

Additional Information

Copies of the following documents are available upon request.

1. *Minnesota Statutes*, Chapter 446A.
2. Basic Bond Resolution.
3. Services Bond Resolution #1 (Series 1989A).
4. Official Statement dated June 28, 1989 (Series 1989A).
5. Federal Grant Agreement with Environmental Protection Agency.

Request for Proposal

The Minnesota Public Facilities Authority is requesting proposals to audit the financial statements of the Authority for fiscal years ending June 1990, 1991 and 1992. The Authority will enter into a one-year contract with the selected independent public accounting firm with the option of renewing the contract on an annual basis for each of the succeeding two years. Please note: other department personnel are not allowed to discuss the project with responders before the proposal deadline.

Scope of the Work to be Performed

The audit for fiscal year 1990 will cover funds in the Water Pollution Control Revolving fund. The first transaction began on July 13, 1989 with the depositing of the Water Pollution Control Revenue Bonds Series 1989A. The second and third year audits will cover fiscal years ending June 30, 1991 and 1992. The Authority anticipates one or two bond issues each fiscal year.

Audits to be performed will conform to the following:

1. Requirements of the Basic Bond Resolution of the Minnesota Public Facilities Authority, Water Pollution Control Revenue Bonds Series 1989A, Series Bond Resolution #1, Resolution No. 89-33, effective June 1, 1989, adopted June 28, 1989.
2. Generally Accepted Government Auditing standards, as contained in the U.S. General Accounting Office *Government Auditing Standards*, the Single Audit Act of 1984, and the provisions of the U.S. Office of Management and Budget's (OMB) Circular A-128, *Audits of State and Local Governments*.
3. The format used in preparing the State of Minnesota Comprehensive Annual Financial Report consisting of the Balance Sheet, the Statement of Revenues, Expenses and Changes in Retained Earnings, and the Statement of Cash Flows (using the Indirect Method). The current policy of the Minnesota Department of Finance requires Agencies to include an Annual Statement of Cash Flows in accordance with the Governmental Accounting Standards Board Statement 9 (GASB 9).
4. All other audit provisions that may apply.

Field work for the audit of fiscal year 1990 must be completed by September 21, 1990. The audit report, including copies, must be delivered to the Authority by October 5, 1990. Field work and audit report for the audit of fiscal years 1991 and 1992 may be conducted at a mutually agreeable time, so long as the final audit report is completed and delivered to the Authority by September 15, 1991 and 1992.

The Minnesota Department of Trade and Economic Development, Minnesota Public Facilities Authority, will not be liable for any expenses incurred by firms in preparing and submitting proposals.

Evaluation and Award

All proposals received will be evaluated by the Department for the purpose of selecting the proposal that most closely meets the requirements of the request for proposals. The following areas of consideration will be used in making the selection.

A. Contractor Qualifications—This criterion includes the ability of the Contractor to meet the terms of the request, especially the time constraint and the quality, relevancy, and recency of studies and projects completed by the Contractor, as determined by the quality of the response and experience with auditing similar state programs.

B. Professional Personnel—This refers to the competence of professional personnel who would be assigned to the job by the Contractor. Qualifications of professional personnel will be measured by education and experience, with particular reference to experience on projects similar to that described in the request.

C. Cost—While this is weighed heavily, it will not normally be the deciding factor in the selection process.

The contract will be awarded on or before August 24, 1990, and is subject to the appropriate approvals. The executed contract will be a maximum price contract with payment for services rendered to be made upon delivery and acceptance of each audit report.

Professional, Technical & Consulting Contracts

Form of Proposal for Contract Work

To Whom It May Concern:

1. The Undersigned, being familiar with the local conditions affecting the cost of the work and with the specifications and general conditions, hereby propose and agree, if this proposal is accepted, to furnish services to the Department of Trade and Economic Development promptly, correctly, and in the most professional manner, in accordance with the provisions of the specifications attached to this proposal, for the prices set forth in the attached Contractor's Statement of Qualifications, subject to a maximum price (Total Cost), including travel and out-of-pocket costs of \$ _____.

2. In submitting this bid it is understood that the right is reserved by the Department to reject any and all bids and it is agreed that this bid may not be withdrawn for a period of 45 days after the date of filing it.

3. If a corporation, what is the State of Incorporation: _____

4. If a Partnership, state full name of all co-partners located in Minnesota:

5. Conditional Proposals will not be accepted, and no changes of these forms are permitted.

FIRM NAME AND ADDRESS:

_____	By _____
_____	Title _____
_____	Date _____
_____	By _____
	Title _____
	Date _____

Form of Contractor's Statement of Qualifications

Statement of Problem

State in succinct terms your understanding of the problem presented by the request for proposals.

Management Summary

Include a narrative description of the proposed effort and a list of the reports that will be delivered.

Work Plan

Describe in narrative form your technical plan for accomplishing the work. Indicate the number of person-hours you have allocated each task.

Prior Experience

Include experience in related governmental, financial and compliance auditing. Experience shown should be work done by individuals who will be assigned to this audit. Projects referred to should be identified and the name of the customer shown, including the name, address, and phone number of the responsible officials of the customer who may be contacted.

Personnel

Include the number and type of executive and professional personnel who will be employed in the work. Include education and experience related to governmental, financial and compliance auditing.

Professional, Technical & Consulting Contracts

- A. Staff Costs—Itemize so as to show the following for each category of personnel with a different rate per hour:
 - 1. Category: e.g., partner, manager, senior accountant
 - 2. Estimated Hours
 - 3. Rate per hour
 - 4. Total cost for each category and staff needs
- B. Cost of supplies and materials—Itemize.
- C. Indirect costs—Itemize and show basis.
- D. Travel and subsistence costs—Show travel and per diem separately.
- E. Total Cost.

Minnesota Veterans Home—Hastings

Request for Proposals for Various Baked Goods and Delivery

The Minnesota Veterans Home at 1200 East 18th Street, Hastings, MN 55033, is requesting a 2 year bid on the following bakery items to be delivered to the Home: approximate monthly usage for white bread—630 loaves, and dark bread—180 loaves. Bids to include prices on the following breads that have a variable monthly usage: French, rye, wheat, banana, raisin, hamburger buns and hotdog buns.

Delivery to be Monday, Wednesday, and Friday with amounts to be prearranged by the Minnesota Veterans Home agent, Gerald Rohr, 612-437-3111. Bidders must comply with current Health Department regulations regarding the preparation of food products. Thirty day notice to be given in the event of a price change. Invoices to be submitted on a monthly basis. Bids to be received on or before July 30, 1990. The Minnesota Veterans Home reserves the right to reject any or all bids.

Office of Waste Management

Request for Proposal for Evaluation of Cost and Revenue Estimates for Proposed Hazardous Waste Stabilization and Containment Facility

This is a Request for Proposal (RFP) for an independent evaluation of the validity of the cost and revenue estimates provided in an economic model for a proposed hazardous waste stabilization and containment facility. The requirements of this RFP are set forth below.

I. Introduction

The Minnesota Office of Waste Management (OWM), a state agency, is currently negotiating a contract with Red Lake County to site a hazardous waste stabilization and containment facility in the county. If a contract is negotiated, the county will hold a referendum in November 1990, in which the county voters will determine whether to host the facility.

In consideration to Red Lake County for hosting the facility, the OWM is negotiating a benefits package to be included in the contract with the county. The OWM intends for the facility to be economically viable. Persons who use the facility will pay tipping fees. These fees will be set at amounts that cover, at a minimum, the cost of constructing and operating the facility over its anticipated life, including county benefits. In order to determine the amount of benefits the state could provide the county, and assess the economic viability of the facility, the OWM paid for the preparation of a financial model estimating the cost of constructing and operating the facility, and projecting revenues to be received over the life of the facility.

Through this RFP, the OWM is seeking an independent evaluation of the validity of the cost and revenue estimates provided in the economic model for the facility. The evaluation report resulting from this study will be used to revise and/or support the facility's economic model. If a contract is finalized and the county referendum passes in November, a reliable economic model for the facility will be necessary for the Minnesota State Legislature and the Governor to assess whether to proceed with the project and provide the authorizations necessary to implement the county contract, and construct and operate the facility.

II. Developer of the Facility

In 1988, the state signed a development agreement with International Technology Corp. (IT) and Chem-Security Ltd (CSL) to design, construct, and carry out the day-to-day operations of the facility. Since then, IT and CSL have formalized their relationship on this project through the formation of a joint venture partnership called Ecostar.

Ecostar is the developer chosen by the state to design, construct and operate the facility. This developer was selected on the basis of their experience in the management of hazardous wastes, and their familiarity with stabilization and containment. CSL is the operator and 40% owner of the Alberta Special Waste Management Treatment Centre in Swan Hills, Alberta, Canada. The Province of Alberta is 60% owner of the Swan Hills facility. The Swan Hills facility includes a cement-based stabilization plant similar to the proposed plant to be sited in Minnesota. Additional technologies, including incineration, are also being used at Swan Hills, but these other technologies are not being considered for the facility in Minnesota.

III. The Facility

The purpose of the facility will be to stabilize and contain metal-bearing inorganic hazardous wastes such as ash and scrubber sludge from hazardous waste incineration and sludges generated by metal-finishing, electroplating, and circuit board manufacturing operations. The facility would be designed and constructed to manage up to 24,000 tons of such wastes per year. The facility will be owned and managed by the state.

The overall appearance of the facility will be similar to that of a small industrial complex, consisting of several buildings and a containment area for storage of the stabilized waste. The entire facility will occupy approximately 200 acres with an additional 60 acres or more serving as a buffer zone surrounding the facility. The buildings would include offices, analytical laboratories, as well as space for unloading, temporary storage, pretreatment and stabilization of the wastes.

Waste received at the facility will first be sampled and tested in an on-site laboratory. If the waste is acceptable, it will be mixed with other compatible waste and prepared for treatment. Some waste may require pretreatment to destroy cyanide compounds or reduce hexavalent chromium to a less toxic trivalent chromium before stabilization. The stabilization process involves mixing the waste with portland cement, lime, and kiln dust to physically and chemically bind up the hazardous metals in an insoluble form. Mixed waste is then placed into molds and stored for curing. Once the stabilized mixture is hardened, it is tested again to make sure the metals are safely bound and then transported to above-grade containment cells.

The facility will be designed and constructed to accept a maximum of 400,000 tons of waste. The facility's containment area will be designed and constructed to maximize the management and monitoring of contained wastes. Instead of creating one enormous containment cell with one set of leachate collection and monitoring systems, the containment area will consist of many smaller individual containment cells. Under each cell there will be three liners, two made of a synthetic membrane and one consisting of recompacted clay. Above each liner there will be collection systems to collect and pump out any leachate if it were to seep from the waste or through a liner. Active cells will be covered with an inflatable dome to keep rain and moisture from contacting the blocks. Once a cell is filled, a synthetic liner, clay and soil will be placed above the blocks. The dome will then be removed and the cover vegetated to prevent erosion. Also, monitoring wells will be installed throughout the containment area.

Additional background information is available in the facility development report and the public ownership report available upon request from the OWM.

IV. Economic Model

Upon request by the OWM, Ecostar developed a computerized economic model for the facility. The model allows the OWM to make certain assumptions about key variables such as the expected state borrowing rate for facility capital costs, the expected interest rate for the facility's sinking funds, and the inflation rate expected to be realized over the life of the facility. Based on these assumptions, the model allows the OWM to estimate, on a year-by-year basis, the: (1) expected revenues, including the expected tipping fee rates and amount of waste expected to be received; (2) expected expenses associated with designing, constructing, operating, maintaining, closing, and providing post-closure care of the facility, including permit fees, county compensation/benefits, insurance costs, equipment replacement costs, loan repayment costs, operator fees, employee compensation, environmental monitoring costs, costs of materials associated with stabilizing the waste and constructing containment cells, and other operational costs; and (3) cash flow or cumulative net revenue or loss for the facility.

V. Scope of Work

This RFP requests that qualified firms submit to the OWM proposals describing, in detail, the criteria that the proposer would use and the tasks that the proposer would conduct in order to produce a report evaluating the cost and revenue estimates set out in the OWM's economic model for the stabilization and containment facility.

Proposals should identify all tasks that the proposer would perform in order to research, draft, and produce a final Work Product, as described in Section VI. of this RFP. Examples of possible tasks include literature searches, acquiring needed information on specific subject matters, and contacts with other state and federal agencies, and private industry such as equipment or service vendors.

VI. Work Product

The products of this contract shall consist of two draft reports for review/comment, and a final report readily reproducible for distribution to OWM staff, legislators, county officials, and others as deemed appropriate by the OWM.

The final report must include at least the following:

Professional, Technical & Consulting Contracts

- Table of Contents and list of tables and figures;
- Section briefly summarizing the status of the facility development program and the need to prepare a report evaluating the OWM's economic model for the facility;
- Section describing the OWM's economic model for the facility;
- Section summarizing the criteria used to evaluate the economic model for the facility;
- Section evaluating the reliability of the projected capital costs of the facility as provided in the model;
- Section evaluating the reliability of all of the projected operating costs of the facility as provided in the model;
- Section evaluating the reliability of the projected revenues for the facility as provided in the model, which will include an assessment of the projected tipping fee rates and the amount of waste expected over the life of the facility;
- Section evaluating the completeness and accuracy of the model in terms of the costs and revenues provided for in the model, the formulas used in the spreadsheet, as well as the overall economics of the facility over its life; and
- Section summarizing the evaluation of the reliability of the model as provided in previous sections of the report.

VII. Schedule

A workplan must be included in the proposal. The workplan must provide details of the specific steps to be taken to carry out *each* proposed task. The workplan should include a time schedule for developing and implementing each proposed task.

Weekly oral updates on the project to the project manager will be required.

A first draft of the report will be due on October 15, 1990. OWM staff and Ecostar will review this draft and return comments to the selected contractor by October 30, 1990.

A second revised draft report will be due on November 15, 1990. OWM staff and Ecostar will review this draft and return comments by November 27, 1990.

A final report will be due on December 16, 1990.

It is imperative that the selected contractor deliver satisfactory products by the scheduled due dates. Financial penalties for missed delivery dates may be written into the contract with the selected contractor.

VIII. Required Meetings

Several meetings in conjunction with this project will be held in St. Paul, MN. The selected contractor will be required to prepare for and attend the following meetings:

- Project commencement meeting with OWM staff and Ecostar to provide an overview of the project work plan and schedule, and discuss the basics of the economic model [to be scheduled shortly after the final contract is signed];
- Meeting on or around October 30, 1990 to discuss OWM staff and Ecostar comments on first draft report; and
- Meeting on or around November 27, 1990 to discuss OWM and Ecostar's comments on the second draft report.

IX. Budget

Compensation should be based on the time necessary to research specific topics, to prepare the required written reports, and to attend meetings in St. Paul. Hourly billing rates and the number of hours for the individuals assigned to the project should be included with the budget. Costs and assigned staff should be itemized for each task of the project. Expenses should reflect only travel and subsistence expenses necessary to perform the services required under this project. All contractor-staff meetings will be held in St. Paul, MN. *OWM staff expect that the total cost for this project, including expenses, will not exceed \$15,000; however, proposals that exceed \$15,000 and provide appropriate justification for the total cost will be considered.* The proposal must include total cost for the project, with separate categories for compensation and expenses. Consideration for travel and subsistence expenses will be limited to the amount specified in the Minnesota Department of Employee Relations Commissioner's Plan.

X. Qualifications

Prospective contractors should provide information on their background in the following areas:

- Expertise and experience in economic projections and planning for industrial facilities, especially in the area of hazardous waste management;
- Knowledge and expertise in hazardous waste management processes, techniques, costs, and tipping fees, especially in the area of stabilization and containment;
- Knowledge and expertise in engineering practices;
- Knowledge and expertise in environmental regulations pertaining to and costs associated with financial assurance, and environmental review, permitting and monitoring; and

Professional, Technical & Consulting Contracts

- Ability and experience of the specific personnel to be assigned to the project to conduct the necessary tasks for project completion, and to interpret and communicate technical and financial material, both orally and in writing.

Resumés of specific personnel should be included. Specify which personnel will be assigned to each task. Subcontractors that may be used to complete this project and their qualifications to do the work requested must be included.

XI. Evaluation Criteria

Responses will be evaluated based on consultant qualifications, the proposal's content, and cost. A team of OWM staff will be responsible for the evaluation. Proposers may be requested to provide additional or clarifying information through interviews with OWM staff.

XII. Non-Public Data

The OWM is a state agency, and generally all information received is considered public. The OWM has established procedures for proposers who wish to classify some or all of the information contained in a proposal as non-public. Refer to *Minnesota Rule* pt. 7000.1300 (1987) for further details regarding this procedure. To be classified as non-public, information must meet standards found in *Minnesota Statutes* § 115A.06, subd. 13 (1988), and *Minnesota Statutes* § 13.37, subd. 1 (b) (1988).

XIII. Checklist for Proposal Content

The following is a checklist for all information to be covered in a proposal. See the body of the RFP for the specific details on each item.

- Workplan and schedules
- Work Products
- Qualifications
- Budget.

XIV. Submission of Proposals and Staff Contacts

Five (5) bound public copies and one (1) unbound, easily reproducible public copy of the proposal must be received by 4:30 p.m. CDT on August 15, 1990. Extensions of this deadline will not be granted. The OWM encourages the use of both sides of paper, and recycled paper in the proposals. Proposals should be sent to:

Bruce L. Brasaemle
Office of Waste Management
1350 Energy Lane
St. Paul, MN 55108

Questions may be addressed to Bruce Brasaemle at (612) 643-3554, or Patrick Carey at (612) 649-5790.

The Request For Proposals is not an offer to contract with any person and does not obligate the OWM to select any proposer or to complete the project. The OWM reserves the right to cancel the solicitation and/or reject all proposals.

The OWM is an equal opportunity employer and encourages proposals from minority and/or women-owned businesses.

Board of Water and Soil Resources

Request for Proposals to Facilitate the Development of Rules for Metropolitan Surface Water Planning

The Minnesota Board of Water and Soil Resources (BWSR) is seeking proposals from qualified firms or individuals to facilitate the development of rules related to the Metropolitan Water Management Act (Act), *Minnesota Statutes* Sections 473.875 to 473.883. The Act is commonly known as the "509" planning act.

Chapter 601, *Laws of 1990*, amended the Act and mandated that the BWSR promulgate rules to guide the "509" planning process. The rules will primarily include, but will not be limited to, such things as: the minimum content of watershed plans, the content of joint powers agreements for watershed management organizations, the content of local water plans, the content of annual reports to the BWSR, standards for financial and performance audits, a procedure for resolving disputes and BWSR determinations on whether plans are being implemented.

The consultant's primary role will be to facilitate numerous meetings with an approximate 30 member advisory group made up of interested and affected parties to the "509" planning process. The consultant will also be required to develop a draft statement of need and reasonableness. Responsibilities will include facilitating meetings, preparing numerous rule drafts, and conducting related background work.

Professional, Technical & Consulting Contracts

Experience in rule making, local water planning, planning and zoning administration and consensus building are desirable. Proposals include the qualifications of personnel who will be doing the work.

Proposals in excess of \$45,000 will not be considered. The deadline for completing the required work will be June 30, 1991.

A more detailed version of this request for proposal can be obtained by calling or writing:

Bruce Sandstrom
Minnesota Board of Water and Soil Resources
155 South Wabasha St., Suite 104
St. Paul, MN 55155

Proposals must be submitted by 4:30 p.m. Wednesday, August 15, 1990.

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.

Council on Disability

Notice of Operating Support Grants to Arts Organizations Throughout the State That Will Serve Individuals With Disabilities

The Minnesota State Council on Disability seeks proposals to make grants to arts organizations throughout the state that will serve individuals with disabilities. The grants are authorized by *Laws of Minnesota 1990*, Chapter 594, Article 1, Section 34.

Application forms may be obtained from the Minnesota State Council on Disability. Applications must be received by the Minnesota State Council on Disability, 145 Metro Square Building, 7th Place and Jackson Street, St. Paul, Minnesota 55101, no later than 4:30 p.m., Monday, September 10, 1990. An advisory panel of the Council will review the applications and make recommendations to the full Council.

The total amount of grant money available is \$50,000.

Agency contact: Kurt E. Strom, (612) 296-1742 or (800) 652-9747.

Supreme Court Decisions, Opinions & Rules

Decisions Filed 20 July 1990

C8-89-1618 *In Re the Marriage of: Corrine Marie Reynolds, petitioner v. Michael R. Reynolds v. County of Nicollet, intervenor, Appellant v. Patrick Sullivan, third-party respondent v. Jim Sullivan, third party respondent. Court of Appeals.*

Issue of applicability of statute of limitations to bar defense of nonpaternity by putative father was, as between county and putative father, finally decided in putative father's favor when county's appeal from summary judgment was dismissed for failure to file timely notice of appeal and accordingly court of appeals was not free to decide this issue in county's favor in a subsequent appeal.

Affirmed in part; reversed in part; remanded to trial court for further proceedings. Popovich, C.J.

C4-90-472 *Severt Weme v. Arlene Lastavica, Mike Lastavica, d/b/a L. A. Industries, Uninsured, Fuel Recovery Co., Inc., et al., City of St. Paul, Self-Insured, and Special Compensation Fund, Relator, and Second Injury Fund. Workers' Compensation Court of Appeals.*

The question as to whether the City of St. Paul was a general contractor is a factual matter; and in our view, the findings of the compensation judge, as affirmed by the Workers' Compensation Court of Appeals, are not manifestly contrary to the evidence.

Affirmed. Popovich, C.J.

Dissenting, Yetka, J.

C6-89-1813 In Re the Marriage of: Elizabeth F. Miller v. Douglas E. Miller, petitioner, Appellant. Court of Appeals.

Affirmed in part, reversed in part and remanded. Yetka, J.

C0-89-2097 Cambridge State Bank, et al., Norwest Bank Duluth, National Association (formerly First National Bank of Duluth) v. Arthur C. Roemer, Commissioner, Department of Revenue, and the State of Minnesota, Appellants. Ramsey County.

1. A taxpayer who assumes the validity of a statute by invoking its provisions in order to obtain a tax benefit is estopped from attacking the statute's constitutionality.

2. Where it is clear that the legislature would have enacted a statute without the provisions which are unconstitutional, the proper procedure is to apply *Minnesota Statutes* § 645.20 (1988) and sever the invalid provisions.

3. Pursuant to the three-part test set forth in *Chevron Oil Co. v. Huson*, 404 U.S. 97, 106-07 (1983), the United States Supreme Court's decision in *Memphis Bank & Trust Co. v. Garner*, 459 U.S. 392 (1983), must be applied prospectively.

Affirmed in part, reversed in part. Yetka, J.

Concurring specially, Kelley, J.

C0-90-288 Ronald Jacobson, Relator v. Duluth, Missabe & Iron Range Railway Co., Self-Insured. Workers' Compensation Court of Appeals.

The Longshoreman and Harbor Workers' Compensation Act, 33 U.S.C. §§ 901-950 (1988), is not a federal law comparable to the Federal Employers' Liability Act, 45 U.S.C. §§ 51-60 (1982), so as to exclude the employee from receiving concurrent benefits under the Minnesota Workers' Compensation Act, *Minnesota Statutes*, chapter 176 (1982 & Supp. 1983).

Reversed and remanded. Wahl, J.

C8-88-2631, C0-88-2672 Dan Cohen, petitioner, Respondent (C8-88-2631, C0-88-2672) v. Cowles Media Company, d/b/a Minneapolis Star and Tribune Company, petitioner, Appellant (C8-88-2631), Defendant (C0-88-2672), Northwest Publications, Inc., petitioner, Defendant (C8-88-2631), Appellant (C0-88-2672). Court of Appeals.

A state cause of action for fraudulent misrepresentation or breach of contract will not lie in this case for a newspaper's breach of its reporter's promise of anonymity given to a news source.

Affirmed in part and reversed in part. Simonett, J.

Dissenting, Yetka, J. and Kelley, J.

Took no part, Popovich, C.J.

Orders

C9-89-1076 In Re Petition for Disciplinary Action Against William G. Mose, an Attorney at Law of the State of Minnesota. Supreme Court.

Suspended. Popovich, C.J.

CX-90-251 In Re the Petition for Disciplinary Action against Thomas B. James, and Attorney at Law of the State of Minnesota. Supreme Court.

Disability inactive status. Kelley, J.

Order C9-85-1506—In re Fifth District Judicial Vacancy Terminating Judicial Position in the Fifth Judicial District Transferring Judicial Position to the First Judicial District

WHEREAS, pursuant to the provisions of *Minnesota Statutes* 2.722, subd. 4 (1985, 1990), the Supreme Court is authorized to continue, abolish, or transfer judicial positions which are vacated upon the death, resignation, retirement, or removal from office of incumbent judges after consultation with judges and attorneys in the affected judicial district; and

WHEREAS, the Honorable Charles C. Johnson announced his intention not to seek re-election as District Court Judge in the Fifth Judicial District; and

WHEREAS, after notice given, a public hearing was held in the Blue Earth County Courthouse, Mankato, Minnesota at 10:00 a.m., on July 10, 1990, the purpose of which was to consult with judges and attorneys of the affected judicial district to determine whether the continuation of the judicial position being vacated by the retirement of Judge Johnson is necessary for effective judicial administration; and

WHEREAS, the Court has considered the application of the weighted caseload study to the judicial needs of the Fifth Judicial District and the arguments made regarding the aforementioned judgeships and chambers designation within the district and has attached a memorandum which addresses these issues;

Supreme Court Decisions, Opinions & Rules

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. That the vacancy in the judicial position occasioned by the retirement of the Honorable Charles C. Johnson be, and hereby is, terminated in the Fifth Judicial District, effective at midnight, January 6, 1991.
2. That the judicial position terminated in the Fifth Judicial District by the operation of this order be, and hereby is, transferred to the First Judicial District, chambers to be determined later, effective Monday, January 7, 1991.
3. That the vacancy transferred to the First Judicial District be, and hereby is, certified to the Governor as a district court judgeship to be filled in the manner provided by law.

Dated: 13 July 1990.

BY THE COURT

Peter S. Popovich
Chief Justice

Order C4-89-2099—In Re: Videotape/CIC Pilot Project Evaluation Committee

WHEREAS, the State Court Administrator was directed by *1989 Laws of Minnesota*, Chapter 335, Article 1, Section 3, Subdivision 5 to install and operate video taping equipment in at least three district courts and the court of appeals, and a one-time appropriation of \$204,000 was provided for installation and operation, and

WHEREAS, the State Court Administrator was directed by *1989 Laws of Minnesota*, Chapter 335, Article 1, Section 3, Subdivision 5 to install and operate a computer integrated court (CIC) reporting system in the Second Judicial District, and a one-time appropriation of \$32,000 was provided for installation and operation, and

WHEREAS, this Court by an order dated November 17, 1990, authorized the installation of videotaped court reporting systems in the Third, Fifth, and Seventh Judicial Districts, adopted rules of procedure for the pilot courtrooms, and directed the State Court Administrator to file a final evaluation report no later than July 1, 1991, and

WHEREAS, an Evaluation Committee will assist the State Court Administrator in making a final report on both the videotaped and computer integrated court reporting systems to this Court and to the Legislature,

NOW, THEREFORE, IT IS ORDERED:

1. The following persons are hereby appointed as members of the Videotape/CIC Pilot Project Evaluation Committee:

Hon. Roger M. Klaphake, Chair
Judge, Court of Appeals
1300 Landmark Tower
St. Paul, MN 55101

Hon. George A. Marshall
Chief Judge, Fifth Judicial District
Lyon County Courthouse
Marshall, MN 56258

Hon. Robert A. Forsythe
Judge, Fourth Judicial District
12-C Government Center
Minneapolis, MN 55487

Timothy Ostby
Deputy District Administrator
Stearns County Courthouse
P.O. Box 1836
St. Cloud, MN 56302

Lana Fruke
Official Stenographic Court Reporter
Juvenile Center
480 St. Peter Street
St. Paul, MN 55102

Hon. Lawrence T. Collins
Chief Judge, Third Judicial District
P.O. Box 37
Winona, MN 55987

Hon. Kathleen Weir
Judge, Seventh Judicial District
Clay County Courthouse
Moorhead, MN 56560

Donald Cullen
District Administrator
2200 2nd Street S. W. Suite 101
Rochester, MN 55902

Dave Carlson
Court Administrator
Blue Earth County Courthouse
Mankato, MN 56001

Cher Hager
Official Electronic Court Reporter
Olmstead County Courthouse
Rochester, MN 55901

2. Frederick K. Grittner, Supreme Court Administrator and Clerk of Appellate Courts, shall serve as staff member to the Evaluation Committee.

3. The Evaluation Committee shall submit its report to the State Court Administrator no later than June 1, 1991.

DATED: 17 July 1990

BY THE COURT:
Peter S. Popovich
Chief Justice

Order C1-90-1515—In Re: Judicial Merit Selection Commission

WHEREAS, *Minnesota Statute* § 480B.01, Subd. 2(b), directs the Supreme Court to appoint two at-large members to the Judicial Merit Selection Commission to terms ending on the same day as the governor's term of office ends, and

WHEREAS, *Minnesota Statute* § 480B.01, Subd. 2(d), directs the Supreme Court to appoint two district members to the Judicial Merit Selection Commission for each judicial district to terms ending on the same day as the governor's term of office ends,

NOW, THEREFORE IT IS ORDERED that the following persons are hereby appointed as at-large members of the Judicial Merit Selection Commission for a term ending January 7, 1991:

Robert J. Sheran
80 South Eighth Street #4200
Minneapolis, MN 55402

Veda Ponikvar
216 West Lake Street
Chisholm, MN 55719

IT IS FURTHER ORDERED that the following persons are hereby appointed as judicial district members of the Judicial Merit Selection Commission for a term ending January 7, 1991:

First Judicial District

Thomas H. Swain
1775 Lexington Avenue
Lilydale, MN 55118

Paul W. Rogosheske
833 Southview Boulevard
South St. Paul, MN 55075

Third Judicial District

Marian Robinson
1400 Second Street NW
Austin, MN 55912

Kent Gernander
P.O. Box 310
Winona, MN 55987

Fifth Judicial District

William Wettergren
626 Austin Drive
St. Peter, MN 56082

Barbara J. Runchey
533 West Main Street
P.O. Box 1043
Marshall, MN 56258

Seventh District

Richard C. Hefte
P.O. Box 866
Fergus Falls, MN 56537

Cathy Wiggin Hansen
122 S.W. Lincoln Avenue
Wadena, MN 56482

Second Judicial District

A. Patrick Leighton
55 E. Fifth Street #1400
St. Paul, MN 55101-1792

Reatha Clark King
2138 Arcade Street
Maplewood, MN 55109

Fourth Judicial District

Douglas K. Amdahl
2000 Lincoln Center
33 South 7th Street
Minneapolis, MN 55402

Geri Joseph
1201 Yale Place
Minneapolis, MN 55403

Sixth Judicial District

Floyd D. Rudy
520 Park Place
Cloquet, MN 55720

Geraldine McHugh
1312 South 18th Street
Virginia, MN 55792

Eighth District

F.J. "Ole" Reynolds
333 S.W. 6th Street
Willmar, MN 56201

DePaul Willette
P.O. Box 148
Olivia, MN 56277

Supreme Court Decisions, Opinions & Rules

Ninth District

Charles Johnson
P.O. Box 220
Grand Rapids, MN 55744

Kurt J. Marben
P.O. Box 506
Thief River Falls, MN 56701

Tenth District

Patrick T. O'Neill
123 South Ashland
Cambridge, MN 55008-1593

Will Antell
317 S. Lake Street
Bayport, MN 55003

Dated: 13 July 1990

BY THE COURT:

Peter S. Popovich
Chief Justice

Announcements

Cabin Owners Property Tax Refund: Owners of seasonal residential-recreational property may qualify for a one-time-only tax refund if their property taxes increased by more than 10 percent and at least \$40 from 1989 to 1990, the Minnesota Department of Revenue announced today. Under the program, owners of property classified as seasonal residential-recreational, such as lakeshore cabins, vacation homes and hunting cabins, are eligible for a refund of 75 percent of the first \$250 of tax increase over 10 percent. The maximum refund is \$187.50. Another special property tax refund is available to those residential homeowners whose property tax increased by more than 10 percent and at least \$40, from 1989 to 1990. There is no maximum refund amount. Both the cabin and residential special property tax refunds are available regardless of income. The regular property tax refund applications, however, must show that renters have a household income of less than \$35,000, while homeowners must have a household income of less than \$60,000, according to law changes made during the 1989 special session of the Minnesota legislature. *Some persons will qualify for both the regular and the special property tax refunds.* Applications for special property tax refunds, as well as the regular property tax refund, should be made on the state's 1989 Minnesota property tax refund form M-1PR. Applications are due on or before Aug. 15, 1990. For further information, call 296-3781 or 1-800-652-9094.

Special Property Tax Refund Errors: Some homeowners applying for the state's special property tax refund are making errors on their forms because of changes in the county-issued property tax statements this year, the Minnesota Department of Revenue said today. The special property tax refund is intended for any homeowner, regardless of income, whose property tax increased by more than 10 percent and at least \$40, from 1989 to 1990. In order to apply for the refund, taxpayers must complete state form M-1PR and attach copies of their statements for property taxes payable in 1989 and 1990. The problem is the 1990 property tax statement, issued by the county, includes figures for both 1989 and 1990. Furthermore, the 1989 figures on this year's combined statement are not necessarily in the same order as on the property tax statement for 1989 taxpayers received last year. Consequently, some taxpayers may find that the instructions for the special refund, printed in the 1989 Minnesota property tax refund booklet, don't work. To insure that the M-1PR is completed correctly, taxpayers are advised to use the information on lines one and two of last year's Statement of Property Tax Payable in 1989, rather than the 1989 figures provided in this year's combined statement. Applications are due on or before Aug. 15, 1990. For taxpayer assistance, call (612) 296-3781 or 1-800-652-9094.

Metropolitan Council Calls For Local Art: The Metropolitan Council is asking Twin Cities Area artists to submit their work for the Council's art rental and exhibition program. The Council will rent art work—including paintings, drawings, photographs, collages, original prints and fabrics—to be displayed in its offices and public meeting rooms for six months. An honorarium will be paid to artists selected to participate. To be eligible, artists must live in the seven-county Metropolitan Area, including Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties. Slides and entry forms must be submitted by 5 p.m. Friday, Sept. 28. Artists will be notified of selection by Oct. 26. Work will be exhibited from Nov. 26, 1990, through May 17, 1991. Call Kate Houston of the Council staff at 291-6542 for more information or entry forms.

Four Members Appointed to Metro Council Health Planning Board Appointed four members to the Metropolitan Council's Health Planning Board: **Gayl Madigan**, Shakopee, and **Molly Sullivan**, Maple Grove, have been reappointed to two-year terms on the board. **Mitchell Davis, Jr.**, Minneapolis, and **Suzanne Votel**, Eagan, have been newly appointed to the board and will also represent providers. The 25-member board seeks to contain rising health care costs and to improve people's health in the Twin Cities Metropolitan Area.

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